



**CITY OF KETCHUM, IDAHO**

**CITY COUNCIL MEETING**

Monday, May 15, 2023, 4:00 PM

191 5th Street West, Ketchum, Idaho 83340

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**AGENDA**

**PUBLIC PARTICIPATION INFORMATION**

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

- Join us via Zoom (*please mute your device until called upon*).  
**Join the Webinar:** <https://ketchumidaho-org.zoom.us/j/85933775333>  
Webinar ID:859 3377 5333
- Address the Council in person at City Hall.
- Submit your comments in writing at [participate@ketchumidaho.org](mailto:participate@ketchumidaho.org) (*by noon the day of the meeting*).

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

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**CALL TO ORDER:** By Mayor Neil Bradshaw

**ROLL CALL:** Pursuant to Idaho Code Section 74-204(4), all agenda items are action items, and a vote may be taken on these items.

**COMMUNICATIONS FROM MAYOR AND COUNCILORS:**

1. Public comments submitted
2. National Gun Violence Awareness Day Proclamation - Mayor Neil Bradshaw
3. Avalanche Awareness discussion - Mayor Neil Bradshaw & Manuel Genswein

**CONSENT AGENDA:**

*Note re: ALL ACTION ITEMS - The Council is asked to approve the following listed items by a single vote, except for any items that a Councilmember asks to be removed from the Consent Agenda and considered separately.*

4. Recommendation to approve minutes of Special Joint Meeting with City Council and Ketchum Urban Renewal Agency of April 24, 2023 – City Clerk Trent Donat
5. Recommendation to approve minutes of May 1, 2023 – City Clerk Trent Donat

6. Authorization and approval of the payroll register – Treasurer Shellie Gallagher
- [7.](#) Authorization and approval of the disbursement of funds from the City's treasury for the payment of bills – Treasurer Shellie Gallagher
- [8.](#) Recommendation to receive and file monthly Treasurer's financial reports – Treasurer Shellie Gallagher
- [9.](#) Recommendation to approve Purchase Order 23097 for polymer for the wastewater treatment plant – Wastewater Division Supervisor Mick Mummert
- [10.](#) Recommendation to approve Purchase Order 23092 for Fog Seal Treatment of East Avenue - Director of Streets & Facilities Brian Christiansen
- [11.](#) Recommendation to approve Right-of-Way Encroachment Agreement 22848 for improvements adjacent to 591 E 9th Street - Associate Planner Paige Nied
- [12.](#) Recommendation to approve the 1st and 4th Mixed Use Condominium Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision - Director of Planning & Building Morgan Landers
- [13.](#) Recommendation to approve the Quit Claim Deed for the alley vacation associated with the 1st and 4th Mixed Use Development - Director of Planning & Building Morgan Landers
- [14.](#) Recommendation to approve the Westcliff Townhomes Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision - Director of Planning & Building Morgan Landers
- [15.](#) Recommendation to approve the 7th Street Townhomes Preliminary Plat and Phased Development Agreement and adopt the Findings of Fact, Conclusions of Law, and Decision - Associate Planner Paige Nied
- [16.](#) Recommendation to approve Purchase Order 23098 Little Park play equipment - Public Affairs & Administrative Services Manager Lisa Enourato
- [17.](#) Recommendation to approve road closure for special event - Event Manager & Administrative Liaison Eryn Alvey
- [18.](#) Recommendation to approve Purchase Order 23099 for vehicle wraps for fire department - Public Affairs & Administrative Services Manager Lisa Enourato
- [19.](#) Recommendation to approve Memorandum of Understanding 23-014 between Blaine County Recreation District and The Cities of Carey, Bellevue, Hailey, Ketchum, Sun Valley, Blaine County School District, and Blaine County for Blaine County Sports and Recreation Infrastructure Feasibility Assessment - City Administrator Jade Riley
- [20.](#) Recommendation to approve the fee methodology for Short-Term Rental registration program - City Administrator Jade Riley

**PUBLIC HEARING:**

- [21.](#) Recommendation to conduct a public hearing to review and act on Permits Conditions Acceptance Development Agreement 22847 and Amendment to PUD/CUP P19-063 for the PEG Ketchum Hotel or Ketchum Tribute Hotel located at 251 S Main Street, 260 E River Street and 280 E River Street - Ketchum Urban Renewal Agency Executive Director Suzanne Frick
- [22.](#) Recommendation to implement West Ketchum Traffic Calming Pilot - City Administrator Jade Riley

**NEW BUSINESS:**

- [23.](#) Recommendation to review The Perry Building FAR Exceedance Agreement 22845, Lot Consolidation Preliminary Plat Application File No. P22-045A, and Condominium Subdivision Preliminary Plat Application File No. P22-045B - Senior Planner Abby Rivin

[24.](#) Recommendation to review and adopt the Construction Management Plan Enforcement and Contractor Parking Policy - Director of Planning & Building Morgan Landers

[25.](#) Update from Sun Valley Economic Development - Executive Director Harry Griffith

[26.](#) Review FY '24-'28 draft General Fund Capital Improvement Plan - City Administrator Jade Riley

**ADJOURNMENT:**

RICHARD C. CLOTFELTER  
151 So Main Street, Unit 503  
Ketchum Idaho

Mayor Neil Bradshaw & City Council Members  
City of Ketchum, Idaho  
P.O.Box 23151  
191 5<sup>th</sup> St. W  
Ketchum, Idaho 83340

Subject: PEG/Marriott Tribute Hotel  
River Street, Ketchum  
City Council Hearing May 15, 2023

Dear Mayor Bradshaw and City Council,

On March 24, 2023, I sent you the attached letter and included in my mailing the Ketchum P & Z and yourselves among others.

I understand that the Planning Department's recommendation to the P&Z was to ignore my letter as they did not want to get into the discussion about the failures that their review process had entailed.

If you have read through the entire presentation I made, you will note that the Planning process ignored an updated traffic study (over two year old) that pointed out the very issues I have raised several times during your review process: Congestion on River Street, alternative ways to solve the congestion issue, and most importantly, your own fire department, and the State Department of Transportation's concern about safety, and congestion. WHY?

In my previous presentation, I indicated that if P&Z did not look into the issues brought up that I would bring the entire subject up with the local news media. By this letter, I am now doing what I said.

I hope, you (The Mayor and City Council) of the City of Ketchum have a clearer thinking process than your own P & Z seems to have and recognize that the developers of the subject project has ignored well thought out process' about congestion and safety and solutions have not been properly and honestly been explored. In fact, have been purposely ignored.

I implore you again to be honest and thorough with your review and requirements for updating a very dangerous situation.

Yours Sincerely,  
  
Dick Clotfelter

RICHARD C. CLOTFELTER  
215 5<sup>TH</sup> AVE. SO.  
UNIT C-202  
KIRKLAND, WA 98033  
ALSO  
(151 So Main St. Unit 503  
Ketchum, ID 83340)  
March 24, 2023

To: Suzanne Frick -Ketchum Planning  
City of Ketchum P & Z  
Mayor Neil Bradshaw, City of Ketchum  
All City Council Members " " "  
Fire Chief Bill McLaughlin " " "  
Nathan Jerke, State of Idaho Dept. of Trans.

Subject: PEG/Marriott Tribute Hotel  
River Street, Ketchum, ID.

Dear Mayor Bradshaw, P&Z Commissioners  
Ketchum City Council Members,

Today I received a copy of the final report and recommendation from Ketchum City Planning to the P&Z Commissioners relative to the above referenced project.

This is a very lengthy document (218 pages including all exhibits). The focus is primarily on design, and meeting various city ordinances. There are copies of letters from Cox Business, Intermountain Gas, Idaho Power, Ketchum Water, etc., BUT NO letters from Ketchum Fire, and NO copies of the 2019 AECOM report done on the PEG project. WHY??

Both the Fire Department and the AECOM study deal with SAFETY. Design and Ordinance requirements are important, BUT, to the CITIZENS of Ketchum, SAFETY is the most important concern about any new project being proposed.

Why is the ABCOM study so important? The study was done in 2019, 2021. It has not been updated since. We are now in 2023-two + years later. In between, due to the Covid problem, the Mountain West, including Ketchum, have had to absorb huge increases in people moving to the area, visiting the area, buying and working in the area, and thus substantial changes in the traffic congestion in and around the main entrance to the City. If you talk to your own Fire Department and the State Department of Highways, which I have done, and their concerns are covered in the accompanying documents to the letter, you will find a concern about fire, emergency, and access issues.

**AN UPDATE ABCOM STUDY IS IMPERATIVE FOR THE SAFETY AND SECURITY OF THE CITIZENS OF KETCHUM!**

In the report, I received today the following are inaccurate or inconsistent statements:

1. Page 4. The statement is made that access to State Highway 75 is not allowed. Please see the attached statement by Nathan Jerke of the State Dept of Transportation.

2. Design Review Improvements 17.96.050.A.1, states the project does NOT jeopardize the safety of the public. Note the comments of the Fire Chief and Mr. Jerke.
3. Design Review Improvements 17.96.060(G) (3) page 18, Traffic Flow Safety. All comments are based upon the Study done in February 2019, 2021.—NO update based upon City influx of new people see attached.
4. Same number above (G) (4) page 18 HAWK system does not allow curb cuts within 100'. This report states ABCOM recommendation of HAWK was adopted. How does this reconcile with approved plan with curb cuts on River Street being within 20'?
5. Same number above (G) (5) page 18, states that City Engineering, Fire etc., have been in discussion about access. In January 2023 and March 2023, there had been NO discussions with the Fire department relative to fire safety with congestion on River Street.
6. Sheet CO.3 of the site conditions shows clearly there is room for using a curb cut on highway 75 for truck delivery which (per attached) no one (including the developer and City Planning) has talked to Nathan Jerke at the State Dept. of highways about this possibility. There have been discussions about other subjects but not about this subject—see attached.

The City of Ketchum Planning Department is recommending approval of a project that its own traffic studies are out of date on, its own Fire Department has not been involved in and the SAFETY of the Cities Citizens and visitors are not being considered. Once again WHY?? Where is the much talked about process?

Please go back to the basics, and adjust to the important issues before moving this permit further.

Sincerely,



Dick Clotfelter

Hello Mayor Bradshaw,

In the course of your mayoral duties, I'm sure you are inundated with correspondence and calls from our Ketchum residents, and most likely some are positive and some negative. With that in mind, I'd like to begin this correspondence with a ***Thank You*** for the job you do overseeing and managing our town. I hope all of our Ketchum residents recognize that your job is not an easy one and appreciate what you do to manage our community. As a resident of the Ketchum core, we certainly enjoy our vibrant downtown, community character, arts and cultural activities, recreational opportunities, and scenic beauty, and all without the over-crowding that many ski towns suffer from.

I'd like to offer my opinion and a suggestion or two that perhaps you might consider as you juggle the many issues that you're responsible for. One of those issues is something that seems to be on everyone's minds recently, and that is affordable housing. I certainly understand the need for affordable housing in Ketchum/Sun Valley/Hailey, and my wife and I support developing affordable opportunities and solutions for our Ketchum workers. In addition to the Bluebird Village, we understand the city is considering building other affordable housing complexes on various city-owned lots within the core of Ketchum. According to information from the Mountain Express, one lot in particular (6<sup>th</sup> and Leadville) may be slotted for development sooner than the others. We live directly across the street from this lot, so we are quite familiar with it and the purpose it presently serves as parking for downtown businesses and for families that use and enjoy the adjacent Memory Park. Additionally, in reading the Mountain Express, it sounds like some of the city council members believe there is adequate parking in town. That is not what we've seen here in our end of town where parking is tight; the street parking in front of the 511 Building and in front of the Leadville Terrace Condominium building, as well as in the city parking lot at 6<sup>th</sup> and Leadville, is generally full during business hours. In fact, during the high seasons, we also have a problem with people poaching our residents' private parking spots at the Leadville Terrace condo. The unit owners at our complex with open carports are currently in the process of purchasing attractive signs to post advising "Parking for Private Residence Only" in order to help alleviate this situation.

Thus, the suggestions that come to my mind in order to help maintain Ketchum's "small town, big life" atmosphere are:

- Is the 6<sup>th</sup> & Leadville lot the best way to maximize tax dollar spending for affordable housing on such a small lot (only about ¼ acre) within the high priced city core or would it make more sense to use this lot for a parking structure, and purchase a larger plot of less expensive land south of Ketchum where the opportunity to construct lower priced pre-fab type apartments would fit in better and not adversely affect Ketchum's small town character? I understand from a realtor friend that the City of Sun Valley took this route to purchase the Ellsworth Inn in Hailey for the purpose of less expensive affordable housing, purchased at only \$560/square foot. In areas south of town where a couple of hundred acres may be available, there could be a real possibility of creating a true workforce housing community as opposed to interspersing single small developments here and there within the core of Ketchum.
- Would it make more sense to use the 6<sup>th</sup> & Leadville lot for an above ground city owned parking structure that was 2 to 3 stories to help conserve our vibrant downtown? If we lose the current parking lot to apartments, it will likely impact business owners negatively. For instance, in the summer, we see lots of RV's and pickups towing boats that park in this lot to go into Silver Creek Outfitters to purchase items. They use this lot because Silver Creek's lot is very small, tight, and usually full. Other business owners located nearby also benefit from having their customers use that city parking lot. In the winter, on heavy snow days, the plows pile the snow up in the center of East Avenue, depleting those parking spaces, and creating a larger need for the nearby

parking lot at 6<sup>th</sup> & Leadville. Whether it's summer or winter seasons, the parking problem is likely to get worse once Bluebird Village is completed and overflow parking from there competes for downtown parking spaces. Ketchum is a tourist town, and it is important to have places for businesses to thrive and places for the tourists to park so they can enjoy downtown. Housing can be placed at different locations in the valley, but businesses and the parking areas that serve those businesses must be located in town.

- With today's high cost of construction, especially in downtown Ketchum, and as seen with Bluebird Village, it seems to make sense to consider less expensive land in an area where less expensive construction would be more acceptable. It seems an idea such as modular/prefab four-plex housing at a larger location would be a cost saving and reasonable alternative to the high price of housing in the core where the construction would be more upscale to fit in and preserve the town's character. Perhaps lower priced construction could be financed in a way that will truly benefit our Ketchum and Wood River Valley workforce.

Thank you for taking time to read my suggestions and thoughts for alternative options. I hope you and the city will review and take these suggestions in the positive manner they are meant. I know our Ketchum citizens would like to know our government is part of the solution, rather than part of the problem.

Best regards,

Bruce and Donna Morse  
President of Leadville Terrace Condominium Association  
520 N. Leadville Ave, Unit F  
Ketchum, ID 83340  
Cell: 407-620-6000



**From:** [Jordan Watson](#)  
**To:** [Participate](#)  
**Subject:** Re: Inclusiveness at guy coles skatepark  
**Date:** Sunday, May 14, 2023 10:17:54 AM

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Hello, Jordan again here about the skatepark and action sports community including bmx riders. I just wanted to email again and express a few more things. I've had skateboarders call me names and scream at me now for even being near the skatepark. I've handled these situations calmly and collectively. No issues, I will not enter the skatepark as no bikes are allowed. However I do not have a safe space to practice my sport in this town. And no other current or prospective bmx riders do. The pump tracks are over run with family's on mountain bikes and are not built for the sport of bmx we do. It's a safety issue, and it's also very discouraging to bmx riders that are traveling to or live in Ketchum. Maybe we can allow bikes one day a week? Like tuesdays? Many skateparks do this to keep a harmony. I understand this isn't the most important issue to the town, but it's very important to me. I appreciate your time. Thank you

Jordan Watson

On Mon, May 1, 2023 at 1:39 PM Participate <[participate@ketchumidaho.org](mailto:participate@ketchumidaho.org)> wrote:

Hi Jordan – confirming receipt of your emails.

The clerk will ensure they're shared with Council.

Cheers,

Aly

**ALY SWINDLEY | CITY OF KETCHUM**

Management and Communications Analyst

P.O. Box 2315 | 191 5<sup>th</sup> Street West | Ketchum, ID 83340

o: 208.727.5081 | f: 208.726.7812

[aswindley@ketchumidaho.org](mailto:aswindley@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

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**From:** Jordan Watson <[prescribingmoments@gmail.com](mailto:prescribingmoments@gmail.com)>  
**Sent:** Monday, May 1, 2023 1:13 PM  
**To:** Participate <[participate@ketchumidaho.org](mailto:participate@ketchumidaho.org)>  
**Subject:** Re: Inclusiveness at guy coles skatepark

Here is a pretty good article backing my concerns. Me and every skateboarder and scooterer I've been around have always had a mutual respect. No one bothers eachother and we all have fun together. I would love to be apart of the action sports community at the skatepark, as a skateboarder myself also. Thanks for your time.

<https://www.bicycleretailer.com/studies-reports/2009/07/26/many-skateparks-dont-allow-bmx-use#.ZFAOymRMEIQ>

Jordan Watson

On Mon, May 1, 2023 at 2:00 AM Jordan Watson <[prescribingmoments@gmail.com](mailto:prescribingmoments@gmail.com)> wrote:

Hello,

I just wanted to send an email explaining some concerns. Is bmx allowed at the skatepark? I see that scooters are allowed at certain times. Is it possible to allow bmx at those times? Or other times? Bmx is a huge action sport and I don't believe discrimination against bikers is fair to us that ride bikes in the wood river valley if it is not allowed there. I am a taxpayer here in the valley, and Ketchum and believe that if my money is going to the town then I should be allowed to use its facilities. I understand the liabilities with bikes, as there are many families that may wander in with children. However maybe only BMX bikes specifically can be allowed. Growing up me and many other bmx cyclists helped the community raise money to create a skatepark as a safe space for skateboarders, cyclists, scooters etc to ride at. And I would love to have that safe space here where my residence is. If they are not allowed there, can you explain why that would be? Is there anything I can do to help bmxers to have a safe space to ride? I know there are pump tracks and trails, however bmx freestyle is much different from mountain biking and racing. If there is anything I can do to have us be allowed to ride bmx at the park, please let me know. I appreciate your time, and look forward to hearing from you.

Thank you guys for all you do for the community,

Jordan Watson

**From:** [dayan chemello](#)  
**To:** [Participate](#)  
**Subject:** I want to be free to ride my bike  
**Date:** Sunday, May 14, 2023 11:14:42 AM

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Hello, you guys should allow people ride their bikes at the skatepark, we should feel included to do this sports. I would love that, please.  
Thanks

**From:** [Tyler Watson](#)  
**To:** [Participate](#)  
**Subject:** Skatepark  
**Date:** Sunday, May 14, 2023 12:20:30 PM

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Why are bicycles not allowed at the park? They present no more danger than skatepark to the person or the park. The reason is unclear to me, so please change this rule so bicycle riders have a place to ride.

**From:** [JANET KELLAM](#)  
**To:** [Participate](#)  
**Subject:** Public comment 5-15-2023 Avalanche Hazard Management  
**Date:** Monday, May 15, 2023 8:07:53 AM  
**Attachments:** [Public Comment- Avalanche Report Ketchum City Council 5-15-2023.pdf](#)

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I am submitting public comment for this afternoon's Ketchum City Council meeting, regarding the Avalanche Hazard management discussion.

Thank you for the opportunity to participate and for all of your work and dedication to our community.

Sincerely,

Janet Kellam

PO Box 3572 Ketchum, ID 83340

208-721-1045

Participate@KetchumIdaho.org  
City Council meeting, City of Ketchum, Idaho  
May 15, 2023

Public Comment re:  
Avalanche Hazard Management and Rescue Preparedness Blaine County, Idaho

I'd like to thank Manuel Genswein, The Sawtooth Avalanche Center and all of the agencies, public servants and private individuals in the Wood River Valley who supported avalanche awareness, preparedness and response throughout this past winter.

My focus is regarding "The Urban Avalanche Interface". This past winter's weather resulted in several extensive, destructive avalanche cycles and impacted our entire region from Bellevue & Hailey to Ketchum & Sun Valley, up Highway 75 & over Galena Summit and also included many of our side canyons that have roads and residential development.

Urban avalanche cycles do not necessarily take place here every winter, but we have experienced a number of them over the years. We have been very fortunate to not have loss of life or serious injury unlike neighboring Camas County in January 2004. Two family members were killed in their bed and five others narrowly escaped the same death when the slope above their home avalanched during a storm and destroyed the structure. In Blaine County in recent history, we have seen three homes obliterated and at least several others severely, structurally damaged. There have been a number of "near misses" involving people.

Given our population growth, our building demands, our sloping terrain and our more extreme weather, it is no longer a "once in awhile" problem. We can expect to see more urban avalanche events and more people of all types at risk in coming years.

Just as our communities have come together to manage flooding and wildfire concerns, our cities, agencies and services need to be able to coordinate and communicate effectively leading up to and during avalanche conditions that impact buildings, roads and the general public.

County and City Hazard mapping for planning and zoning as well as for emergency management provides a common language to identify areas of hazard and equally important, areas of safety. I agree with Manuel Genswein's concept to utilize leading US avalanche mapping/modeling professionals with the specific intent to train and develop our own local expertise. Given the expanse of our avalanche problems, we need professionals living and working here who know the area very well, closely follow each winter's patterns, know the community and can help to build our avalanche programs for years to come.

Respectfully,  
Janet Kellam  
110 Board Loop  
Ketchum, ID

Retired Avalanche Professional  
Former Director & Forecaster- Sawtooth National Forest Avalanche Center  
Former Director and Instructor- National Avalanche School  
Past President- American Avalanche Association



City of Ketchum

## National Gun Violence Awareness Day Proclamation

- Whereas,** every day, 120 people in the United States are killed with guns and more than 200 are shot and wounded; and
- Whereas,** Idaho, has 275 gun deaths every year, and has the 4th highest rate of gun suicides in the US; and
- Whereas,** protecting public safety in the communities they serve is mayors' highest responsibility; and
- Whereas,** support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories; and
- Whereas,** mayors and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and
- Whereas,** on January 29, 2013, Hadiya Pendleton was tragically shot and killed at age 15; and on June 2, 2023, to recognize her 26th birthday and pay tribute to her and other victims of gun violence and their loved ones, people across the United States will wear orange to recognize National Gun Violence Awareness Day; and
- Whereas,** by wearing orange on June 2, 2023, Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and
- Whereas,** we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

**NOW THEREFORE,** I, Neil Bradshaw, Mayor of the City of Ketchum, do hereby declare the first Friday in June, June 2, 2023, to be National Gun Violence Awareness Day. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

# **Avalanche Hazard Management and Rescue Preparedness Blaine County**

## ***About the Author***

This report has been compiled by Manuel Genswein, international visitor during the winter season 22/23 in the Sawtooth US Forest Service Avalanche Center. The purpose of the USFS international visitors program is to stimulate knowledge exchange with scientists from outside of the US for the mutual benefit of increasing efficiency in research and safety in the different fields of expertise of the USFS. As the program has a scientific goal, all advice and training provided by Manuel Genswein has been for free and there are no conflicts of interest. Manuel Genswein has worked for 30 years in 32 nations in the domain of avalanche safety and rescue.

## **Avalanche Hazard Management**

### ***Foreword***

For the backcountry, the USFS Sawtooth Avalanche Center provides a daily forecast for the avalanche hazard following national and international standards. The level of expertise and professionalism of the Sawtooth Avalanche Center staff is very high. Despite of the fact that it is a rather small avalanche center, it has become a driver of innovation for the national forecasting platform with multiple employees working partly for the National Avalanche Center.

While the situation concerning the backcountry forecasting is excellent, the Avalanche Hazard Management for residential areas, road managed by the towns, the county and the Idaho Department of Transportation is clearly insufficient, leading to the very concerning and dissatisfactory situation that avalanches reach into the residential areas and damage unevacuated houses frequently. The same is true concerning the road network. In the 22/23 winter season, many avalanches have closed several open roads, some road stretched multiple times at the same location. On multiple occasions, it was pure luck that no cars or pedestrians were caught and killed. Photos and reports of cars stuck between avalanches and video footage of pedestrians running for their lives to escape an avalanche in the very last moment have been the alarming outcome of this season.

In Sun Valley, one lives in many aspect “on the sunny side of life” – but even here, one day, you will run out of luck. The winter season 22/23 has shown very critical moments, the population of the Wood River Valley put the concept of “luck” to a very hard test... at one point, you will have used up the bonus points of luck... A very serious, very painful event costing many lives and causing enormous damage is only a question of time.

In the European Alps, we have lived for thousands of years in the mountains and learned as a society – and today supported by evidence-based methods, systems and strategies – where it is reasonably safe to build houses and other infrastructure, how to protect such areas, and when are the critical moments where road closures and evacuation measures are required.

Based on the above mentioned facts and the expertise of modern, evidence based avalanche hazard management, I highly advise Blaine County and the towns within Blaine country to consider and implement the following measures.



### ***Residential Areas, Roads, Public Parks/Playgrounds, X-Country Trails***

- **Create and update Avalanche Hazard Maps** for the exposed residential areas and roads in the town and county. Avalanche hazard maps are the fundamental base for all further decisions.
- **Hire an experienced commercial avalanche consulting company to support the project and to help to build up local expertise.** The Sawtooth Avalanche Center may be instrumental in formulating the professional requirements. The situation that there is only one commercial avalanche consulting company left in the US and that the average age of their employees is high, is in many aspects suboptimal.
- There are two areas in the US which have a serious avalanche problem in residential areas: the Wood River Valley and Juneau AK. **The only sustainable approach is to build up expertise and operational know-how in avalanche hazard mapping and avalanche hazard management in the in the concerned counties and towns, thus the Wood River Valley. Initially, the expertise of an external avalanche consulting company will be necessary, but the definition of the goal of their work shall clearly be to support building up local expertise.**
- It is important that the people who are developing the future of avalanche hazard management for the county and towns in the Wood River Valley live here and see all aspects of the problem throughout multiple winter seasons. They need to be here on site in critical avalanche hazard situations.
- **Use existing local expertise** of the staff of the Sawtooth Avalanche Center, Janet Kalam and Bruce Smith.
- Object **forecasting for roads and residential areas is necessary to identify the required measures to keep the residential areas and roads reasonably safe.** Follow the ALARP “As Low As Reasonable Possible” approach. Operational avalanche forecasting may be hired as a service, the option of contract the US Forest Service Avalanche Center should be seriously considered.
- **Until the avalanche hazard can be reduced by permanent avalanche structures, the only option is to limit exposure to the hazard:**
  - a. Preventative, temporary road closures and stopping snow removal
  - b. Preventative, temporary x-country trail closures and stopping track grooming
  - c. Preventative, temporary park and playground closures
  - d. Preventative, temporary evacuations of high exposure residential areas
  - e. An “**Avalanche Emergency Management Commission**” (see below) shall always be in place and manage in avalanche danger levels HIGH and EXTREME.
    - Be aware that the restrictions will only affect a very low number of days per year in a 10 years average – and on those days, the benefit of implementing restriction is very high!
- **Evaluate options for building avalanche structures** above the most endangered parts of the residential areas (base information: avalanche hazard mapping). Evaluate options for FEMA-support in close collaboration with the Emergency Manager of Blaine County.
- **Verify if the building code** (town, county) is strict and specific enough for buildings in avalanche zones in residential areas. It is recommended to take the Swiss (or Austrian) building code as a template for the verification. For this purpose, I recommend building a workgroup including city planners and civil engineers of some of the local structural engineering companies (see appendix). The protection principles of a solid, proven European building code, which has been tested in hundred of events and is based on solid, scientific evidence needs to be implemented in the structure of an US building code. If this task is

carried out by local civil engineers in collaboration with local city planners, it is possible to build up an in-depth common understanding. This process needs to run under supervision of an external avalanche consulting company or the Swiss Institute of Snow and Avalanche Research.

- Roads: Closer collaboration with the IDT Shoshone office should be notified when the Avalanche Danger is anticipated to go to HIGH or EXTREME. Planning of the road outside of the blue and red zones.
- 
- Plan for options to selectively shut off the electricity grid, water lines, sewer lines and gas pipelines to the endangered residential areas. We identified that the situation concerning the gas pipelines is unresolved. This is a particularly delicate and safety related point and need to be treated with priority.
- Signage for summer trails that can indicate when they are to be closed.

## Avalanche Emergency Management Commission

- **Constitute and Avalanche Emergency Management Commission**
- The Emergency Management Commission is **automatically activated as soon as the Sawtooth Avalanche Center anticipates that the avalanche danger level will reach HIGH or EXTREME**. Early information will allow proper implementation of the necessary measures and inform the affected part of the population with appropriate lead time. Whenever possible, the Avalanche Emergency Management Commission shall be activated no later than 24hrs before the avalanche hazard reaches HIGH or EXTREME and it will remain active until the avalanche danger level drops below HIGH.
- The **commission implements the following measures when the hazard requires it:**
  - Preventative, temporary **road closures and stopping snow removal**
  - Preventative, temporary x-country trail closures and stopping track grooming
  - Preventative, temporary park and playground closures
  - Preventative, temporary **evacuations of high exposure, unprotected residential areas** (Plan on how to provide shelter for these people. Information that rescue will not be possible in areas and on roads for the given duration the evacuation order or road closure.).
- The commission acts as a coordinative body between all affected governmental and private intuitions in the county. In particular all communications to the public shall be centrally coordinated by this body to avoid overlapping or contradictory information. Evaluate options for cell phone tower based SMS general broadcasts (= distribution to all mobile phones connected to specific towers/antennas).
- The staff of the Sawtooth Avalanche Center and/or additional forecasting and avalanche observation resources need to focus in a phase of HIGH or EXTREME avalanche hazard on their forecasting task. Their only focus is to provide as reliable as possible avalanche hazard information.
- Based on the avalanche hazard, the Avalanche Emergency Management Commission decides rules based (flowcharts, checklists, protocols) which measures need to be implemented.
- Increase level of rescue readiness by putting rescue resources and avalanche dogs on call with a pre-defined response time. Reoccurring training for Urban Avalanche Search and Rescue (UAvSAR) is mandatory for an efficient rescue response.

The following representatives of institutions have actively agreed to participate in the following planning meeting and as future members of the Avalanche Emergency Management Commission:

- Seth Martin (Ketchum Fire)
- Scott Savage (Sawtooth Avalanche Center)
- Chris Corwin (Blaine County)
- Jeff GIESE
- Brian Yaeger
- Mike Baledge
- Bass Sears
- Eric Rector
- Steve Thomason
- Christy Heitsmann

The following representatives of institutions have been proposed to participate:

- Shawn Binyon (BCSD)
- Representative of the Sheriffs Office

First planning meeting and review to the check list(s) and action plan: April 13<sup>th</sup> 11:30am

The planning meeting has been postponed by the Emergency Manager of the county for unknown reasons. A pro-active role of the County Emergency Manager is crucial for a timely and efficient implementation of most measures proposed in this concept.

Manuel Genswein is willing to provide the necessary information for this proposed meeting, which needs to take place in the near future.

## Idaho Central Mountain Rescue Group

In the 2022/2023 winter season, based on the initiative of Manuel Genswein of the Sawtooth Avalanche Center, a multi-step rescue skills and rescue simulation training has been carried out in collaboration with the fire brigades, ski patrols, guides services and heli-ski company. It resulted in a successful, complex rescue simulation with five buried subjects, the involvement of a technical rescue helicopter from the heliski company, two air-ambulance helicopters and the local hospital. All components of a complex, multi-agency avalanche rescue mission were applied:

- Communication concept
- Coordination concept and ICS
- Transport of rescue resources with technical and air ambulance helicopters to the accident site
- Search with different search means (transceiver, Recco, avalanche dog teams, probe lines)
- Excavation strategies
- Pre-hospital avalanche patient care
- Transport of the patient with different means of transport and proper handing over of the critical information for the proper treatment of an avalanche patient (AvaLife)
- Handling of an MCI situation in the emergency department of the local hospital, including triage criteria for forwarding specific patients to ECLS capable hospitals (AvaLife/HOPE)

Ketchum Fire is foreseen to act as the base for all organized avalanche rescue missions.

All parties mentioned above have invested a lot of their own time and resources to make this successful program possible. I would like to point out in particular: Sun Valley Heliski (Alex Kittrell, Christopher Templeton), MD Terry O'Connor, Ketchum Fire as lead agency.

A detailed, multi-page summary, debrief and action plan concerning the above mentioned rescue simulation has been prepared by Ketchum Fire in collaboration with MD Terry O'Connor (medical aspects), Christopher Templeton (Sun Valley Heliski, air rescue aspects) and Manuel Genswein (avalanche rescue aspects).

**It is now necessary that the initial passion and personal volunteer efforts are replaced by a formal structure and proper financing of the Idaho Central Mountain Rescue Group.** All participating individuals and organizations are mountain and / or rescue professionals and provide their time and expertise for something which clearly needs to be a public service. In spite of the fact that everyone supported this project with a lot of passion, this is NOT their hobby. It is in the very best interest of a county for which mountain and ski tourism is a major part of the economy to be able to provide adequate rescue preparedness. The very surprising and very disappointing fact that the Blaine County Sheriff's Office has never actively participated in any of the activities or meeting during the entire season in any topic mentioned in this protocol shows that reliable and professional rescue work cannot be put into the hands of non-mountain, non-avalanche professional volunteer groups. The Swiss visitor to SAC gives to protocol that he has trained rescue groups in numerous US counties over 25 years and has never experienced the total absence of a Sheriff's office to this extent.

The collaborators of the Idaho Central Mountain Rescue Group deserve the full institutional and financial support of Blaine country and the further steps of the institutionalization of the rescue group as well as a sustainable method of financing ongoing training, rescue and communication equipment needs to be found.

## **Preliminary Cost Calculation to Continue Training Based on the Season 22/23 Concept**

### Costs of participation of Ski Patrol, Heliski and Guiding Companies

- Total of 2 Ski Patrols and 2 Guiding Companies
  - 3 staff members 3 days per season @ 350 USD/day -> 3150 USD / organization -> 12600 USD / year
- Heliski Company including helicopter time
  - 4 staff members 3 days per season @ 350 USD/day -> 4200 USD / year
- Helicopter time
  - 5000 USD / year
- Rescue and communication equipment
  - 2500 USD / year

Total Preliminary Cost Calculation to Continue Training Based on the Season 22/23 Concept: 24300 USD / year. This is a very affordable amount looking at the fact that ski and mountain tourism is a major part of the local economy. Continuation of the successful common training scheme started in the 22/23 season shall be continued and required a minimum funding.

## Closing Remarks

Concerning all three topics mentioned in this protocol, it is advised to increase the level of awareness of the society at large, the political leadership, town councils and county councils as soon as possible.

***The financial means and political support required to properly and efficiently solve all these challenges will need broad support and therefore, active communication with a common voice will be key to success.***

The Sawtooth Avalanche Center with its USFS visitor Manuel Genswein have initiated several of the mentioned activities, trainings and meetings mentioned in this protocol. As my season will end here in in this beautiful, sunny valley, I wish all of you a successful continuation of these projects and I continue to be available to support you!

Originating from a different linguistic and cultural background, you might have sometimes felt pushed hard by the direct way of expressing things in Switzerland, my home country. It was never meant as a criticism. ***It is now in your hands and your ethical and professional responsibility to make sure that the community of this mountain tourism region does not need to suffer the painful losses we had to experience in the European Alps before we strictly implemented the measures proposed in this meeting protocol.*** You are in the very fortunate situation to have one of the most competent avalanche centers in North America situated in your county. As a federal institution, they have certain rules on how they are able to support all of the mentioned activities. I hope that the towns and county administrations find a creative solution for a formal agreements with USFS to use the Sawtooth Avalanche Center expertise. It was a great pleasure and honor for me to be the 22/23 winter season visitor at the Sawtooth Avalanche Center – thank you very much Scott & all Sawtooth Avalanche Center staff.

## Appendix

List of potential local companies to be implemented as part of the proposed action plan to build up local expertise in avalanche hazard mapping, building code for structures in avalanche zones and projects to build avalanche structures:

### Hazard Mapping:

Galena-Benchmark Engineering

David Patrie

Email: [dave@bma5b.com](mailto:dave@bma5b.com)

Office: 208-726-9512

(\*) engineers of this company have contacted Manuel Genswein during the 22/23 winter season and in 3 work meetings, Manuel Genswein has shown them how to start to build up dynamic avalanche modelling and avalanche hazard mapping using the RAMMS software.

### Geotechnical Engineering:

Butler Associates, Inc

Steve Butler

Email: [svgeotech@gmail.com](mailto:svgeotech@gmail.com)

Cell: 208-720-6432

### Lidar Drone Surveying:

Orion Surveying – subcontracts out of our office

Steve Shwartz

Email: [steve@os5b.com](mailto:steve@os5b.com)

Cell: 208-721-3849

### Structural Engineering:

Maxwell Structural Design Group

Craig Maxwell



Email: [craig@maxwellsds.com](mailto:craig@maxwellsds.com)

Phone: 208-721-2171

RLB Architectura:

Michael Bulls (Architect but will know who to contact for structural)

Email: [mbulls@rlb-sv.com](mailto:mbulls@rlb-sv.com)

Phone: 298-726-5608

Bouiss & Associates, PA

Michael Bouiss

Email: [mbouiss@gmail.com](mailto:mbouiss@gmail.com)

Phone: 208-726-3606



**CITY OF KETCHUM and KURA  
SPECIAL JOINT MEETING MINUTES  
Monday, April 24, 2023**

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**CALL TO ORDER: (00:00:19 in video)**

Mayor Bradshaw called the special joint meeting of the Ketchum City Council and KURA to order at 4:00 p.m.

**ROLL CALL—City Council:**

Mayor Neil Bradshaw  
Michael David  
Amanda Breen  
Courtney Hamilton  
Jim Slanetz

**ROLL CALL—KURA:**

Casey Dove  
Casey Burk  
Amanda Breen  
Tyler Davis-Jeffers  
Gary Lipton  
Jim Slanetz  
Susan Scovell - *via teleconference*

**ALSO PRESENT:**

Jade Riley, City Administrator  
Suzanne Frick, KURA Executive Director  
Trent Donat, City Clerk & Business Manager  
Lisa Enourato, Public Affairs & Administrative Services Manager  
Julie Dixon, Dixon Resources Unlimited - *via teleconference*  
Renée Strand, Holst Architecture  
Scot Martin, Desmond Consulting  
Abbey Germaine, KURA Counsel - *via teleconference*

**COMMUNICATIONS FROM MAYOR AND COUNCIL:**

None

**NEW BUSINESS:**

**Council and Ketchum Urban Renewal Agency:**

5. City Council and KURA discussion and potential direction to staff on downtown parking priorities, update on city properties and public parking location, and city and KURA funding strategies for public parking.

Jade Riley introduced the outline for the presentation.(00:01:27 in video)

Recap of 1<sup>st</sup> and Washington project options. *(00:03:20 in video)*

Presented by: Suzanne Frick

**Questions, comments, and discussion by Council and Board members** *(00:05:58 in video)*

Key aspects of Downtown Parking Plan. *(00:07:06 in video)*

Presented by: Jade Riley

**Questions, comments, and discussion by Council and Board members** *(00:22:32 in video)*

Overview of city-owned properties. *(00:24:10 in video)*

Presented by: Renée Strand

**Questions, comments, and discussion by Council and Board members** *(00:29:49 in video)*

Ketchum's downtown block and garage design criteria. *(00:31:10 in video)*

Presented by: Scot Martin

City resources available. *(00:35:34 in video)*

Presented by: Jade Riley

**Questions, comments, and discussion by Council and Board members** *(00:38:05 in video)*

**Motion to adjourn the City Council 5:46 p.m.** *(01:33:13 in video)*

**MOVER:** Courtney Hamilton

**SECONDER:** Jim Slanetz

**AYES:** Michael David, Courtney Hamilton, Amanda Breen, Jim Slanetz

**RESULT: ADOPTED UNANIMOUS**

**Ketchum Urban Renewal Agency—Action Item** *(01:33:57 in video)*

6. Ketchum Urban Renewal Agency will review, discuss, and direct staff to prepare documents authorizing funding to prepare design plans for subterranean parking and 1<sup>st</sup> and Washington avenue and potential amendments to the ANE with Wood River Community Housing Trust.

Presented by: Suzanne Frick

**Questions, comments, and discussion by Board members** *(01:36:19 in video)*

**Motion to not proceed with additional drawings to pursue the bidding option and instead we will focus on the ground floor parking negotiations with the developer.** *(02:01:31 in video)*

**MOVER:** Casey Dove

**SECONDER:** Susan Scovell

**AYES:** Susan Scovell, Casey Dove, Casey Burke, Gary Lipton, Jim Slanetz, Tyler Davis-Jeffers

**RECUSED:** Amanda Breen

**RESULT: ADOPTED**

**Casey Dove noted that there were 3 public comments in the package for review.**  
*(02:02:15 in video)*

**ADJOURNMENT:**

**Motion to adjourn at 6:05pm** *(02:02:26 in video)*

**MOVER:** Casey Dove

**SECONDER:** Amanda Breen

**AYES:** Amanda Breen, Susan Scovell, Casey Dove, Casey Burke, Gary Lipton, Jim Slanetz,  
Tyler David-Jeffers

**RESULT: UNANIMOUS**

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Neil Bradshaw, Mayor

ATTEST:

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Trent Donat, City Clerk

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Susan Scovell, KURA Chair

ATTEST:

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Trent Donat, KURA Secretary



**CALL TO ORDER:** *(00:00:14 in video)*

Mayor Bradshaw called the meeting of the Ketchum City Council to order at 4:00 p.m.

**ROLL CALL:**

Mayor Neil Bradshaw

Michael David

Amanda Breen

Courtney Hamilton

Jim Slanetz—*via teleconference*

**ALSO PRESENT:**

Jade Riley—City Administrator

Trent Donat—City Clerk & Business Manager

Lisa Enourato—Public Affairs & Administrative Services Manager

Bailee Ancona—Deputy City Treasurer

Carissa Connelly—Housing Director

Rian Rooney—Housing Fellow

**COMMUNICATIONS FROM MAYOR AND COUNCIL:**

- Michael David expressed his opinion about the unsightly appearance of the lot across the street from the Limelight Hotel. *(00:00:42 in video)*
- Courtney Hamilton remarked on the current spring weather and the bustling activity of people outdoors. She also highlighted the need to address the e-bike issue. The bike path is already busy. These bikes pose a threat to the safety of others using the bike path. *(00:01:32 in video)*
- Jim Slanetz shared that he was recently approached by a citizen who expressed concerns there would be a reduction of parking spaces on 4th Street near Atkinson's Market. *(00:02:23 in video)*
- Mayor Neil Bradshaw assured that there would be no reduction of parking on 4th Street. In addition to this comment, he discussed the recent high-water levels and the emergency response that had taken place in Warm Springs, which was promptly resolved. He expressed gratitude to the homeowners in Warm Springs for their vigilance and urged everyone to continue to do so. The mayor also acknowledged the Idaho Gives event happening this week and applauded the exceptional non-profit organizations and the spirit of generosity within the community. *(00:02:44 in video)*
- Mayor Neil Bradshaw made a proclamation that May 2023 is Mental Health Awareness Month. *(00:03:50 in video)*

**CONSENT AGENDA:** *(00:06:39 in video)*

**Motion to approve consent agenda items #3 - #9** (00:06:56 in video)

**MOVER:** Amanda Breen

**SECONDER:** Courtney Hamilton

**AYES:** Michael David, Courtney Hamilton, Jim Slanetz, Amanda Breen

**RESULT: ADOPTED UNANIMOUS**

**NEW BUSINESS:** (00:7:10 in video)

10. Housing Update

Introduction by: Carissa Connelly (00:07:58 in video)

Presented by: Rian Rooney (00:08:40 in video)

**Discussion and questions by Council** (00:15:05 in video)

Presentation continued by: Carissa Connelly (00:22:01 in video)

**Questions, comments, and discussion by Council** (00:38:52 in video)

11. Recommendation to approve Ketchum Housing Preference Policy

Presented by: Carissa Connelly (00:45:22 in video)

**Questions, comments, by Council throughout presentation**

**Motion to approve the Public Service Preference and adjust the retirement definition for Bluebird Village.** (00:54:33 in video)

**MOVER:** Michael David

**SECONDER:** Amanda Breen

**AYES:** Michael David, Courtney Hamilton, Amanda Breen, Jim Slanetz

**RESULT: ADOPTED UNANIMOUS**

**ADJOURNMENT:**

**Motion to adjourn** (00:55:07 in video)

**MOVER:** Courtney Hamilton

**SECONDER:** Amanda Breen

**AYES:** Michael David, Courtney Hamilton, Jim Slanetz, Amanda Breen

**RESULT: UNANIMOUS**

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Neil Bradshaw, Mayor

ATTEST:

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Trent Donat, City Clerk

Report Criteria:

Invoices with totals above \$0 included.  
Paid and unpaid invoices included.  
[Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"  
Invoice Detail.Voided = No,Yes

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>GENERAL FUND</b>				
<b>01-2175-8000 P/R DEDUC PBL--EMP CAF FSA-MD</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	FSA TOTAL	2,140.79	
NBS-NATIONAL BENEFIT SERVI	CP346516	FSA TOTAL	486.43	
Total :			2,627.22	
<b>LEGISLATIVE &amp; EXECUTIVE</b>				
<b>01-4110-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	195.39	
<b>01-4110-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	491.00	
Total LEGISLATIVE & EXECUTIVE:			686.39	
<b>ADMINISTRATIVE SERVICES</b>				
<b>01-4150-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRAMED	2,805.35	
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	118.29	
<b>01-4150-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	752.40	
<b>01-4150-3100 OFFICE SUPPLIES &amp; POSTAGE</b>				
A.C. HOUSTON LUMBER CO.	2304-561803	STEP LADDER	119.99	
COPY & PRINT, L.L.C.	126062	POS 12203: COFFEE, FOLDERS	388.53	
GEM STATE PAPER & SUPPLY	1094556-01	SOAP DISP	.00	
GEM STATE PAPER & SUPPLY	1095008	TOWEL DISPENSER, SOAP	46.96	
GEM STATE PAPER & SUPPLY	1095008-01	FOAM HAND SOAP	43.86	
GEM STATE PAPER & SUPPLY	1095009	COMPACT TISSUE DISPENSER	.00	
US BANK	2745 042523	BESTBUY-MICROSOFT PEN	105.99	
US BANK	4026 042523	STAPLES ARC STSTEM PAPER	17.98	
US BANK	4026 042523	AC HOUSTON-STEP LADDER REVERSAL	129.59-	
US BANK	6235 042523	KETCHUM KITCHENS	178.19	
US BANK	9749 042523	ANTI FATIGUE MAT	22.15	
GLOBAL INDUSTRIAL	120356562	DRY ERASE BOARD & SUPPLIES	761.61	
<b>01-4150-4200 PROFESSIONAL SERVICES</b>				
ALSCO - AMERICAN LINEN DIVI	LBOI2045947	191 5TH ST W	166.00	
ALSCO - AMERICAN LINEN DIVI	LBOI2053006	191 5TH ST W	166.00	
KETCHUM COMPUTERS, INC.	19612	ADMINISTRATION	5,852.25	
ROAD WORK AHEAD TRAFFIC S	TS--19949	STENCILS	3,103.05	
SACHA, LEONARDO PADILLA	050223	HONORARIUM SPANISH CLASSES	900.00	
<b>01-4150-4800 DUES, SUBSCRIPTIONS &amp; MEMBERSH</b>				
US BANK	2745 042523	TRELLO	100.00	
US BANK	2745 042523	TRELLO	11.67	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
US BANK	6235 042523	VIMEO PLUS	84.00	
<b>01-4150-4900 PERSONNEL TRAINING/TRAVEL/MTG</b>				
US BANK	5030 042523	RESIDENCE INN TAX CREDIT	43.42-	
<b>01-4150-5100 TELEPHONE &amp; COMMUNICATIONS</b>				
US BANK	5030 042523	8*8	1,262.58	
US BANK	6235 042523	LOGITECH EXPANSION MIC	219.00	
US BANK	6235 042523	LOGITECH EXPANSION MIC	219.99	
COX BUSINESS	0012401034971	0012401034971402 042223	143.00	
COX BUSINESS	0012401047131	0012401047131901 042523	77.19	
LUMEN	636922435	74754376 042423	.20	
<b>01-4150-5110 COMPUTER NETWORK</b>				
KETCHUM COMPUTERS, INC.	19612	ADMIN HARDWARE	1,430.55	
US BANK	4026 042523	CABLE COVER	18.98	
US BANK	5030 042523	MICROSOFT	22.61	
US BANK	5030 042523	DROPBOX	133.15	
US BANK	5030 042523	ZOOM.COM	79.00	
DELL FINANCIAL SERVICES	2605432	DFS EOL BUYOUT-FMV	104.11	
<b>01-4150-5150 COMMUNICATIONS</b>				
COPY CENTER LLC	2662	DEAR NEIGHBOR MAILER, POSTAGE	8,751.29	
COPY CENTER LLC	2693	LOT MAILER, POSTAGE, STICKERS	4,272.77	
US BANK	5030 042523	MAILCHIMP	220.00	
US BANK	6235 042523	YOUTUBE PREMIUM	11.99	
US BANK	6235 042523	YOUTUBE.COM	15.00	
US BANK	6235 042523	FACEBOOK ADS	84.48	
SNEE, MOLLY	2313	MAY RETAINER FEE	5,000.00	
<b>01-4150-5200 UTILITIES</b>				
CITY OF KETCHUM	050123	9994	184.39	
CITY OF KETCHUM	050123	208	401.05	
CITY OF KETCHUM	050123	360	56.39	
IDAHO POWER	2206452274 04	2206452274 042823	306.00	
INTERMOUNTAIN GAS	44919030005 0	44919030005 042423	35.24	
INTERMOUNTAIN GAS	76053745030 0	76053745030 042423	506.55	
Total ADMINISTRATIVE SERVICES:			39,126.77	
<b>LEGAL</b>				
<b>01-4160-4270 CITY PROSECUTOR</b>				
ALLINGTON, ESQ., FREDERICK	120298	Monthly Prosecutor Payment	3,883.33	
Total LEGAL:			3,883.33	
<b>PLANNING &amp; BUILDING</b>				
<b>01-4170-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	300.00	
<b>01-4170-3100 OFFICE SUPPLIES &amp; POSTAGE</b>				
COPY & PRINT, L.L.C.	126078	LAMINATE SHEETS, STAPLE REMOVER, CALENDAR	174.69	
COPY & PRINT, L.L.C.	126094	LEGAL NOTE PADS	72.55	
<b>01-4170-3200 OPERATING SUPPLIES</b>				
ATKINSONS' MARKET	05662689	CHIPS,SODA, LACROIX	33.29	



Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
BIGWOOD BREAD, LLC	177349	LUNCH FOR TAG MEETING	353.34	
US BANK	6235 042523	BROCHURE HOLDERS, SIGN HOLDERS	507.87	
<b>01-4170-4200 PROFESSIONAL SERVICES</b>				
FORSGREN ASSOCIATES, INC.	223179	Engineering Services	3,836.25	
KETCHUM COMPUTERS, INC.	19612	PLANNING & BUILDING	594.00	
<b>01-4170-4210 PROFESSIONAL SERVICES - IDBS</b>				
DIVISION OF OCCUPATIONAL	042823	APRIL 2023, BUILDING PERMIT FEES	19,912.13	
<b>01-4170-4400 ADVERTISING &amp; LEGAL PUBLICATIO</b>				
COPY CENTER LLC	2712	CARD STOCK NOTICE	132.00	
US BANK	0172 042523	APA COLORADO	100.00	
US BANK	0172 042523	WESTERN PLANNER RESOURCES	55.00	
Total PLANNING & BUILDING:			26,071.12	
<b>NON-DEPARTMENTAL</b>				
<b>01-4193-4200 PROFESSIONAL SERVICE</b>				
US BANK	5030 042523	BLUE + PINE	125.00	
US BANK	6235 042523	HOTEL KETCHUM	162.50	
BEST DAY HR	45050	PUBLIC WORKS DIRECTOR RECRUITMENT	5,145.30	
NEWBRY, ASHLEY	050423	PUBLIC WORKS INTERVIEWEE REIMBURSEMENT	86.75	
VERNON, RAY	050423	PUBLIC WORK INTERVIEWEE REIMBURSEMENT	101.29	
<b>01-4193-4250 BLAINE CITY TOUR</b>				
US BANK	2745 042523	WARBIRDS CAFE-CITY TOUR	171.60	
US BANK	2745 042523	TETON THAI- CITY TOUR	286.80	
US BANK	2745 042523	AGAVE MEXICAN RESTRAURANT-CITY TOUR	138.00	
US BANK	2745 042523	CITIZEN 33- CITY TOUR	125.93	
US BANK	2745 042523	PIZZERIA ALPINO-CITY TOUR	295.20	
US BANK	2745 042523	R & R CATERING-CITY TOUR	1,110.15	
US BANK	2745 042523	FORAGE BISTRO-CITY TOUR	282.28	
US BANK	6235 042523	SUPER 8 - CITY TOUR TAX REFUND	30.38-	
US BANK	6235 042523	SUPER 8-CITY TOUR	247.38	
<b>01-4193-4500 1ST/WASHINGTON RENT</b>				
URBAN RENEWAL AGENCY	6605	URA RENT	3,000.00	
<b>01-4193-9930 GENERAL FUND OP. CONTINGENCY</b>				
US BANK	6235 042523	BLUE+PINE PLUGIN CHARGE	48.00	
CLEARMINDGRAPHICS	5755	WEBSITE HOSTING, DESIGN, DEVELOPEMENT	1,582.50	
Total NON-DEPARTMENTAL:			12,878.30	
<b>FACILITY MAINTENANCE</b>				
<b>01-4194-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	1,685.65	
<b>01-4194-3200 OPERATING SUPPLIES</b>				
A.C. HOUSTON LUMBER CO.	2304-565567	GRINDING SHIELD	29.99	
A.C. HOUSTON LUMBER CO.	2304-565606	EAR PLUGS, FACE SHIELD	55.97	
A.C. HOUSTON LUMBER CO.	2304-568093	DEERSHIN GLOVES	21.99	
<b>01-4194-3500 MOTOR FUELS &amp; LUBRICANTS</b>				
CHRISTENSEN INC.	1019465	38950 043023	383.46	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>01-4194-4200 PROFESSIONAL SERVICES</b>				
KETCHUM COMPUTERS, INC.	19612	FACILITIES MAINTENANCE	231.00	
WILRO PLUMBERS LLC	20359	Town Square PARK SERVICE	700.00	
<b>01-4194-5200 UTILITIES</b>				
CITY OF KETCHUM	050123	772	66.88	
CITY OF KETCHUM	050123	1127	14.55	
CITY OF KETCHUM	050123	9995	43.65	
CITY OF KETCHUM	050123	9991	86.00	
CITY OF KETCHUM	050123	560	14.55	
CITY OF KETCHUM	050123	456	14.55	
CITY OF KETCHUM	050123	536	43.65	
CITY OF KETCHUM	050123	1245	41.85	
CITY OF KETCHUM	050123	9996	56.40	
CITY OF KETCHUM	050123	532	60.15	
INTERMOUNTAIN GAS	32649330001 0	130 S 1 AVE	34.56	
INTERMOUNTAIN GAS	65669030002 0	65669030002 042423	9.79	
<b>01-4194-5900 REPAIR &amp; MAINTENANCE-BUILDINGS</b>				
WILRO PLUMBERS LLC	20343	CLOGGED TOLIET SERVICE	120.00	
<b>01-4194-5910 REPAIR &amp; MAINT-491 SV ROAD</b>				
CITY OF KETCHUM	050123	192	327.99	
INTERMOUNTAIN GAS	17499804809 0	17499804809 042423	349.42	
<b>01-4194-5950 REPAIR &amp; MAINT-WARM SPRINGS PR</b>				
CLEAR CREEK LAND CO. LLC	0000039147	OLD GEEZER ALLY	234.47	
<b>01-4194-6000 REPAIR &amp; MAINT-AUTOMOTIVE EQUI</b>				
RIVER RUN AUTO PARTS	6538-190037	FLOOR MATS, SEAT COVERS	453.90	
<b>01-4194-6950 MAINTENANCE</b>				
A.C. HOUSTON LUMBER CO.	2304-567359	FASTENERS	9.36	
A.C. HOUSTON LUMBER CO.	2304-567947	PAINT THINNER, GRAFFITI REMOVER, SPRAY BOTTLE, BRUSH	28.00	
A.C. HOUSTON LUMBER CO.	2304-568618	LAG BOLT, WASHERS	26.16	
CHATEAU DRUG CENTER	2692677	KEY MADE	6.18	
PIPECO, INC.	S4961503.001	RAKES	52.54	
US BANK	9988 042523	GAZEBO	828.86	
Total FACILITY MAINTENANCE:			6,031.58	
<b>POLICE</b>				
<b>01-4210-3500 MOTOR FUELS &amp; LUBRICANTS</b>				
CHRISTENSEN INC.	1019479	39060 043023	166.14	
<b>01-4210-3620 PARKING OPS EQUIPMENT FEES</b>				
US BANK	4026 042523	5.11 CARABINER, PANTS	248.04	
<b>01-4210-4200 PROFESSIONAL SERVICES</b>				
KETCHUM COMPUTERS, INC.	19613	CSO	1,155.00	
<b>01-4210-4250 PROF.SERVICES-BCSO CONTRACT</b>				
BLAINE COUNTY CLERK/RECOR	201064	BCSO Law Enforcement Services	145,144.75	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>01-4210-6000 REPAIR &amp; MAINT--AUTOMOTIVE EQU</b>				
RIVER RUN AUTO PARTS	6538-188718	WIPER BLADES	21.90	
US BANK	4026 042523	KARL MALONE-BRAKE LIGHTS	236.28	
US BANK	4026 042523	KARL MALONE-CREDIT	10.85-	
Total POLICE:			146,961.26	
<b>FIRE &amp; RESCUE</b>				
<b>01-4230-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	355.36	
NBS-NATIONAL BENEFIT SERVI	CP346516	HRAMED	101.15	
<b>01-4230-3200 OPERATING SUPPLIES FIRE</b>				
ATKINSONS' MARKET	02671568	WHITE CLOUD	27.54	
ATKINSONS' MARKET	04333038	GROCERIES	21.63	
ATKINSONS' MARKET	05661157	APC SPRAY, WHITE CLOUD, REYNOLD	70.26	
CHATEAU DRUG CENTER	2678090	SHARPIES, PAPER, COMPOSITION NOTEBOOK, MISC OFC SUPPLIES	37.28	
DAVIS EMBROIDERY INC.	41892	EMBROIDERY SERVICE FOR FULL UNIFORMS	2,921.01	
DAVIS EMBROIDERY INC.	42203	UNIFORM EMROIDERY	15.00	
DAVIS EMBROIDERY INC.	42247	PATCH SERVICE	117.00	
GEM STATE PAPER & SUPPLY	1093849	BATH TISSUE, WIPER ROLL, BOWL CLEANER	163.10	
GEM STATE PAPER & SUPPLY	1095033	COPY PAPER	92.49	
INTEGRATED TECHNOLOGIES	211008	TF2795 030823	12.18	
NORCO	36706408	HYDRO & INSP OF SCBA CYL	261.99	
RIVER RUN AUTO PARTS	6538-189802	OIL CHANGE SUPPLIES	96.74	
RIVER RUN AUTO PARTS	6538-189878	AUTO FUSE, FUSE HOLDER	10.40	
US BANK	9939 042523	COFFEEMAKER	64.98	
US BANK	9939 042523	LINED STICKY NOTES	3.48	
US BANK	9939 042523	COMPRESSED AIR DUSTERS	16.50	
US BANK	9939 042523	NOTEPADS PAPERCLIPS	25.49	
MUNICIPAL EMERGENCY SERIC	IN1823416	ENERGIZER INDUSTRIAL ALK AA	33.11	
MUNICIPAL EMERGENCY SERIC	IN1842727	BLACK COMPANY BOOT	114.93	
MUNICIPAL EMERGENCY SERIC	IN1866976	BOURKE EYESHIELD	103.27	
LIGHTHOUSE UNIFORMS INC	A-312928	COLLAR PINS	616.15	
LIGHTHOUSE UNIFORMS INC	A-312968	24 CUSTOM HAT BADGE	2,532.00	
<b>01-4230-3210 OPERATING SUPPLIES EMS</b>				
ATKINSONS' MARKET	02671568	WHITE CLOUD	27.54	
ATKINSONS' MARKET	04333038	GROCERIES	21.64	
BOUNDTREE MEDICAL	84834481	CURAPLEX	174.00	
BOUNDTREE MEDICAL	84836088	LIDOCAINE	92.99	
BOUNDTREE MEDICAL	84836088	FREIGHT	8.80	
BOUNDTREE MEDICAL	84843854	SODIUM BICARBONATE	255.99	
BOUNDTREE MEDICAL	84858607	ROCURONIUM	134.99	
BOUNDTREE MEDICAL	84867794	OXYGEN REGULATOR	135.87	
BOUNDTREE MEDICAL	84936127	BACTERIAL FILTER	110.95	
CHATEAU DRUG CENTER	2678090	SHARPIES, PAPER, COMPOSITION NOTEBOOK, MISC OFC SUPPLIES	37.28	
CHATEAU DRUG CENTER	2693488	PLUNGER	22.77	
GEM STATE PAPER & SUPPLY	1093849	BATH TUSSUE, WIPER ROLL, BOWL CLEANER	163.09	
GEM STATE PAPER & SUPPLY	1095033	COPY PAPER	92.48	
INTEGRATED TECHNOLOGIES	211008	TF2795 030823	12.18	
NORCO	36721561	D-MEDICAL OXYGEN	70.25	
NORCO	36857819	D-MEDICAL OXYGEN	70.25	
NORCO	36906955	CYLINDER RENTAL	74.40	
NORCO	36908038	CYLINDER RENTAL	181.35	
US BANK	9939 042523	COFFEEMAKER	64.97	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
US BANK	9939 042523	MADESMART SHOWER TOTE	35.16	
US BANK	9939 042523	COMPRESSED AIR DUSTERS	16.49	
US BANK	9939 042523	NOTEPADS PAPERCLIPS	25.48	
US BANK	9939 042523	LINED STICKY NOTES	3.47	
MUNICIPAL EMERGENCY SERIC	IN1823416	ENERGIZER INDUSTRIAL ALK AA	33.11	
HENRY SCHEIN	33070744	CERVICAL COLLAR	667.50	
HENRY SCHEIN	33143535	ECG ELECTRODES	137.59	
HENRY SCHEIN	33399291	MEDICATIONS & SMART PADS	1,380.74	
HENRY SCHEIN	33493691	SODIUM BICARB & ADRENALIN	196.10	
HENRY SCHEIN	33690459	CHITOSAM	53.62	
HENRY SCHEIN	34475076	AMBULANCE SUPPLIES	1,153.69	
HENRY SCHEIN	34475202	NEEDLE DECOMPRESSION	45.30	
HENRY SCHEIN	34475203	GAUZE	123.15	
HENRY SCHEIN	34983608	ACTIVATED CHARCOAL & DCI-DC-3 ADULT REUSABLE SENSOR	713.20	
HENRY SCHEIN	35185907	CATHETER, PT MOVER, MASK, COLD PACK	411.97	
HENRY SCHEIN	35298342	CPR STAT PADZ	634.53	
HENRY SCHEIN	35397864	SHARPS CONTAINER, SODIUM CHLORIDE, SAMPLING LINE CAPNOLINE	519.38	
HENRY SCHEIN	37266602	I-GEL & INSYTE AUTOGUARD	289.39	
HENRY SCHEIN	37266604	I-GEL PACK	171.24	
<b>01-4230-3500 MOTOR FUELS &amp; LUBRICANTS FIRE</b>				
RIVER RUN AUTO PARTS	6538-188861	OIL	32.85	
CHRISTENSEN INC.	1013168	37267 021523	420.22	
CHRISTENSEN INC.	1018344	37267 041523	202.78	
CHRISTENSEN INC.	1019338	37267 043023	150.30	
<b>01-4230-3510 MOTOR FUELS &amp; LUBRICANTS EMS</b>				
RIVER RUN AUTO PARTS	6538-188861	OIL	32.85	
CHRISTENSEN INC.	1013168	37267 021523	420.21	
CHRISTENSEN INC.	1018344	37267 041523	202.78	
CHRISTENSEN INC.	1019338	37267 043023	150.31	
<b>01-4230-4200 PROFESSIONAL SERVICES FIRE</b>				
KETCHUM COMPUTERS, INC.	19612	FIRE & RESCUE	1,229.25	
<b>01-4230-4210 PROFESSIONAL SERVICES EMS</b>				
US BANK	3938 042523	ALS LICENSE RENEWAL	26.75	
<b>01-4230-4800 DUES, SUBSCRIPTIONS &amp; MEMBERSH</b>				
US BANK	9939 042523	ID FIRE CHIEFS ASSOCIATION	110.00	
<b>01-4230-4900 TRAINING/TRAVEL/MTG FIRE</b>				
US BANK	9939 042523	PILOT INSTITUTE DRONE MANEUVERS	149.00	
US BANK	9939 042523	BLM FIRE TRAINING	613.35	
<b>01-4230-4903 ASSISTANT FIRE CHIEF TRAINING</b>				
US BANK	3938 042523	BASIC FIRE SCHOOL	50.00	
<b>01-4230-4910 TRAINING EMS</b>				
US BANK	3938 042523	INTERNATIONAL FIRE CODE	91.55	
<b>01-4230-4920 TRAINING-FACILITY</b>				
IDAHO POWER	2224210258 04	2224210258 040723	58.99	
<b>01-4230-5100 TELEPHONE &amp; COMMUNICATION FIRE</b>				
BLAINE COUNTY EMERGENCY	KFDPS23	PSS SERVERS, CAD/RMS, MOBILE VPN	3,961.91	
MTE COMMUNICATIONS	056983 050123	056983 050123	.00	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
US BANK	3938 042523	FIRSTNET 287307161044	838.83	
US BANK	3938 042523	VERIZON 9930908759	674.17	
VERIZON WIRELESS	9933297547	842054354-00001 042323	104.47	
49 ER COMMUNICATIONS INC.	69359	RADIO BATTERIES	554.72	
<b>01-4230-5110 TELEPHONE &amp; COMMUNICATION EMS</b>				
BLAINE COUNTY EMERGENCY	KFDPSS23	PSS SERVERS, CAD/RMS, MOBILE VPN	3,961.90	
MTE COMMUNICATIONS	056983 050123	056983 050123	.00	
US BANK	3938 042523	FIRSTNET 287307161044	838.83	
US BANK	3938 042523	VERIZON 9930908759	674.17	
VERIZON WIRELESS	9933297547	842054354-00001 042323	104.47	
49 ER COMMUNICATIONS INC.	69359	RADIO BATTERIES	554.73	
CENTRALSQUARE	373152	ANNUAL MAINTENANCE FEES	2,315.47	
<b>01-4230-5200 UTILITIES</b>				
CITY OF KETCHUM	050123	2307	146.35	
IDAHO POWER	2226144497 04	2226144497 042523	1,755.80	
INTERMOUNTAIN GAS	26223127833 0	26223127833 042423	955.46	
<b>01-4230-6000 REPAIR &amp; MAINT-AUTO EQUIP FIRE</b>				
A.C. HOUSTON LUMBER CO.	2304-566897	DRILL BITS	19.16	
HUGHES FIRE EQUIPMENT, INC.	578348	PUMPER PART	157.90	
LARSEN FIRE APPARATUS SERVI	2903	ANNUAL PUMP TESTING	1,050.00	
RIVER RUN AUTO PARTS	6538-188168	WASH & WAX	13.49	
CURTIS TOOLS FOR HEROES	INV697465	20A CONNECTOR	214.55	
<b>01-4230-6010 REPAIR &amp; MAINT-AUTO EQUIP EMS</b>				
RIVER RUN AUTO PARTS	6538-188168	WASH & WAX	13.49	
RIVER RUN AUTO PARTS	6538-189859	OIL, HDMO, OIL PREMIUM BLUE	127.56	
<b>01-4230-6900 OTHER PURCHASED SERVICES FIRE</b>				
US BANK	3938 042523	NFPA CONTACT CENTER	50.00	
US BANK	3938 042523	USPS BOX RENEWAL	94.00	
<b>01-4230-6910 OTHER PURCHASED SERVICES EMS</b>				
US BANK	3938 042523	NFPA CONTACT CENTER	49.99	
US BANK	3938 042523	USPS BOX RENEWAL	94.00	
Total FIRE & RESCUE:			39,442.55	
<b>STREET</b>				
<b>01-4310-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	579.34	
<b>01-4310-3200 OPERATING SUPPLIES</b>				
RIVER RUN AUTO PARTS	6538-189835	STARTING FLUID	5.95	
RIVER RUN AUTO PARTS	6538-190120	BRAKE FLUID-DOT 3	9.95	
US BANK	2022 042523	WRAPCITY-SNOW CREW	23.25	
<b>01-4310-3500 MOTOR FUELS &amp; LUBRICANTS</b>				
CHRISTENSEN INC.	1019339	37269 043023	1,487.39	
<b>01-4310-4200 PROFESSIONAL SERVICES</b>				
KETCHUM COMPUTERS, INC.	19612	STREETS	462.00	
WESTERN STATES CAT	IN002371352	WINTER 22-23 DOZER RENTAL-RETURN HAUL	950.00	
WESTERN STATES CAT	IN002380994	Dozer Rental-REPAIR COST	1,653.03	
WESTERN STATES CAT	IN002380994	WINTER 22-23 DOZER RENTAL-ADDITIONAL	4,011.50	23019

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>01-4310-5200 UTILITIES</b>				
CITY OF KETCHUM	050123	9999	71.30	
CITY OF KETCHUM	050123	9993	100.72	
INTERMOUNTAIN GAS	32649330001 0	911 WARM SPRINGS	250.31	
INTERMOUNTAIN GAS	32649330001 0	200 E 10 ST	852.95	
INTERMOUNTAIN GAS	49439330009 0	49439330009	273.54	
<b>01-4310-6000 REPAIR &amp; MAINT--AUTOMOTIVE EQU</b>				
NAPA AUTO PARTS	144658	OIL, AIR FILTES F550	59.82	
<b>01-4310-6100 REPAIR &amp; MAINT--MACHINERY &amp; EQ</b>				
GO-FER-IT	119809	Delivery from Sage Supply - Twin Falls	28.35	
METROQUIP, INC.	P20684	EAGLE SWEEPER PARTS	1,049.80	
NAPA AUTO PARTS	144804	HOT PATCHER	93.91	
NAPA AUTO PARTS	145067	CIRCUIT BREAKER	8.54	
NAPA AUTO PARTS	145342	EAGLE SWEEPER PARTS	69.29	
PLATT ELECTRIC SUPPLY	3X65645	ELECTRIAL BOX HOT PATCHER WINCH	33.54	
RIVER RUN AUTO PARTS	6538-189188	DIESEL EXHAUST FLUID	57.90	
WESTERN STATES CAT	OIN002373498	966M LOADER PARTS	34.51	
<b>01-4310-6910 OTHER PURCHASED SERVICES</b>				
CINTAS	5155895080	MEDICINE CABINET SERVICES-STREET DEPT	103.48	
NORCO	37609917	CYLINDER RENTAL	250.50	
US BANK	2022 042523	LAUNDROMUTT-COVERALL WASH	20.15	
<b>01-4310-6920 SIGNS &amp; SIGNALIZATION</b>				
ECONO SIGNS LLC	10-981910	CUSTOM SIGN	382.49	
<b>01-4310-6930 STREET LIGHTING</b>				
IDAHO POWER	2200749261 04	2200749261 042523	393.59	
<b>01-4310-6950 MAINTENANCE &amp; IMPROVEMENTS</b>				
BUSINESS AS USUAL INC.	162241	STENCIL2"	11.50	
LUTZ RENTALS	141456-1	Propane	30.68	
PIPECO, INC.	S4980079.001	BRASS BALL VALVE	37.57	
WALKER SAND AND GRAVEL	1136717	CLEAN FILL 25.16	176.12	
WALKER SAND AND GRAVEL	1137136	IMPORT CLEAN FILL 24.84 TON	173.88	
WALKER SAND AND GRAVEL	1137669	SAND 11.04 TON	84.14	
WALKER SAND AND GRAVEL	1137669	CLEAN FILL 13.95TON	100.65	
Total STREET:			13,931.64	
<b>RECREATION</b>				
<b>01-4510-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	25.00	
<b>01-4510-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	365.58	
<b>01-4510-3200 OPERATING SUPPLIES</b>				
A.C. HOUSTON LUMBER CO.	2304-568638	WOOD GLUE, STAIN, DOWEL, GORMAN	54.00	
US BANK	7926 042523	WATERSENTRY PLUS FILTER	69.96	
<b>01-4510-3250 RECREATION SUPPLIES</b>				
US BANK	7926 042523	MACRAME ROPE, GLUE STICKS	13.57	
US BANK	7926 042523	MAGNETS, STEM CONSTRUCTION WOODEN LOGS	120.98	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
US BANK	7926 042523	CRAFT RINGS, MACRAME CORDS	25.96	
<b>01-4510-3300 RESALE ITEMS-CONCESSION SUPPLY</b>				
ATKINSONS' MARKET	04660694	BANANAS, MELONS, ORANGES	41.80	
ATKINSONS' MARKET	04664057	MILK NANCYS VANILLA	4.48	
ATKINSONS' MARKET	04664951	ONIONS, LEMONS, HALF&HALF, PEETS, ETC	21.74	
ATKINSONS' MARKET	06669143	PARMESAN, FRUIT, POTATOES	25.88	
<b>01-4510-4200 PROFESSIONAL SERVICE</b>				
KETCHUM COMPUTERS, INC.	19612	PARKS	552.75	
<b>01-4510-4410 ADVERTISING &amp; PUBLICATIONS</b>				
US BANK	7926 042523	PEACHJAR CREDITS	125.00	
<b>01-4510-5200 UTILITIES</b>				
INTERMOUNTAIN GAS	31904030009 0	31904030009 042423	195.91	
Total RECREATION:			1,642.61	
Total GENERAL FUND:			293,282.77	
<b>WAGON DAYS FUND</b>				
<b>WAGON DAYS EXPENDITURES</b>				
<b>02-4530-3200 OPERATING SUPPLIES</b>				
US BANK	6235 042523	WIX.COM	30.00	
<b>02-4530-4200 PROFESSIONAL SERVICES</b>				
SUN VALLEY EVENTS	1026	PROFESSIONAL SERVICES- WAGON DAYS 2023-MAY INSTALLMENT	4,642.50	23063
Total WAGON DAYS EXPENDITURES:			4,672.50	
Total WAGON DAYS FUND:			4,672.50	
<b>GENERAL CAPITAL IMPROVEMENT FD</b>				
<b>GENERAL CIP EXPENDITURES</b>				
<b>03-4193-7100 SUN VALLEY RD MILL &amp; OVERLAY</b>				
COPY CENTER LLC	2662	SV RD IMPROVEMENT CARDS	174.00	
Total GENERAL CIP EXPENDITURES:			174.00	
<b>FACILITY MAINT CIP EXPENDITURE</b>				
<b>03-4194-7100 LITTLE PARK UPGRADES</b>				
US BANK	6235 042523	GLOBAL INDUSTRIAL BOTTLE FILLER	3,219.43	
Total FACILITY MAINT CIP EXPENDITURE:			3,219.43	
<b>POLICE CIP EXPENDITURES</b>				
<b>03-4210-7100 POLICE VEHICLE (NEW)</b>				
YOUNG AUTOMOTIVE GROUP	050823	DODGE DURAGNO 2022 12S2272	37,028.00	23093
YOUNG AUTOMOTIVE GROUP	050823	DODGE DURAGNO 2022 12S1734	37,028.00	23093
Total POLICE CIP EXPENDITURES:			74,056.00	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>FIRE &amp; RESCUE CIP EXPENDITURES</b>				
<b>03-4230-7120 RADIOS (PORTABLE)</b>				
49 ER COMMUNICATIONS INC.	66591	PORTABLE RADIO, BASE FREQUENCY, WHIP ANTENNA, REPLACEMENT CHANNEL KNOB	1,637.15	
49 ER COMMUNICATIONS INC.	67626	RADIO BATTERIES, HOLSTERS, DESKTOP CHARGER, PAGER	4,206.59	
<b>03-4230-7130 PPE (TURNOUT GEAR)</b>				
US BANK	9939 042523	MOUNTIAN UNIFORMS	457.50	
YAGLA, BRANDON	041923	BOOT REIMBURSMENT	150.00	
Total FIRE & RESCUE CIP EXPENDITURES:			6,451.24	
Total GENERAL CAPITAL IMPROVEMENT FD:			83,900.67	
<b>ORIGINAL LOT FUND</b>				
<b>ORIGINAL LOT TAX</b>				
<b>22-4910-6060 EVENTS/PROMOTIONS</b>				
ASCAP	500712125 042	License Fees	10.00	
Total ORIGINAL LOT TAX:			10.00	
Total ORIGINAL LOT FUND:			10.00	
<b>ADDITIONAL1%-LOT FUND</b>				
<b>ADDITIONAL 1%-LOT</b>				
<b>25-4910-4220 SUN VALLEY AIR SERVICE BOARD</b>				
SUN VALLEY AIR SERVICE BOA	050323	MARCH MOS 2023	296,440.52	
Total ADDITIONAL 1%-LOT:			296,440.52	
Total ADDITIONAL1%-LOT FUND:			296,440.52	
<b>CITY/COUNTY HOUSING</b>				
<b>CITY/COUNTY HOUSING EXPENSE</b>				
<b>54-4410-4200 PROFESSIONAL SERVICES</b>				
US BANK	9749 042523	BCHA VIDEO CODEC- MICROSOFT	.99	
NESTED STRATEGIES	1131	HOUSING PHILANTHROPY- MARCH HOURS	625.00	
NESTED STRATEGIES	1135	HOUSING PHILANTHROPY	1,625.00	
<b>54-4410-4210 LEASE TO LOCALS INSENTIVES</b>				
COFFMAN, EMILY	LTL 050523	LTL INITIAL PAYMENT	4,500.00	
<b>54-4410-4250 LIFT TOWER LODGE PROFF SVCS</b>				
KETCHUM COMPUTERS, INC.	19612	HOUSING	6,536.25	
DONERIGHT PAINTING	4	LIFT TOWER LODGE PAINT (50%)	2,594.38	
<b>54-4410-5200 LIFT TOWER LODGE UTILITIES</b>				
CITY OF KETCHUM	050123	59	187.45	
CLEAR CREEK DISPOSAL	0001621765	703 MAIN ST	411.15	
INTERMOUNTAIN GAS	08335990225 0	08335990225 042423	120.10	
<b>54-4410-5900 LIFT TOWER LDG REPAIR &amp; MAINT</b>				
A.C. HOUSTON LUMBER CO.	2304-566565	ESLP GORMAN	51.21	
A.C. HOUSTON LUMBER CO.	2304-566845	DRYWALL NAILS, SHIMS, BLUE BOARD	55.12	



Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
A.C. HOUSTON LUMBER CO.	2304-566944	DISC SANDING ROS, DISC SAND	33.98	
A.C. HOUSTON LUMBER CO.	2304-567095	CRACK STOP, DRYWALL TAPE	31.98	
A.C. HOUSTON LUMBER CO.	2304-569579	1*6 CEDAR, 16,12,10,14 BOARDS	183.59	
A.C. HOUSTON LUMBER CO.	2305-570155	FASTENERS, BACKER ROD, GEORGIAN ENT/DBOLT	62.27	
A.C. HOUSTON LUMBER CO.	2305-571282	GOOF OFF, SPONGE, TERRY TOWEL, GLOVES	41.16	
A.C. HOUSTON LUMBER CO.	2305-659642	RUBBER TIP BLOW GUN	15.99	
COLOR HAUS, INC.	268759	PRIMER, WHITE PAINT	147.22	
COLOR HAUS, INC.	269018	MILD KILLER PRIMER, SUPPLIES	79.35	
COLOR HAUS, INC.	269134	PEARL WHITE PAINT	41.69	
FIREPLACE OUTFITTERS	4247	LIFT TOWER SERVICE CALL- BLOWER REPLACEMENT	592.65	
IDAHO LUMBER & HARDWARE	945039	NAIL FINSH 2.5 RETURN	59.99-	
IDAHO LUMBER & HARDWARE	945041	SWITCH COMM RETURN	3.64-	
L.L. GREEN'S HARDWARE	A700450	WALL PLATE, OUTLETS, SWITCH	3.66	
SHERWIN-WILLIAMS CO.	6315-5	Paint Supplies	96.57	
SHERWIN-WILLIAMS CO.	6321-3	Paint	691.80	
SHERWIN-WILLIAMS CO.	6358-5	Paint-2 GALLONS	162.00	
SHERWIN-WILLIAMS CO.	6480-7	FROG MULTI 36MM 2PK	43.17	
CUEVA ELK ROOFING	377164	SNOW REMOVAL	2,500.00	
Total CITY/COUNTY HOUSING EXPENSE:			21,370.10	
Total CITY/COUNTY HOUSING:			21,370.10	
<b>WATER FUND</b>				
<b>WATER EXPENDITURES</b>				
<b>63-4340-3200 OPERATING SUPPLIES</b>				
GO-FER-IT	119809	Water Samples	50.40	
PIPECO, INC.	S4963903.001	BLUE MARKING PAINT PIFCB20W	259.06	
US BANK	5198 042523	ENERGIZER BATTERIES C,AA, AAA	70.53	
<b>63-4340-3500 MOTOR FUELS &amp; LUBRICANTS</b>				
CHRISTENSEN INC.	1019341	37271 - Water Dept	139.40	
<b>63-4340-4200 PROFESSIONAL SERVICES</b>				
KETCHUM COMPUTERS, INC.	19612	WATER	354.75	
MAGIC VALLEY LABS, INC.	27482	Drinking Water Bacteria, Cooler Return	108.00	
OPAL ENGINEERING, PLLC	340	ENGINEERING CONTRACT FOR WATER AND WW DESIGN	1,237.50	22105
<b>63-4340-5100 TELEPHONE &amp; COMMUNICATIONS</b>				
VERIZON WIRELESS	9932450085	365516521 WATER DEPT	123.05	
<b>63-4340-5200 UTILITIES</b>				
IDAHO POWER	2203658592 04	2203658592 - Water Wells & Boosters	5,922.95	
INTERMOUNTAIN GAS	32649330001 0	110 RIVER RANCH A	55.33	
<b>63-4340-6100 REPAIR &amp; MAINT-MACH &amp; EQUIP</b>				
FERGUSON ENTERPRISES, LLC	0784339	2" OMNI R2 REGISTER 1000G	420.20	
FERGUSON ENTERPRISES, LLC	0784339	FREIGHT	45.00	
FERGUSON ENTERPRISES, LLC	0784339	1.5" OMNI+ R2 1000GA AMR 13LLOMNI R2 REGISTER 1000G	1,260.60	
Total WATER EXPENDITURES:			10,046.77	
Total WATER FUND:			10,046.77	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
<b>WASTEWATER FUND</b>				
<b>WASTEWATER EXPENDITURES</b>				
<b>65-4350-2505 HEALTH REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Medical	723.84	
<b>65-4350-2515 VISION REIMBURSEMENT ACCT(HRA)</b>				
NBS-NATIONAL BENEFIT SERVI	CP346516	HRA Vision	265.90	
<b>65-4350-3200 OPERATING SUPPLIES</b>				
ATKINSONS' MARKET	05660713	DISTILLED WATER	15.33	
UPS STORE #2444	MMN7FR53SF	WATER SAMPLES	14.06	
UPS STORE #2444	MMN7FR56B	WATER SAMPLES	18.39	
US BANK	4026 042523	CAMAIR DESCICCANT CARTRIDGE	237.24	
US BANK	5198 042523	SHOPVAC	77.99	
US BANK	5198 042523	ENERGIZER BATTERIES C,AA,AAA	19.57	
USA BLUEBOOK	328148	ORION ROSS SUREFLOW ELECTRODE WITH BNC EPOWY & LAD EQUIPMENT	1,000.77	
<b>65-4350-3500 MOTOR FUELS &amp; LUBRICANTS</b>				
CHRISTENSEN INC.	1019340	37270 - Wastewater	182.24	
<b>65-4350-3800 CHEMICALS</b>				
THATCHER COMPANY, INC.	2023100111614	ALUMINUM SULFATE	7,777.20	23073
BECKART ENVIRONMENTAL, IN	86423	FREIGHT	964.89	
BECKART ENVIRONMENTAL, IN	86423	POLYAL 600/LB-275 GALLON TOTE, ONE TOTE	3,243.60	23096
<b>65-4350-4200 PROFESSIONAL SERVICES</b>				
ANALYTICAL LABORATORIES, I	2302819	WASTEWATER MONITORING	261.51	
KETCHUM COMPUTERS, INC.	19612	WASTEWATER	272.25	
MAGIC VALLEY LABS, INC.	27482	Landfill Well Nitrate	48.00	
<b>65-4350-5200 UTILITIES</b>				
INTERMOUNTAIN GAS	32649330001 0	110 RIVER RANCH RD C	611.91	
INTERMOUNTAIN GAS	32649330001 0	110 RIVER RANCH SLUDGE	72.15	
INTERMOUNTAIN GAS	32649330001 0	110 RIVER RANCH A	55.32	
INTERMOUNTAIN GAS	32649330001 0	110 RIVER RANCH GRIT	472.64	
INTERMOUNTAIN GAS	58208688554 0	110 RIVER RANCH RD MECHANICAL BAR SCREE	24.45	
<b>65-4350-6000 REPAIR &amp; MAINT-AUTO EQUIP</b>				
JACK'S TIRE & OIL, INC.	23-0381045-03	Flat Repair LRI NAIL, RRI SCREW	130.00	
US BANK	5198 042523	SNOWPLOW HYDRAULIC FLUID	43.55	
<b>65-4350-6100 REPAIR &amp; MAINT-MACH &amp; EQUIP</b>				
US BANK	5198 042523	NORTHSTOCK-MAXITROL AMPLIFIER	185.54	
USA BLUEBOOK	349439	ORION ROSS SUREFLOW ELECTRODE WITH BNC EPOWY	678.15	
USA BLUEBOOK	352044	YSI 5239 DISSOLVED OXYGEN (DO) FIELD PROBE w/25' CABLE	646.15	
USA BLUEBOOK	352434	ORION ROSS SUREFLOW ELECTRODE WITH BNC EPOWY - CREDIT	678.15-	
<b>65-4350-6900 COLLECTION SYSTEM SERVICES/CHA</b>				
A.C. HOUSTON LUMBER CO.	2304-569442	10'X100' 6 MIL CLR POLY	70.89	
CHATEAU DRUG CENTER	2693227	CDS 10OZ WI BLK ENAMEL	9.48	
HI-VAC CORPORATION	335499	CABLE KIT, CHARGER, AARCOMM	37.50	23088
HI-VAC CORPORATION	335499	CHARGER BASE, DASH MOUNT, AARC	425.00	23088
HI-VAC CORPORATION	335499	FREIGHT	16.40	

Vendor Name	Invoice Number	Description	Net Invoice Amount	Purchase Order Number
Total WASTEWATER EXPENDITURES:			17,923.76	
Total WASTEWATER FUND:			17,923.76	
<b>WASTEWATER CAPITAL IMPROVE FND</b>				
<b>WASTEWATER CIP EXPENDITURES</b>				
<b>67-4350-7815 AERATION BASINS BLOWERS &amp; ELEC</b>				
HDR ENGINEERING, INC.	1200518077	TASK ORDER #14 BLOWER PROCUREMENT PACKAGE AGREEMENT #50082	17,889.61	23037
<b>67-4350-7817 REMOVE DIGESTER NO 1 BLDG &amp; FL</b>				
HDR ENGINEERING, INC.	1200517838	TASK ORDER #15 SOLIDS HANDLING PER	6,784.56	23056
Total WASTEWATER CIP EXPENDITURES:			24,674.17	
Total WASTEWATER CAPITAL IMPROVE FND:			24,674.17	
<b>PARKS/REC DEV TRUST FUND</b>				
<b>93-3700-6800 KETCHUM ARTS COMMISSION</b>				
CLEARY, JUNIPER	042523	CROSSWALK ART ARTIST	1,000.00	
Total :			1,000.00	
<b>PARKS/REC TRUST EXPENDITURES</b>				
<b>93-4900-5910 WARM SPRINGS PRESR-RESTORATION</b>				
US BANK	5030 042523	LITTLE GREEN LIGHT ANNUAL FEE	286.00	
CLEARMINDGRAPHICS	5755	SALES:COPWRITING & EDITING	1,305.00	
NESTED STRATEGIES	1131	Warm Spring PRESERVE CAMPAIGN COUNSEL - MARCH INVOICE	2,625.00	
NESTED STRATEGIES	1135	Warm Spring PRESERVE PHILANTHROPY COUNSEL	2,875.00	
Total PARKS/REC TRUST EXPENDITURES:			7,091.00	
Total PARKS/REC DEV TRUST FUND:			8,091.00	
Grand Totals:			760,412.26	

Report Criteria:

Invoices with totals above \$0 included.  
 Paid and unpaid invoices included.  
 [Report].GL Account Number = "0110000000"- "9648008200", "9910000000"- "9911810000"  
 Invoice Detail.Voided = No,Yes



City of Ketchum

**MEETING AGENDA MEMO**

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

Idaho State Statute 50-208 establishes requirements for monthly financial reports from the City Treasurer to the Council. The Statute provides that the Treasurer “render an accounting to the city council showing the financial condition of the treasury at the date of such accounting.”

Idaho State Statute 50-1011 establishes an additional requirement for a quarterly financial report “indicating salaries, capital outlay and a percentage comparison to the original appropriation.” Such quarterly reports require publication on the City website within 30 days of the end of the quarter pursuant to 50-208. Finally, 50- 708 creates the requirement that “at least once in each quarter of each year, the council shall examine by review of a quarterly treasurer’s report included upon the city council agenda the accounts and doings subject to management by the chief financial officer of the city.”

**Policy Analysis and Background (non-consent items only):**

**Sustainability Impact:**

**Financial Impact:**

**Attachments:**

- 
- 
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FY 2023

Monthly  
Financial Reports

As of April 30, 2023



This packet is divided into three sections: (1) General Fund (2) Original LOT (3) In-Lieu Housing (4) City/County Housing Fund (5) Enterprise Funds.

Slides includes information on current progress relative to the prior year and the current budget.

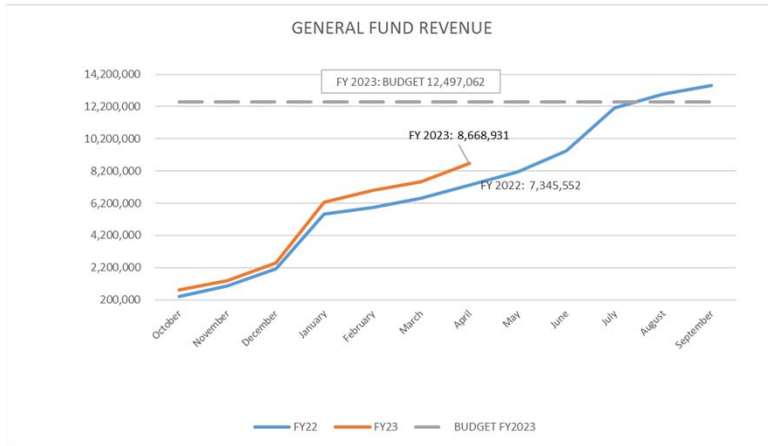
# Summary

GENERAL FUND				
1. REVENUES	Year to Date	%	Remaining	%
Approved Budget	12,497,062			
Year to Date (YTD)	8,654,852	69.3%	3,842,210	30.7%
2. EXPENDITURES				
Approved Budget	12,497,062			
Year to Date (YTD)	7,325,153	58.6%	5,171,910	41.4%
3. Net Position	1,329,700			
4. Fund Balance Carry Over FY22	3,642,413			
17% assigned by Council	2,124,501			

LOCAL OPTION TAX				
1. REVENUES	Year to Date	%	Remaining	%
Approved Budget	2,846,469			
Year to Date (YTD)	2,377,163	84%	469,306	16%
2. EXPENDITURES				
Approved Budget	2,846,469			
Year to Date (YTD)	1,888,852	66%	957,617	34%
3. Net Position	488,310			
4. Fund Balance Carry Over FY22	400,563			

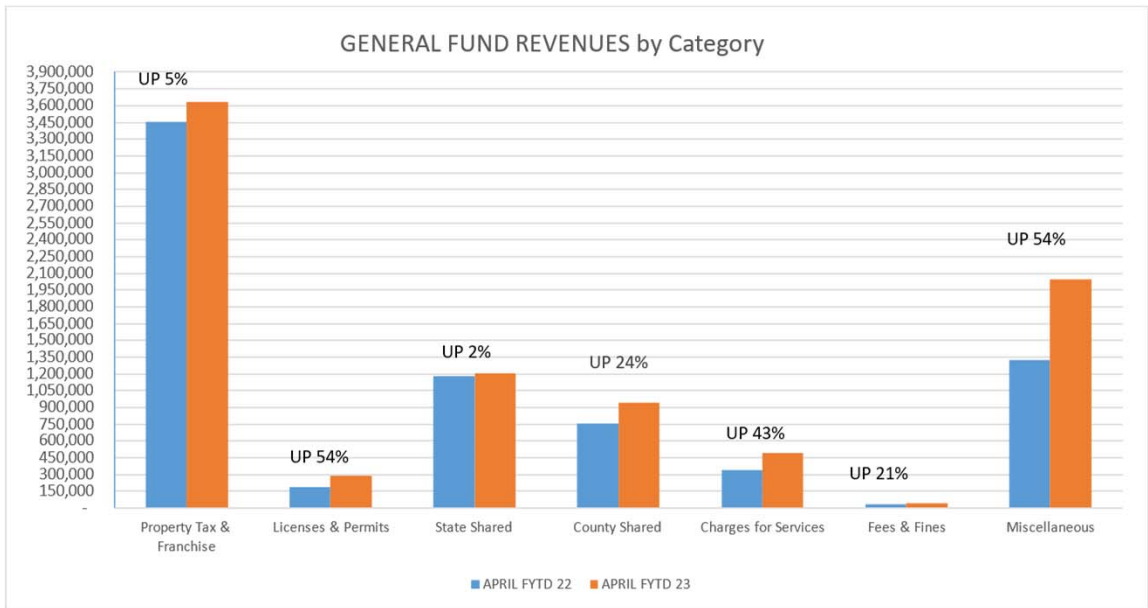
# General Fund

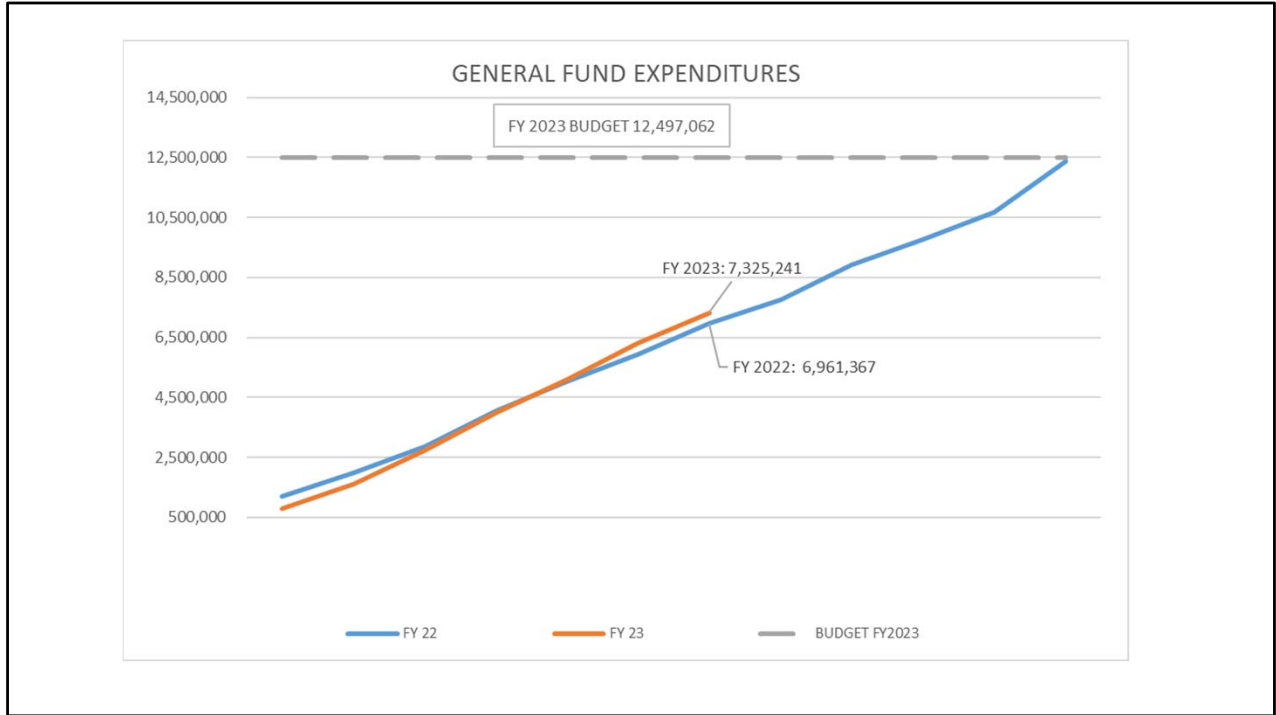
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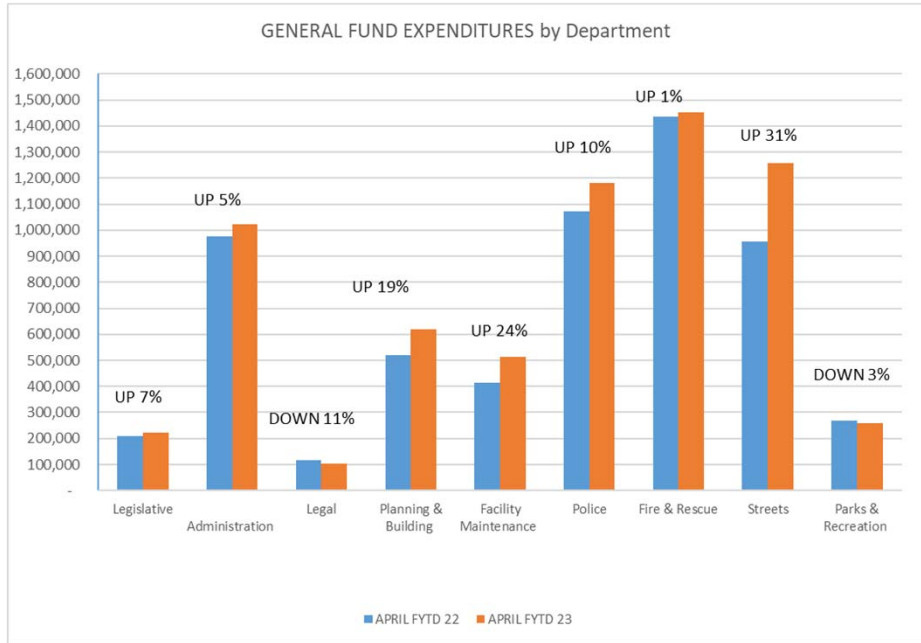
The General Fund revenues are up approximately \$1,323,378 (18%) compared to FY2022. The increase is largely due to an increase in the LOT transfer for emergency services, interest earned State of Idaho LGIP and permitting.





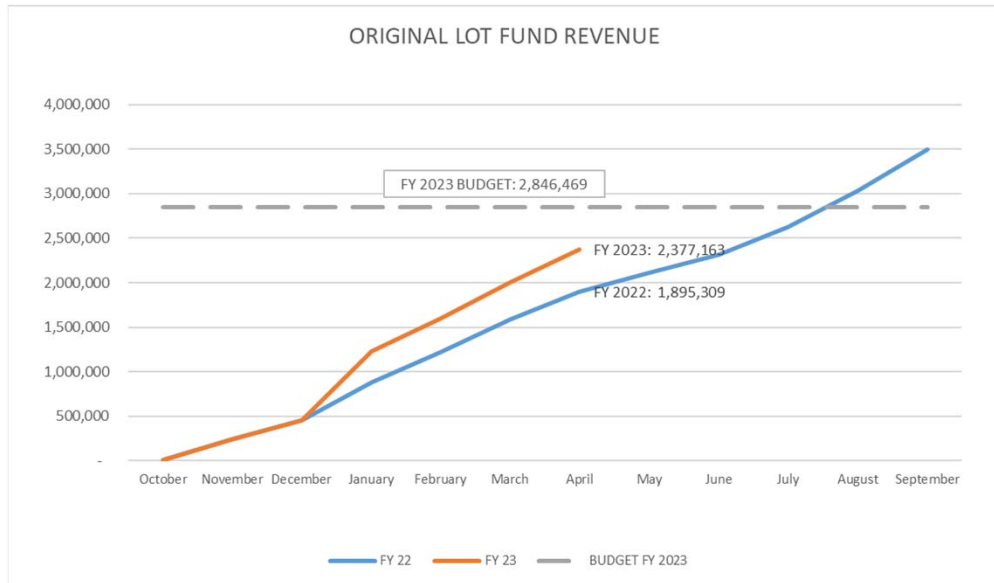


The General Fund expenditures are up 363,863 (5%) FYTD. The increase in expenditures is largely due to salaries and benefits.

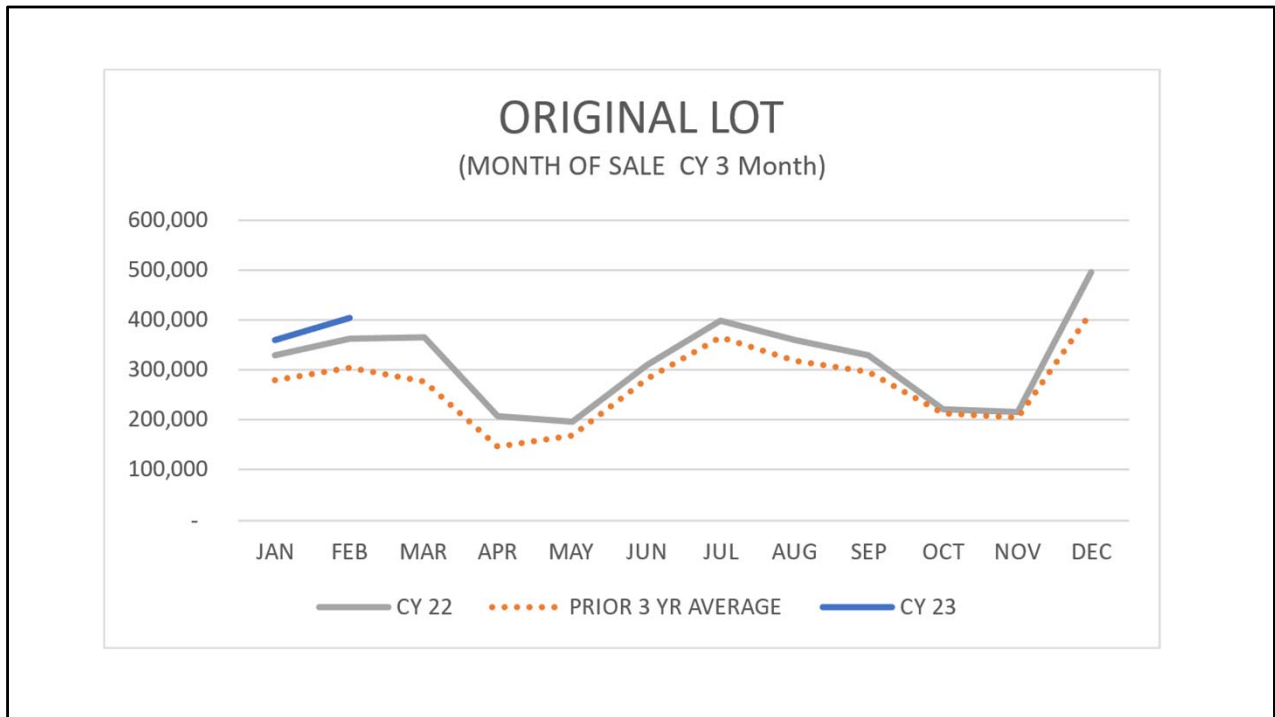


# LOT Analysis

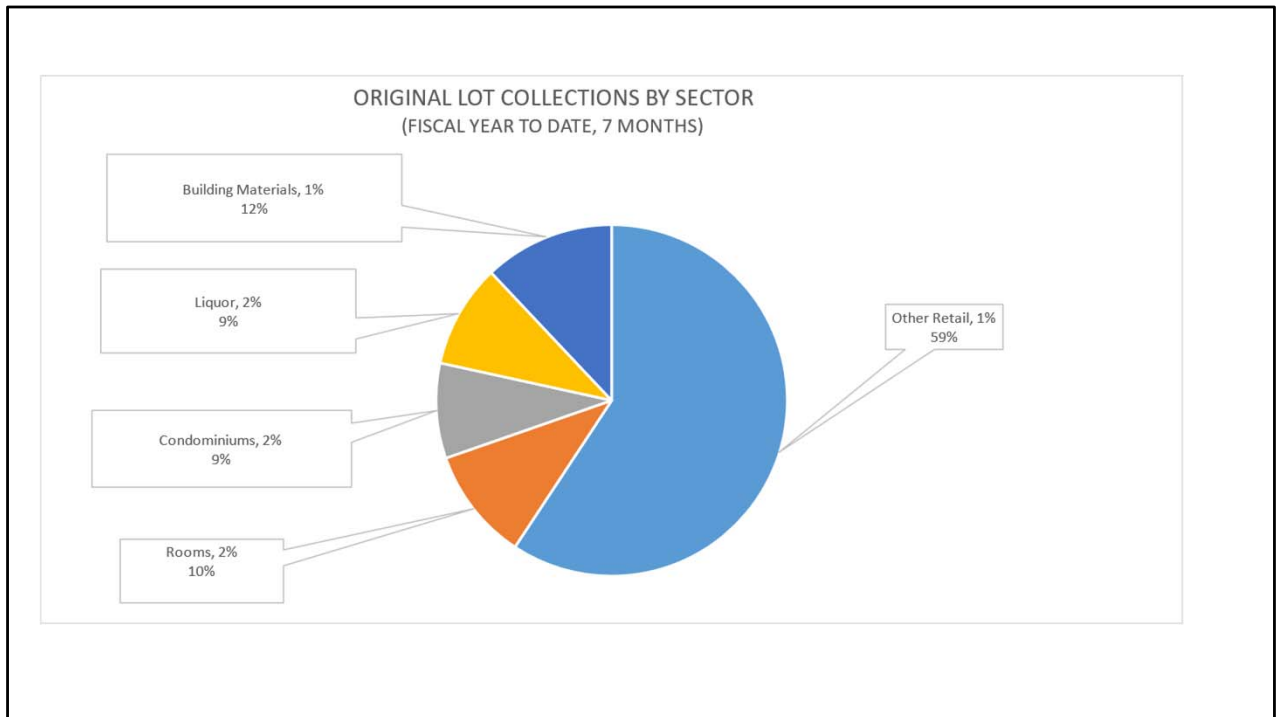
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Revenue to the Original LOT Fund is up approximately \$481,853 (24%) FYTD.

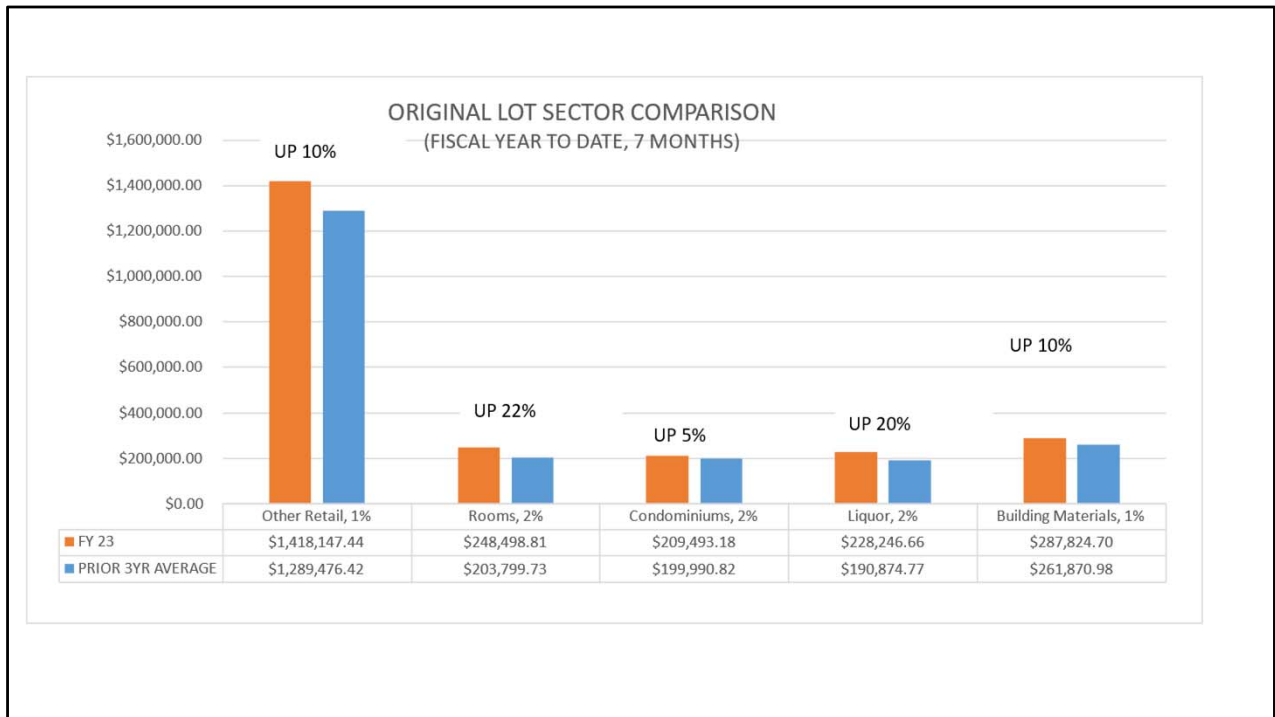


Original LOT for March month of sale are down approximately 1.2% compared to last year and up approximately 30% compared to the prior three-year average.



To date in FY 2023 (7 month), Original LOT collections have been generated by each sector as follows:

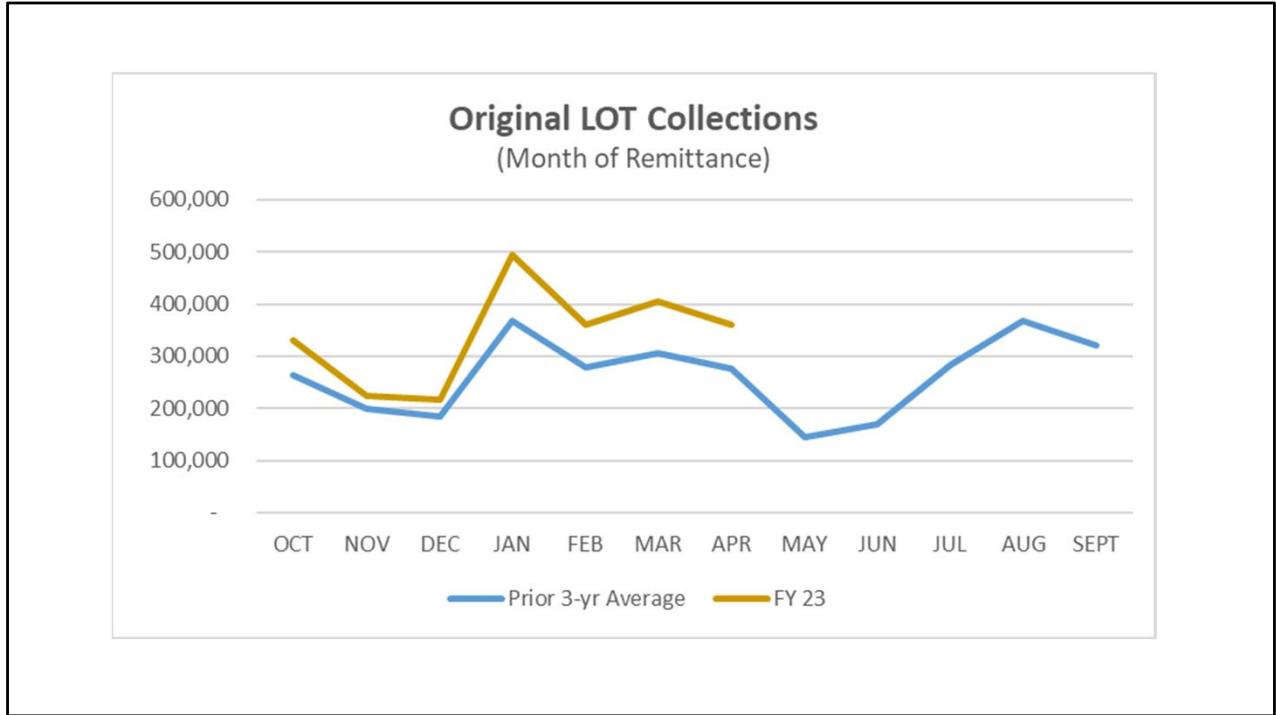
1. Retail has generated 59% of the total.
2. Building Materials have generated 12%.
3. Liquor has generated 9%.
4. Rooms have generated 10%.
5. Condominiums have generated 9%.



Through the seventh month of FY 2023, collections compared to the prior three-year average are as follows:

1. Retail is up 10%.
2. Rooms are up 22%.
3. Condominiums are up 5%
4. Liquor is up 20%.
5. Building Materials are up 10%.





Revenues from Original LOT covered sales are up approximately 30.5% compared to the average of the prior three years.

# In-Lieu Housing Fund

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<b>IN-LIEU HOUSING</b>						
<b>1.</b>	<b>REVENUES</b>		<b>Year to Date</b>	<b>%</b>	<b>Remaining</b>	<b>%</b>
	Approved Budget		305,000			
	Year to Date (YTD)		479,237	157.1%	(174,237)	-57.1%
<b>2.</b>	<b>EXPENDITURES</b>					
	Approved Budget		305,000			
	Year to Date (YTD)		768,449	252.0%	(463,449)	-152.0%
<b>3.</b>	<b>Net Position</b>		(289,212)			
<b>4.</b>	<b>Fund Balance Carry Over</b>		2,366,255		<i>to be used for Bluebird</i>	
	FY 2022 Budgeted for projects		2,500,000			
	FY 2023 Bluebird Additional Funding		800,000			
			<u>3,300,000</u>			

Fund balance carry over from FY21 \$2,366,255 are restricted for Bluebird Village as well as the FY2023 budget of \$305,000. FY2023 budget will be amended.

# City/County Housing Fund

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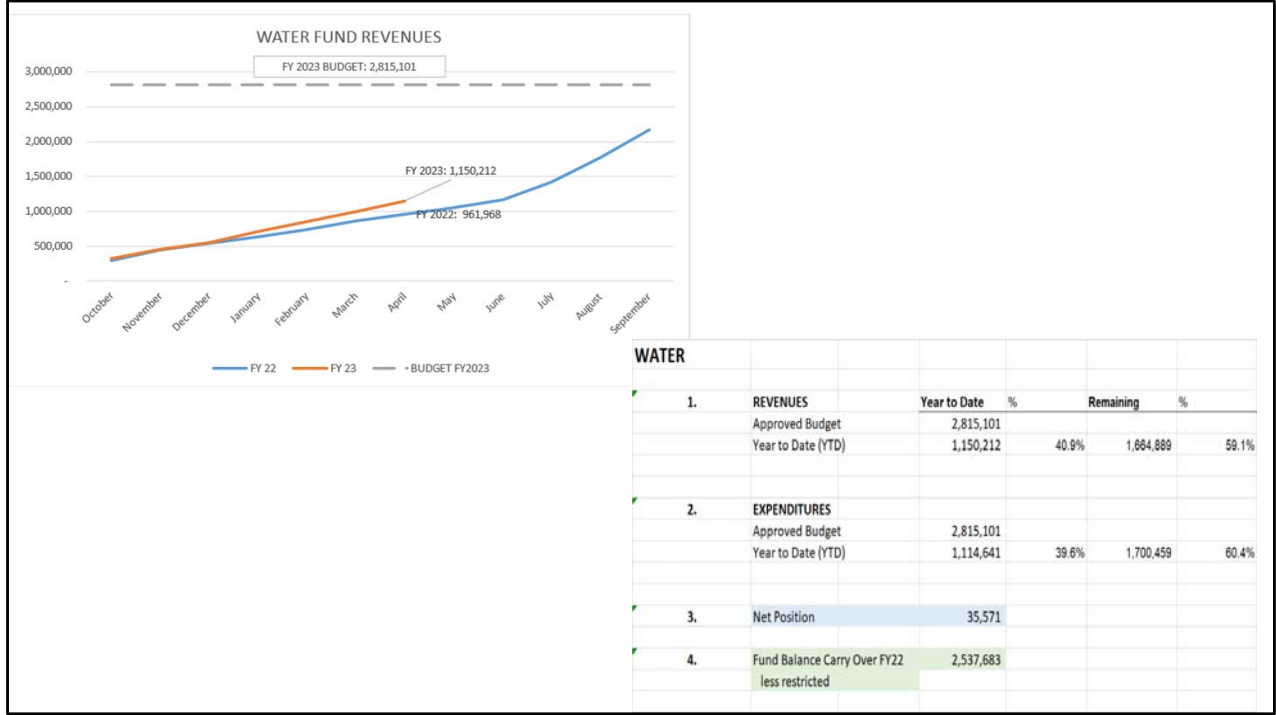
**City/County Housing Fund**

1.	REVENUES	Year to Date	%	Remaining	%
	Approved Budget	848,349			
	Year to Date (YTD)	286,584	33.8%	561,765	66.2%
2.	EXPENDITURES				
	Approved Budget	848,349			
	Year to Date (YTD)	404,052	47.6%	444,297	52.4%
3.	Net Position	(117,468)			
4.	Fund Balance Carry Over	551,194			

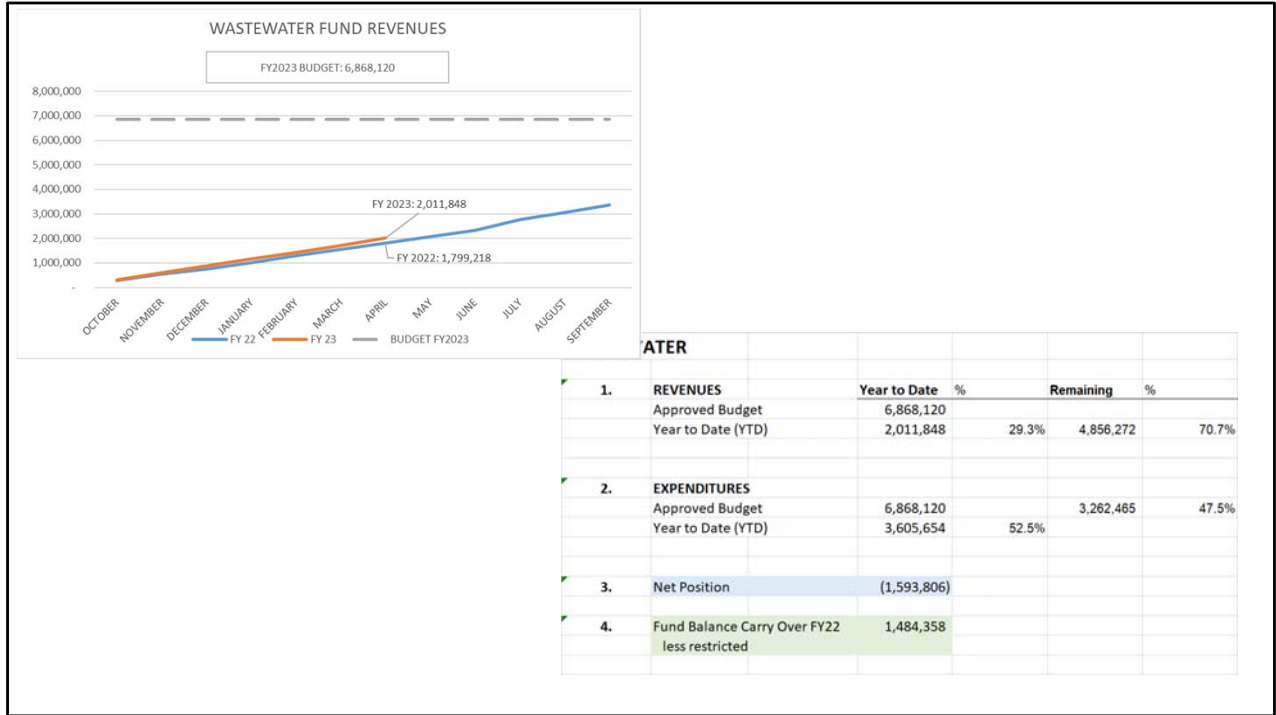
Revenue		
Transfer from GF Fund Balance	250,000	Budget amendment
Blaine County for Housing	60,000	Budget amendment
Blaine County for HA Ops & Program admin	151,185	Budget amendment
Lift Tower Lodge	110,556	Budget amendment
Purchase Orders/Contract Expenditures		
20701 Agnew & Beck	92,200	
22052 Sullivan & Reberger	25,000	
22038 Carissa Connelly	95,000	
22038 Carissa Connelly extention	38,000	400 hrs @95
22071 Canyon Excavation	18,535	Lifftower Lodge
22121 Rian Rooney	30,000	
22127 Neuromediation Group	50,000	
23049 Lilly Martin	1,000	
23069 Blaine Co Charitable	45,000	
23070 HOLST	57,500	
Communication to the public May election	15,000	
#20638 Nested	15,750	
BCHA City contribution	45,000	
Lift Tower Lodge	110,556	
<b>Total PO/Contracts</b>	<b>638,541</b>	

# Enterprise Funds

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The Water Fund revenues are up \$188,244 (19%) FYTD.



The Wastewater Fund revenues are up \$212,630 (12%) FYTD.



<b>WASTEWATER CIP</b>						
<b>1.</b>	<b>REVENUES</b>	<b>Year to Date</b>	<b>%</b>	<b>Remaining</b>	<b>%</b>	
	Approved Budget	4,248,090		(5,259,622)	-123.8%	
	Year to Date (YTD)	9,507,712	223.8%			
<b>2.</b>	<b>EXPENDITURES</b>					
	Approved Budget	4,248,090		4,101,426	96.5%	
	Year to Date (YTD)	146,664	3.5%			
<b>3.</b>	Net Position	9,361,048				
<b>4.</b>	Fund Balance Carry Over FY22	1,569,666				
	less restricted					
	*7,000,000 PROJECT CIP BOND					



City of Ketchum

**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

- Polymer is used in the wastewater treatment process to promote flocculation and solids removal.
- The addition of polymer in the treatment process is necessary to comply with the effluent total suspended solids discharge limit required in our discharge permit and to ensure disinfection limits are met for our reuse water permit.

**Policy Analysis and Background (non-consent items only):**

**Sustainability Impact:**

**Financial Impact:**

<input type="text" value="None OR Adequate funds exist in account:"/>	<input type="text" value="This is a budgeted expense with funds coming from the Chemicals line item of Wastewater Expenditures."/>
---	--

**Attachments:**

-



**CITY OF KETCHUM**  
 PO BOX 2315 \* 191 5TH ST. \* KETCHUM, ID 83340  
 Administration 208-726-3841 (fax) 208-726-8234

**PURCHASE ORDER**  
 BUDGETED ITEM? \_\_\_ Yes \_\_\_ No

**PURCHASE ORDER - NUMBER: 23097**

<b>To:</b> 5894 UNIVAR SOLUTIONS USA INC 3075 HIGHLAND PARKWAY SUITE 200 DOWNERS GROVE IL 60515	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
04/26/2023	bancona	bancona	Utilities/Wastewater	0	

Quantity	Description	Unit Price	Total
<del>-1.00</del> 4	Tote, UNIVAR COAGULANT 1160 (ACH) 3000# 65-4350-3800	<del>-11,040.00</del> 2,760.00	11,040.00
SHIPPING & HANDLING			0.00
TOTAL PO AMOUNT			11,040.00

\_\_\_\_\_  
 Authorized Signature



### PROCUREMENT MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

"I move to approve Purchase Order #23092 in the amount of \$40,460.60 for the Fog Seal treatment of East Avenue."

**Summary of Procurement Process:**

Bidder	Bid Price
<b>Asphalt Systems, Inc. –</b> Asphalt Systems, Inc is giving us the Chip/Fog Seal product for the same bid price as Minidoka County, Idaho awarded them on February 15th, 2023. Asphalt Systems, Inc will honor the 2023 bid, to help us save on the per ton price. We have added some polymer to our fogseal to promote rock bonding, which is in addition to the bid price.	\$40,460.60

Low Bid Contractor	Bid Price	Budget Account/Number
Asphalt Systems, Inc.	\$ 40,460.60	01-4310-6950

**Background (if necessary):**

- Minidoka County is specifying this product for their use because of the success they have had with it.
- We have been wanting to try something different than our standard chip seal on Fourth Street and this process looks like it is a good candidate.
- The Fog Seal is basically a chip seal with a fog or slurry seal applied over the chip seal to bind the chips and help prevent chip loss. This process aids in creating a smoother, stronger road surface and helps preserve the integrity of the newly chip sealed street.
- If we like this project, I would like to try it on Fourth Street this Fall if we are able.

**Sustainability Impact:**

The two ASI treatments combined (chip sealing and fog sealing) will hopefully provide a better alternative to traditional chip sealing to preserve East Ave. until we can perform a mill and inlay.

**Attachments:**

1. Purchase Order #23092
2. Asphalt Systems, Inc Quote



**CITY OF KETCHUM**  
 PO BOX 2315 \* 191 5TH ST. \* KETCHUM, ID 83340  
 Administration 208-726-3841 (fax) 208-726-8234

**PURCHASE ORDER**  
 BUDGETED ITEM?  Yes  No

**PURCHASE ORDER - NUMBER: 23092**

<b>To:</b> 5253 ASPHALT SYSTEMS INC. BOX 30015 SALT LAKE CITY UT 84130	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
05/08/2023	bancona	bancona	Street Dept.	0	

Quantity	Description			Unit Price	Total
1.00	FOG SEALING	01-4310-6950	4310041	40,460.60	40,460.60
				SHIPPING & HANDLING	0.00
				TOTAL PO AMOUNT	40,460.60

\_\_\_\_\_  
 Authorized Signature



ASPHALT SYSTEMS INC.



www.asphaltsystemsinc.com

## Commercial / Agency Quote Form

Date	Expires*	Prepared By	Quote ID #
5/8/2023	7/8/2023	Name: Rick LaBelle Phone: 208-313-3455	#ASIRL-KC-05823

\* Price quoted is valid for 60 days.

Company /Agency Name	City of Ketchum, Idaho
Contact Name	Brian Christiansen
Contact Phone	208-726-7831
Contact Email	<a href="mailto:bchristiansen@ketchumidaho.org">bchristiansen@ketchumidaho.org</a>
Project Name	East Avenue Chipsealing & Fogsealing
Estimated Project Dates	Late August/Early September
Estimated Gallons:	A) Chipsealing: GM-RSS crackseal/chipseal emulsion - 13,000 sq. yds. @ .45 gal/sq/yd. = <u>5,850 gallons</u> B) Fogsealing: GSB-88 fogseal emulsion, 2:1 formulation + 2% polymer - 13,000 sq. yds. @ .14 gal/sq/yd. = <u>1,820 gallons</u>

Item	A) GM-RSS (gilsonite-modified rejuvenating surface sealer) Crackseal/Chipseal emulsion B) GSB-88 (gilsonite sealer-binder) fogseal emulsion, 2:1 blend + 2% polymer
Price	A) GM-RSS: * Oil Cost: 5,850 gallons x \$3.58/gal = \$20,943.00 F.O.B. SLC, UT * Estimated Freight: \$2,800 (plus any fuel surcharges) * Spreading/Application: \$2,700 (one day) <b>Total: \$26,443.00 (does not include road prep, traffic control, chips, rolling, or sweeping)</b> <b>*** Pause One Week Between Treatments ***</b> B) GSB-88 2:1 + 2% Polymer: * Oil Cost: 1,820 gallons x \$4.68/ea. = \$8,517.60 F.O. B. SLC, UT * Estimated Freight: \$2,800 (25-ton minimum, plus any fuel surcharges) * Spreading/Application: \$2,700 (one day) <b>Total: \$14,017.60 (does not include road prep or traffic control)</b>  <b>Total Estimated Cost A + B: = \$40,460.60</b>

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All pricing above is FOB plant and subject to the following:

1. Price quoted is valid for 60 days. ASI will seek to maintain price for longer than 60 days but may increase price after 60 days if required by increased costs to ASI.
2. Contractor will provide ASI a minimum of 10 working days between the date of the order and the date of pickup. Delivery of orders with less than 10 working day's notice may be subject to delayed shipment due to production schedules.
3. Product is sold FOB ASI's production facility, unless otherwise stated.
4. Assignment and transfer of legal title to the product from ASI to customer is immediate upon product transfer from plant to contractor shipping container.
5. Freight: Shipping, handling and storage is the responsibility of the contractor.
6. All short- and long-term product storage is the responsibility of the contractor.
7. ASI will only certify products manufactured, at our designated facilities.
8. Customers storing products in bulk or diluting and mixing them for specific projects are responsible for material certifications.
9. The performance and safety of ASI Products is dependent upon shipping, handling, storage and application in strict compliance with the SDS and technical data sheet, ASI's Best Practices Manual. Contractor certifies that it has read and understood these documents and their requirements for shipping, handling, storage and application of all ASI Products.
10. While ASI will assist in facilitating the resolution of any disputes about the performance of services by the freight company and/or the applicator company, it is understood and agreed that the freight company and/or the applicator company and not ASI will be liable for all costs arising from or related to any deficiency in performance of their services.

**Terms:** Net 30. In the event the full amount of the Purchase Price is not paid in full in accordance with the terms set forth herein, Purchaser agrees to pay interest on the unpaid balance at the rate of 1.5% per month or the maximum amount allowed by applicable law if such amount is less than 1.5% per month.

**Terms Understood and Accepted By:**

<b>Name:</b>		<b>Signature:</b>	
<b>Company:</b>		<b>Date:</b>	



City of Ketchum

**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date: May 15, 2023 Staff Member/Dept: Paige Nied, Associate Planner  
Planning and Building Department

Agenda Item: Recommendation to Approve Right-of-Way Encroachment Agreement #22848 for the placement of driveway pavers in the public right-of-way at 591 E 9<sup>th</sup> Street.

Recommended Motion:

I move to authorize the Mayor to sign Right-of-Way Encroachment Agreement #22848 with Andrew and Kim Castellano.

Reasons for Recommendation:

- The improvements will not impact the use or operation of 9<sup>th</sup> Street.
- The improvements will not impact drainage or snow removal within the public right-of-way.
- The project complies with all standards for Right-of-Way Encroachment Permit issuance specified in Ketchum Municipal Code §12.12.060.

Policy Analysis and Background (non-consent items only):

The new single-family residence located at 591 E 9<sup>th</sup> Street within the Tourist 4000 (T-4000) Zoning District requires a Right-of-Way Encroachment Permit for a driveway snowmelt system and pavers within the City’s right-of-way along 9<sup>th</sup> Street. The proposed encroachment complies with all standards for permanent right-of-way encroachments specified in Ketchum Municipal Code §12.12.060. Permanent encroachments within the right-of-way must be in the public interest pursuant to Ketchum Municipal Code §12.12.060.A. Snowmelt systems reduce icy conditions on driveways and circulation areas creating a safe pathway for property owners accessing their individual homes.

During the April 3, 2023, City Council meeting, the Council determined that due to the carbon dioxide emissions produced by snowmelt systems that they are not in the public interest and informed staff that they will no longer permit residential snowmelt systems within the public right-of-way, unless required by the Streets or Fire Department for nonconforming driveways. However, the Council did acknowledge certain residential projects which include snowmelt systems within the right-of-way that already had building permits issued for and decided to move forward and approve those applications. The subject Encroachment Agreement for a residential snowmelt system within the right-of-way is included as one of the projects with a previously issued building permit that the Council has agreed to approve.

Pursuant to Ketchum Municipal Code §12.12.040.C, a Right-of-Way Encroachment Permit is required for any permanent encroachment within the public right-of-way where a permanent fixture in the ground or attached to a building will occur. The standards for issuance of a Right-of-Way Encroachment Permit are specified in Ketchum Municipal Code §12.12.060. The City Council has the authority to review and approve



all permanent encroachments within the public right-of-way associated with a development project pursuant to Ketchum Municipal Code §17.96.030.C. The associated Right-of-Way Encroachment Agreement is intended to help protect the City in the event the proposed encroachments were to ever pose an issue requiring repair, relocation, or removal of the encroachment. The agreement also obligates the property owner to install, maintain, and repair the permanent encroachments.

**Sustainability Impact:**

The City Council has determined that residential snowmelt systems within the public right-of-way hinder the City's ability to meet the Sustainability Action Plan – 2020 and asserted that they will no longer approve these encroachments moving forward. The subject Right-of-Way Encroachment Agreement for a residential snowmelt system had a building permit issued prior to this determination, therefore, the Council has agreed to approve of it.

**Financial Impact:**

None OR Adequate funds exist in account.	There is no financial requirement from the city for this action at this time.
--	---

**Attachments:**

- |                                      |
|--------------------------------------|
| 1. ROW Encroachment Agreement #22848 |
| 2. Exhibit "A"                       |
| 3. Exhibit "B"                       |

**WHEN RECORDED, PLEASE RETURN TO:**

**OFFICE OF THE CITY CLERK  
CITY OF KETCHUM  
POST OFFICE BOX 2315  
KETCHUM, IDAHO 83340**

---

**RIGHT-OF-WAY ENCROACHMENT AGREEMENT 22848**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_, 2023, by and between the CITY OF KETCHUM, IDAHO, a municipal corporation ("Ketchum"), whose address is Post Office Box 2315, Ketchum, Idaho and ANDREW JOSEPH CASTELLANO ("Owner"), whose mailing address is Post Office Box 1180, Ketchum, Idaho and who owns real property located at 591 East 9<sup>th</sup> Street, Ketchum, Idaho 83340 ("subject property").

*RECITALS*

WHEREAS, Owner is the owner of real property described as 591 East 9<sup>th</sup> Street ("Subject Property"), located within the City of Ketchum, State of Idaho; and

WHEREAS, Owner wishes to permit the placement of a driveway snowmelt system and pavers within the right-of-way on 9<sup>th</sup> Street. These improvements are shown in Exhibit "A" attached hereto and incorporated herein (collectively referred to as the "Improvements"); and,

WHEREAS, Ketchum finds that said Improvements will not impede the use of said public right-of-way at this time subject to the terms and provisions of this Agreement;

WHEREAS, the Owner will restore the street, curb and gutter and any landscaping back to the original condition acceptable to the Streets and Facilities Director;

NOW, THEREFORE, in contemplation of the above stated facts and objectives, it is hereby agreed as follows:

*TERMS AND CONDITIONS*

1. Ketchum shall permit Owner to install a driveway snowmelt system and pavers identified in Exhibit "A" within the public right-of-way on 9<sup>th</sup> Street, until notified by Ketchum to remove the infrastructure at which time Owner shall remove infrastructure at Owner's expense.

2. Owner shall be responsible for the maintenance of said Improvements and shall repair said improvements within 48 hours upon notice from Ketchum that repairs are needed. Any modification to the improvements identified in Exhibit "A" shall be approved by the City of Ketchum prior to any modifications taking place.

3. Snowmelt systems installed in the public right-of-way shall be installed as certified in Exhibit "B - Residential Snowmelt Installation Certificate" and operate at all times during the winter according to the following:
- The system shall meet the requirements of the International Energy Conservation Code (2018 IECC, 403.12.2)

- The system shall have an electronic main control board to operate the system that is programmable and optimizes the way the system functions.
- Installation of in-ground control sensors linked to the main control board that detect snow and ice on the surface, monitor the sidewalk or driveway temperature, and automatically activates the system to be turned on or off based on the snow condition and air temperature.

4. Owner shall be responsible for restoring the street, curb and gutter, and landscaping that is altered due to the construction and installation of the Improvements, to the satisfaction of the Director of Streets and Facilities.

5. In consideration of Ketchum allowing Owner to maintain the Improvements in the public right-of-way, Owner agrees to indemnify and hold harmless Ketchum from and against any and all claims of liability for any injury or damage to any person or property arising from the Improvements constructed, installed and maintained in the public right-of-way. Owner shall further indemnify and hold Ketchum harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Owner's part to be performed under this Agreement, or arising from any negligence of Owner or Owner's agents, contractors or employees and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such action or proceeding brought thereon. In the event any action or proceeding is brought against Ketchum by reason of such claim, Owner, upon notice from Ketchum, shall defend Ketchum at Owner's expense by counsel satisfactory to Ketchum. Owner, as a material part of the consideration to Ketchum, hereby assumes all risk of damages to property or injury to persons in, upon or about the Improvements constructed, installed and maintained in the public right-of-way arising from the construction, installation and maintenance of said Improvements and Owner hereby waives all claims in respect thereof against Ketchum.

6. Ketchum shall not be liable for injury to Owner's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property of Owner, its tenants, employees, invitees, customers, agents or contractors or any other person in or about the Subject Property caused by or resulting from the Improvements constructed, installed, removed or maintained in the public right-of-way.

7. Owner understands and agrees that by maintaining the Improvements in the public right-of-way pursuant to this Agreement, Owner obtains no claim or interest in said public right-of-way which is adverse to that of Ketchum and that Owner obtains no exclusive right to said public right-of-way nor any other right to use the public right-of-way not specifically described herein.

8. In the event either party hereto retains an attorney to enforce any of the rights, duties and obligations arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney's fees at the trial and appellate levels and, whether or not litigation is actually instituted.

9. This Agreement shall be governed by, construed, and enforced in accordance with the laws and decisions of the State of Idaho. Venue shall be in the District Court of the fifth Judicial District of the State of Idaho.

10. This Agreement sets forth the entire understanding of the parties hereto and shall not be changed or terminated orally. It is understood and agreed by the parties hereto that there are no verbal promises or implied promises, agreements, stipulations or other

representations of any kind or character pertaining to the Improvements maintained in the public right-of-way other than as set forth in this Agreement.

11. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of this document.

12. This Agreement shall be recorded with the Blaine County Recorder by Ketchum.

13. The parties fully understand all of the provisions of this Agreement, and believe them to be fair, just, adequate, and reasonable, and accordingly accept the provisions of this Agreement freely and voluntarily.

OWNER:

CITY OF KETCHUM:

By: \_\_\_\_\_  
Andrew Joseph Castellano

By: \_\_\_\_\_  
Neil Bradshaw  
Its: Mayor

STATE OF \_\_\_\_\_, )  
County of \_\_\_\_\_, ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF IDAHO )  
County of Blaine ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

**EXHIBIT "A"**

City of Ketchum  
Approved  
BL 0220-00004  
06/07/22

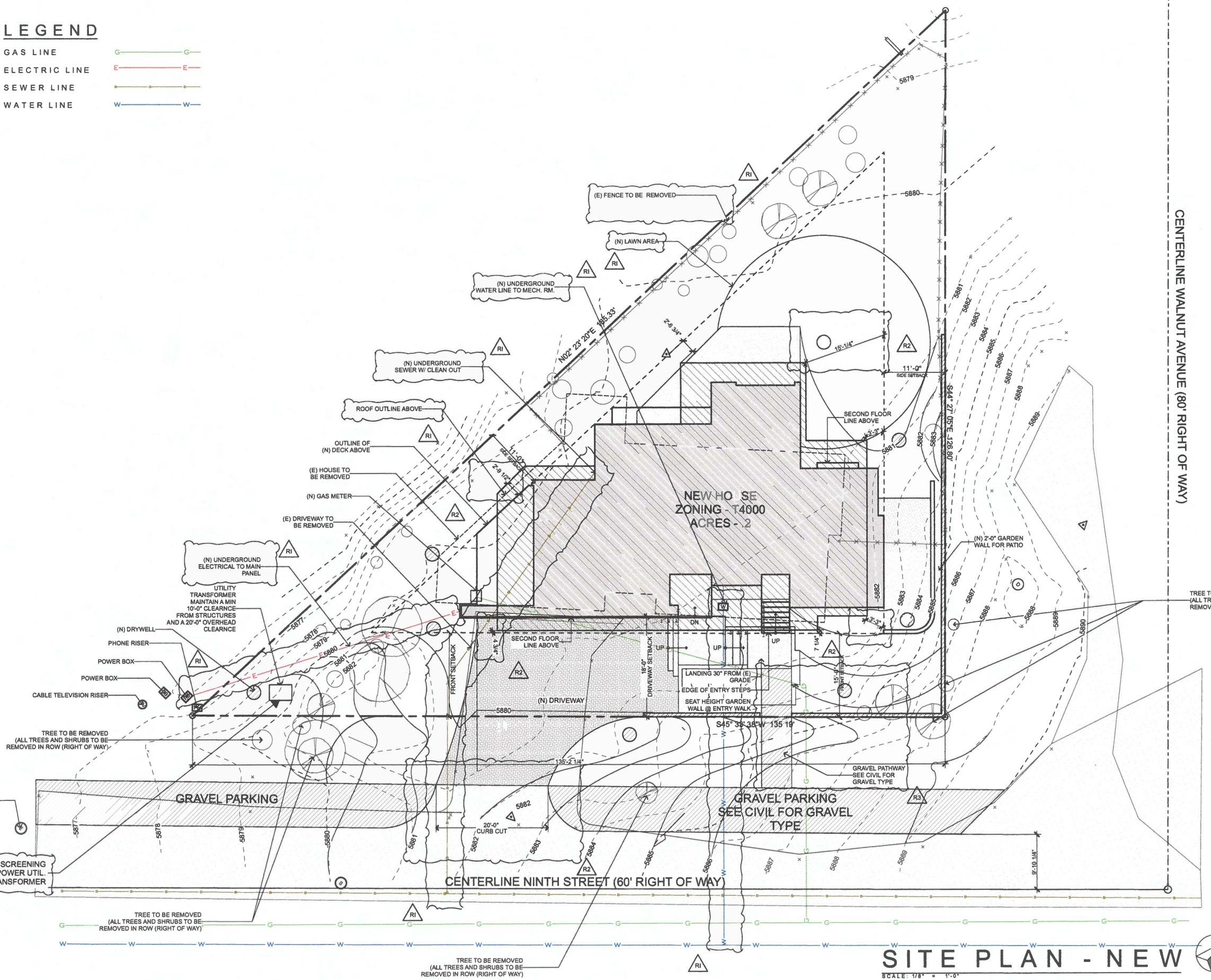
591 9TH STREET, LOT 1, BLOCK 1, MEDEGENUG SUBDIVISION  
Prepared for Andy & Kim Castellano

Utmost (208) 720-0432  
Email: evgottech@gmail.com

SCALE OF SHEET: 1/8" = 1'-0"

**LEGEND**

- GAS LINE — G
- ELECTRIC LINE — E
- SEWER LINE — S
- WATER LINE — W



TOBIN DOUGHERTY ARCHITECTS

OFFICE OF ARCHITECTURE  
PLANNING  
INTERIORS / DESIGN

TOBIN T DOUGHERTY AIA  
PRINCIPAL ARCHITECT  
914 INDUSTRIAL AVE  
PALO ALTO, CA  
OFFICE: 650.323-1890  
email @ info@tobinarchitects.com



**STAMP:**  
The Architect expressly reserves its common law copyright and other property rights in these plans. These plans are not to be reproduced, altered or copied in any form or manner without the written permission and consent from the Architect. In the event of unauthorized reuse of these plans by a third party, the Architect shall be held harmless. Copyright © 2022  
Tobin T. Dougherty Architects PA

**PROJECT:**  
CASTELLANO FAMILY  
K-HOUSE  
**PROJECT LOCATION:**  
591 EAST NINTH STREET  
KETCHUM, ID 83340

- PROJECT LOG:**
- PLN SUB. 02.22.22
  - RI PLAN CHECK 4.27.22
  - R2 PLAN CHECK 5.09.22
  - R3 STREETS DEPT. 5.31.2022

**A1.1**

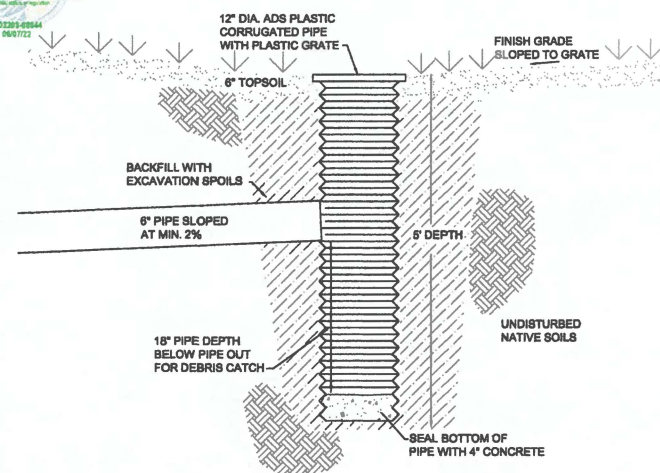
Project Number: #Project ID  
Sheet Date: 5/31/22

**SITE PLAN - NEW**

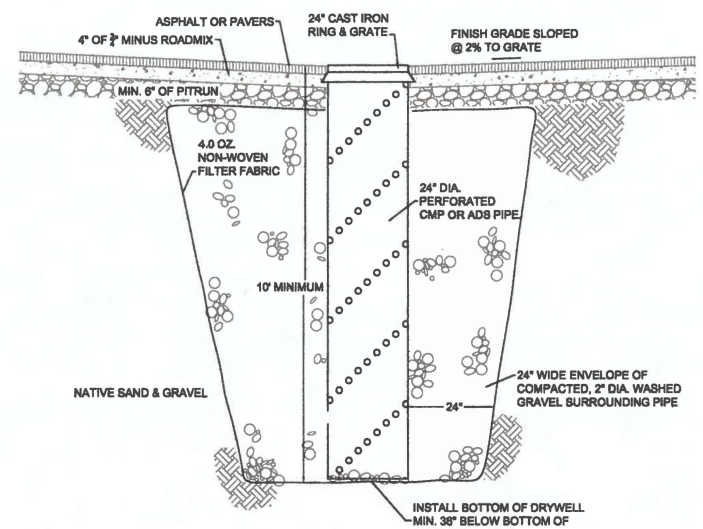
SCALE: 1/8" = 1'-0"



City of Ketchum  
Approved  
03.02.2022  
03/22



LANDSCAPE CATCH BASIN (12" LD CB)  
Not To Scale



STORMWATER DRYWELL (SW-DW) PROFILE

- GRADING & DRAINAGE NOTES**
- The entire lot area consisting of patios, walkways, roof, driveway and landscaping totals approximately 0.20 s.f.
  - Bedrock is anticipated to be encountered during the geotechnical investigation based on reports of adjacent projects so all surface runoff shall be collected by catch basins and trench drains and piped to a drywells located in the west and north corners of the lot.
  - A 4" solid PVC collector pipe shall be installed on top of the footing or at least 2 feet below finish grade around the entire structure to collect runoff from catch basins & trench drains. The pipe shall be sloped at a min. of 1% and terminate in the drywells.
  - See the "Patio Drywell Infiltration System Sizing Worksheet" for drywell dimensions.
  - Runoff from the 9th Street and Walnut Avenue right-of-ways shall be directed to catch basins that terminate in a stormwater drywell located within the right-of-way.
  - See the "Stormwater Drywell Profile" for drywell dimensions.
  - The contractor is responsible for contacting Digline Utility Locate to mark all existing utilities in order to protect all utilities.
  - Any revision during installation of the drainage plan should be reviewed by the engineer.
  - The paver driveway is snowmelted by a hydronic heating system.
  - Catch basins on private property can consist of a 12" solid ADS pipe with a minimum 12" catch below the lowest invert/outvert with concrete poured in the bottom.
  - Owner is required to remove snow in ROW parking area.
  - The centerline of the drainage swales in the ROW shall be a minimum of 36" from the back of the 4 foot tall landscape walls to minimize surcharging the wall.
  - There is no surcharge loading on the grading plan retaining walls.

**Infiltration System Sizing Worksheet**

The proposed infiltration system consists of a drywell to infiltrate stormwater from the entire lot.

**Onsite Native Soil Infiltration**

Infiltration Rate:	120 in/hr	Assumed T <sub>c</sub> :	15 min
Factor of Safety:	2	Intensity (25-yr, 15 min):	0.43 in/hr
Design Infiltration Rate:	60 in/hr	Intensity (25-yr, 1 hr):	1.72 in/hr

**Total Site Infiltration Sizing**

Proposed Impervious Area:	8712 sf	Proposed Pervious Area:	8712 sf
Proposed Impervious Area:	0.20 ac	Proposed Pervious Area:	0.20 ac
Runoff Coefficient:	1	Runoff Coefficient:	0.35
25-Year Design Runoff:	0.34 cfs	25-Year Design Runoff:	0.12 cfs

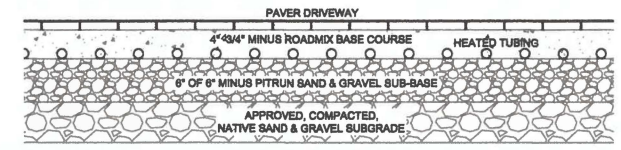
**Drywell Structure Dimensions**

Drywell Manhole Diameter:	24 in
Drain Rock Thickness:	24 in
Drain Rock Void Ratio:	0.4
Drywell Rim Elevation:	5879.00
Lowest Inlet Invert Elevation:	5877.00
Depth to Bottom of Drywell:	10.0 ft
Bottom Elevation:	5869.00

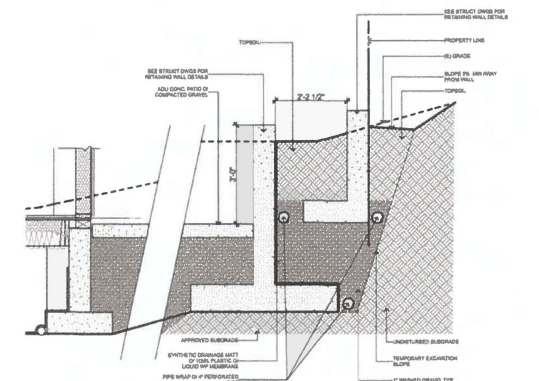
**Drywell Stage-Storage-Discharge**

Drywell Stage (ft)	Water Surface Depth (ft)	Elevation	Storage in MH (cf)	Storage in Drain Rock (cf)	Total Storage (cf)	Bottom Wetted Area (sf)	Side Wetted Area (sf)	Total Wetted Area (sf)	Drywell Infiltration Flow Rate (cfs)
0.00	10.00	5869.00	0.0	0.0	0.0	28.3	0.0	28.3	0.039
0.80	9.20	5869.80	2.5	8.0	10.6	28.3	15.1	43.4	0.060
1.60	8.40	5870.60	5.0	16.1	21.1	28.3	30.2	58.4	0.081
2.40	7.60	5871.40	7.5	24.1	31.7	28.3	45.2	73.5	0.102
3.20	6.80	5872.20	10.1	32.2	42.2	28.3	60.3	88.6	0.123
4.00	6.00	5873.00	12.6	40.2	52.8	28.3	75.4	103.7	0.144
4.80	5.20	5873.80	15.1	48.3	63.3	28.3	90.5	118.8	0.165
5.60	4.40	5874.60	17.6	56.3	73.9	28.3	105.6	133.8	0.186
6.40	3.60	5875.40	20.1	64.3	84.4	28.3	120.6	148.9	0.207
7.20	2.80	5876.20	22.6	72.4	95.0	28.3	135.7	164.0	0.228
8.00	2.00	5877.00	25.1	80.4	105.6	28.3	150.8	179.1	0.249

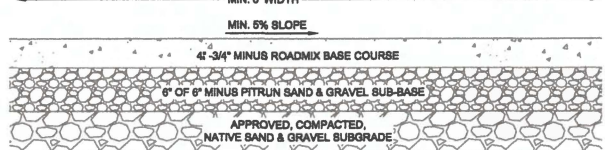
DRYWELL DESIGN FOR PROPOSED SUBDIVISION  
Castellano Residence  
Surface Drainage Drywell Design  
Ketchum, Idaho  
BY: SB DATE: 03/07/22



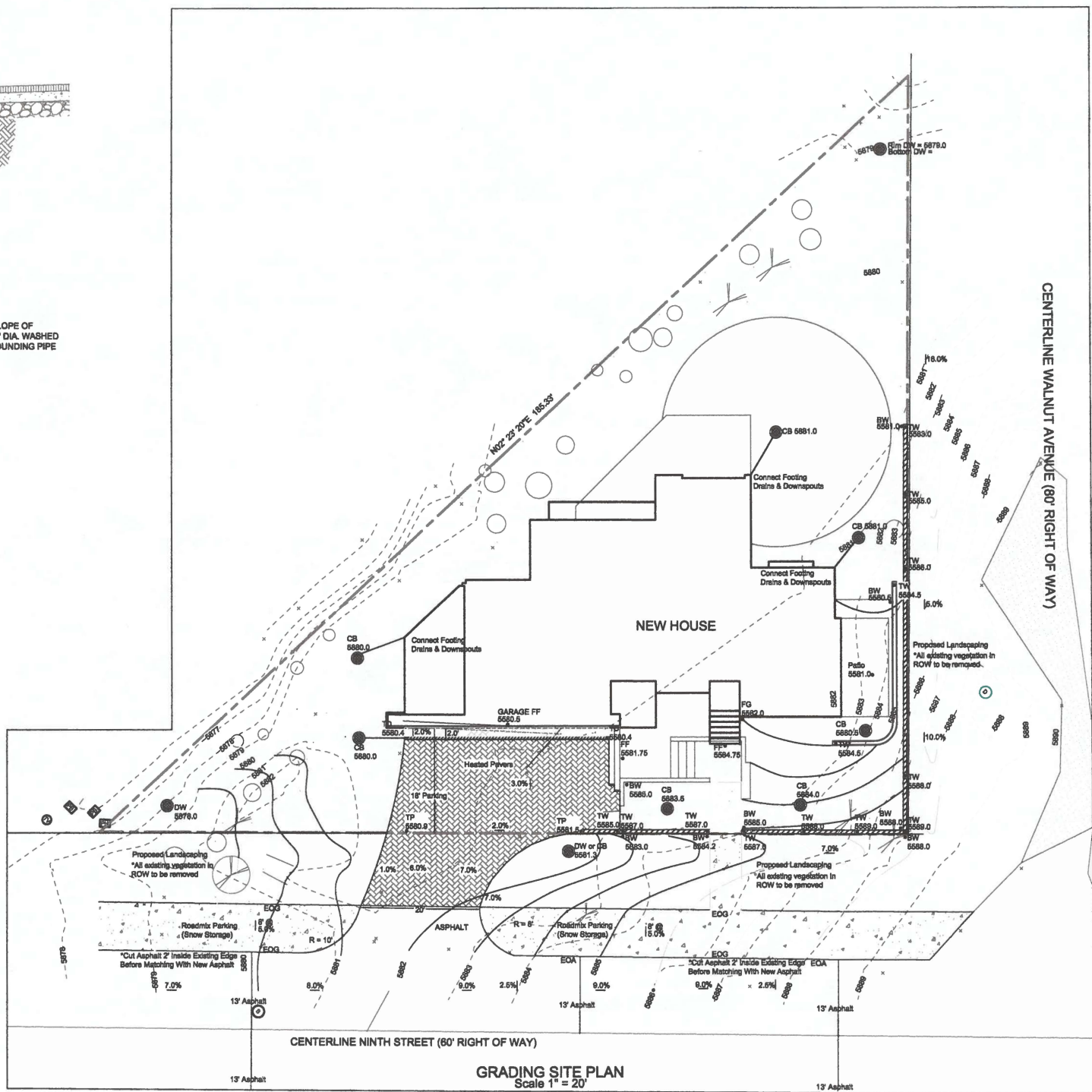
HEATED PAVERS SECTION  
NOT TO SCALE



RETAINING WALLS SECT. @ ADU



GRAVEL PARKING SECTION  
NOT TO SCALE



GRADING SITE PLAN  
Scale 1" = 20'

**GRADING & DRAINAGE PLAN**  
for the  
**CASTELLANO RESIDENCE**  
located at  
591 9TH STREET, LOT 1, BLOCK 1, HEDGEHOG SUBDIVISION  
Prepared for Andy & Kim Castellano

**BUTLER ASSOCIATES, INC.**  
Geotechnical & Civil Engineering & Land Planning Consulting  
208 Spruce Ave. N.  
P.O. Box 1054, Ketchum, ID 83340  
Office: (208) 726-4432  
Email: eng@butlerassoc.com



NO	DATE	BY
1		

Sheet 1 of 1  
PROJECT INFO AND PRINT DATE  
Castellano-Grading & Drainage Plan-11May22



**EXHIBIT "B"**



EXHIBIT "B"  
RESIDENTIAL SNOWMELT INSTALLATION CERTIFICATE

PROPERTY OWNER'S NAME: Andy and Kim Castellano

PROPERTY ADDRESS: 501 East 9th Street, Ketchum ID

LEGAL DESCRIPTION: Hedgehog Sub, Lot 1 Block 1

PARCEL NUMBER: RPK06180010010

INSTALLATION CONTRACTOR INFORMATION

COMPANY NAME: Thornton Heating + Sheetmetal, Inc

CONTRACTOR ADDRESS: PO Box 242

CONTRACTOR PHONE: 208 726 5520

CONTRACTOR EMAIL: matt@thornton-heating.com

Pursuant to the requirements of Right-of-Way Encroachment Agreement # \_\_\_\_\_, the installation contractor certifies the following:

I certify that the system proposed meets all requirements of the International Energy Conservation Code (2018 IECC, 403.12.2).

I certify that the boiler/heatpump/other (circle one) operates at a 95 percent efficiency.

Boiler/Heatpump Model Number: Lochinor WHP285

Other: \_\_\_\_\_

I certify that geofabric will be installed under the pavers to ensure positive drainage off the driveway or sidewalk.

I certify that the system will be operated by an electronic main control board that optimizes the way the system functions and minimizes inefficiencies to the greatest degree possible.

I certify that the system will be installed with in-ground control sensors, linked to the main control board, that detect snow and ice on the surface, monitor the sidewalk or driveway temperature, and automatically activates the system to be turned on or off based on the snow condition and air temperature.

By, Installation Contractor:

Print Name: Matt Thornton

Signature: [Handwritten Signature]

Date: 4-18-23

By, Owner:

Print Name: Andrew Castellano

Signature: [Handwritten Signature]

Date: 4/29/23

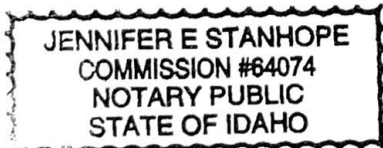
STATE OF Idaho )

) ss.

County of Blaine )

On this 18<sup>th</sup> day of April, 2023, before me, the undersigned Notary Public in and for said State, personally appeared Matt Thornton (Installation Contractor), known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Handwritten Signature]

Notary Public for Idaho

Residing at Blaine County

Commission expires 8-11-26

STATE OF Hawaii )

) ss.

County of Hawaii )

On this 27<sup>th</sup> day of April, 2022<sup>3</sup>, before me, the undersigned Notary Public in and for said State, personally appeared Andrew Castellano (Owner), known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Mary Shea

Notary Public for Hawaii

Residing at Kamuela, Hi

Commission expires 10/13/2023

Doc. Date: <u>4/27/2023</u>	# Pages: <u>3</u>
Notary Name: Mary Shea	Third Circuit
Doc. Description: <u>Residential</u>	Stamp or Seal
<u>Snowmelt</u>	
<u>Mary Shea</u>	
Notary Signature	Date
	<u>4/27/2023</u>





City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to review and approve the First and Fourth Condominium Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision.

Recommended Motion:

I move to approve the First and Fourth Condominium Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision.

Reasons for Recommendation:

- The 1st and 4th Mixed Use project received Design Review approval on June 10, 2019 and the City Council approved the Condominium Preliminary Plat on July 5, 2022.
The development is subject to the conditions and requirements of Development Agreement #20472 and subsequent amendments.
The Ketchum Municipal Code states that a final plat cannot be signed or recorded until a certificate of occupancy is issued. Pre-inspections have been conducted and staff believes a certificate of occupancy will be issued for the building within the next week. The plat will not be signed or recorded until the certificate is issued.
The final plat meets all the conditions of approval of the design review, preliminary plat, phased development agreement, and subdivision requirements.

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

None OR state impact here: Approval of the final plat does not limit the city's ability to reach its sustainability goals outlined in the Sustainability Action Plan.

Financial Impact:

None OR Adequate funds exist in account: None

Attachments:

- Application and Supporting Materials
Final Plat
Draft Findings of Fact, Conclusions of Law, and Decision



City of Ketchum

# Attachment 1: Application and Supporting Materials



**City of Ketchum  
Planning & Building**

OFFICIAL USE ONLY	
Application Number:	P22-016C
Date Received:	3/15/23
By:	HLN
Fee Paid:	\$4500
Approved Date:	
By:	

**Subdivision Application**

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 480 East Ave. N., Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: First & Fourth Condominiums			
Owner of Record: Waypoint Pearl, LLC: Jack E. Bariteau, Jr., Managing Member			
Address of Owner: P.O. Box 84, Sun Valley, ID 83353			
Representative of Owner: Benchmark Associates, Dave Patrie			
Legal Description: Amended Lots 1 & 2, Block 57, Ketchum Townsite			
Street Address: 391 First Avenue North, Ketchum, Idaho			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 9 market rate units & 3 spaces for community housing condominiumized			
Total Land Area: +/- 18,163 SF			
Current Zoning District: CC			
Proposed Zoning District: CC			
Overlay District: n/a			
TYPE OF SUBDIVISION			
Condominium <input checked="" type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: <b>No new easements.</b>			
Briefly describe the improvements to be installed prior to final plat approval: <b>New building, heated paver sidewalk, curb &amp; gutter, utility installations.</b>			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the <del>preliminary</del> <b>final</b> plat			
All files should be submitted in an electronic format.			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortious conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

Applicant Signature *David Patrie* *rep for owner*

Date *2/24/23*



**WARRANTY DEED**

For Value Received

The Jack E. Bariteau, Jr. Separate Property Trust U/T/D October 2, 1996, Jack Eli Bariteau, Jr., Trustee, as to an undivided 50% interest and Main Drive Properties, LLC., a Tennessee limited liability company, as to an undivided 50% interest as tenants in common,

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

Waypoint Pearl, LLC, an Idaho limited liability company

the Grantee, whose current address is: PO Box 84, Sun Valley, ID 83353

the following described premises, to-wit:

Lots 1 and 2 of RE-DIVISION OF LOTS 1 & 2, Block 57, ORIGINAL KETCHUM TOWNSITE, according to the official plat thereof, recorded as Instrument No. 191607, records of Blaine County, Idaho.

**SUBJECT TO:** Current General Taxes, a lien in the process of assessment, not yet due or payable. Easements, restrictions, reservations, provisions of record, and assessments, if any.

**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated this 6th day of April, 2021.

The Jack E. Bariteau, Jr. Separate Property Trust U/ Main Drive Properties, LLC., a Tennessee limited liability company  
T/D October 2, 1996

Jack Eli Bariteau, Jr.  
Trustee

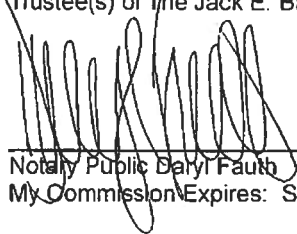
By: William A. Allison  
Its:

Manager



State of Idaho  
County of Blaine

This record was acknowledged before me on 6th day of April, 2021, by Jack Eli Bariteau, Jr., as the Trustee(s) of The Jack E. Bariteau, Jr. Separate Property Trust U/T/D October 2, 1996.

  
\_\_\_\_\_  
Notary Public Daryl Fauth  
My Commission Expires: September 24, 2024

(STAMP)

DARYL FAUTH  
COMMISSION NO. 22804  
NOTARY PUBLIC  
STATE OF IDAHO  
MY COMMISSION EXPIRES 09/24/24

State of Idaho

ss.

County of Blaine

This record was acknowledged before me on the 6<sup>th</sup> day of April, 2021 by William A. Allison, the  
William A. Allison of Main Drive Properties, LLC, a Tennessee limited liability company

[Handwritten Signature]  
\_\_\_\_\_  
Notary Public: Daryl Fauth  
My Commission Expires: 09/24/24  
Residing: Hailey, ID

(STAMP)





## ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### NOTICE

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.


If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

  
Authorized Countersignature

Blaine County Title, Inc.  
360 Sun Valley Road  
P.O. Box 3176  
Ketchum, ID 83340  
(208) 726-0700



  
Frederick H. Eppinger  
President and CEO

  
David Hisey  
Secretary

*This page is only a part of a 2021 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

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ALTA Commitment For Title Insurance (7-01-2021)

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## COMMITMENT CONDITIONS

### 1. DEFINITIONS

- a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
  - b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
  - c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
  - e. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
  - g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - h. "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
  - i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
  - j. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.
2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- a. the Notice;
  - b. the Commitment to Issue Policy;
  - c. the Commitment Conditions;
  - d. Schedule A;
  - e. Schedule B, Part I - Requirements;
  - f. Schedule B, Part II - Exceptions; and
  - g. a countersignature by the Company or its issuing agent that may be in electronic form.

### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

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## 5. LIMITATIONS OF LIABILITY

- a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - (i) comply with the Schedule B, Part I - Requirements;
  - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
  - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- b. The Company is not liable under Commitment Condition 5.a. if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
- e. The Company is not liable for the content of the Transaction Identification Data, if any.
- f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

## 6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM

- a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
- c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- d. The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

## 7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for closing, settlement, escrow, or any other purpose.

## 8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

## 9. CLAIMS PROCEDURES

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

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ALTA Commitment For Title Insurance (7-01-2021)

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## 10. CLASS ACTION

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

## 11. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of Insurance is \$2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

## STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at Stewart Title Guaranty Company, P.O. Box 2029, Houston, Texas 77252-2029.

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**ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)  
SCHEDULE A**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

**Issuing Agent:** Blaine County Title, Inc.  
**Issuing Office:** 360 Sun Valley Road, P.O. Box 3176, Ketchum, ID 83340  
**Issuing Office's ALTA® Registry ID:**  
**Loan ID Number:**  
**Commitment Number:** 2224412  
**Issuing Office File Number:** 2224412  
**Property Address:** 391 N 1st Ave., Ketchum, ID 83340  
120 W 4th St., Ketchum, ID 83340  
**Revision Number:**

1. **Commitment Date:** February 16, 2022 at 8:00 A.M.

2. **Policy to be issued:** **Proposed Amount of Insurance**

(a) 2021 ALTA® Owner's Policy

Proposed Insured:

(b) 2021 ALTA® Loan Policy

Proposed Insured:

3. **The estate or interest in the Land at the Commitment Date is:**

Fee Simple

4. **The Title is, at the Commitment Date, vested in:**

Waypoint Pearl, LLC, an Idaho limited liability company

5. **The Land is described as follows:**

Lots 1 and 2 of RE-DIVISION OF LOTS 1 & 2, Block 57, ORIGINAL KETCHUM TOWNSITE, according to the official plat thereof, recorded as Instrument No. 191607, records of Blaine County, Idaho.

**STEWART TITLE GUARANTY COMPANY**

  
Authorized Countersignature

**STATEMENT OF CHARGES**

These charges are due and payable  
before a policy can be issued

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File No. 2224412

ID ALTA Commitment for Title Insurance Schedule A (07-01-2021) SOC

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**ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)  
SCHEDULE B PART I**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**Requirements**

File No.: 2224412

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Delivery to the Company of the Affidavit as to Debts and Liens. Upon acceptance and review of said Affidavit, title will be subject to such further matters as appear necessary and appropriate following such review.
6. Pursuant to the State of Idaho Insurance Regulations, a cancellation fee is to be charged on all cancelled orders. Unless otherwise advised, orders will be considered cancelled six months after the effective date on the Commitment. The amount of the fee assessed shall be in accordance with our rate filing with the Idaho Department of Insurance.

If you should decide to change lenders within six months, this commitment can be transferred to avoid a cancellation charge.

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ALTA Commitment For Title Insurance Schedule B I (07-01-2021)

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# ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)

## SCHEDULE B PART II

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### Exceptions

File No.: 2224412

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.**

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.
2. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by Public Record.
3. Any facts, rights, interests, or claims which are not shown by the Public Records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
4. Easements, liens, or encumbrances, or claims thereof, which are not shown by the Public Records.
5. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the Public Records.
6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims, or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the Public Records.
7. Any lien or right to a lien for services, labor, equipment, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
8. Rights of the state or federal government and/or public in and to any portion of the land for right of way (whether or not such rights are shown by recordings of easements and/or maps in the Public Records by the State of Idaho showing the general location of these rights of way).
9. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.

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ID ALTA Commitment For Title Insurance Schedule B II (07-01-2021)

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**ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)  
SCHEDULE B PART II**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**Exceptions**

10. General taxes for the year 2021, a lien in the amount of \$5,363.42, of which the first half due December 20, 2021 are PAID and the second half are due on or before June 20, 2022. (Parcel No. RPK0000057001B)
11. General taxes for the year 2021, a lien in the amount of \$5,363.42, of which the first half due December 20, 2021 are PAID and the second half are due on or before June 20, 2022. (Parcel No. RPK0000057002A)
12. General taxes for the year 2022 and subsequent years, which are a lien not yet payable.
13. Water and sewer charges of the City of Ketchum, which are current as of the date of the policy.
14. Ketchum rubbish charges billed by Clear Creek Disposal, which are current as of the date of the policy.
15. Notes, Easements and Restrictions as shown on the Re-Division of Lots 1 & 2, Block 57, Original Ketchum Townsite, recorded February 27, 1979 as [Instrument No. 191607](#), records of Blaine County, Idaho.
16. Facts evidenced by that certain Survey, dated September 2018 by Benchmark Associates, recorded October 30, 2018, as [Instrument No. 656178](#), records of Blaine County, Idaho.
17. Development Agreement #20427, including the terms and provisions thereof, Dated December 16, 2019 by and between the City of Ketchum, Idaho, a municipal corporation and Jack E. Bariteau, Jr., as Trustee of the Jack E. Bariteau, Jr. Separate Property Trust, under agreement dated October 2, 1996 and Main Drive Properties, LLC, a Tennessee limited liability company, recorded December 20, 2019 as [Instrument No. 665841](#), records of Blaine County, Idaho.  
  
First Amendment to Development Agreement #20427, including the terms and provisions thereof, recorded February 11, 2021, as [Instrument No. 679218](#), records of Blaine County, Idaho.
18. Right-of-Way Encroachment Agreement 20548, including the terms and provisions thereof, by and between City of Ketchum, Idaho, a municipal corporation and Jack E. Bariteau Jr., as Trustee of The Jack E. Bariteau Jr., Separate Property Trust, dated October 2, 1996 and Main Drive Properties, LLC, a Tennessee limited liability company recorded October 29, 2020 as [Instrument No. 675091](#), records of Blaine County, Idaho.
19. Right-of-Way Encroachment Agreement 20536, including the terms and provisions thereof, dated October 19, 2020, by and between City of Ketchum, Idaho, a municipal corporation and Idaho Power Company, recorded October 30, 2020 as [Instrument No. 675171](#), records of Blaine County, Idaho.
20. Deed of Trust, Security Agreement and Fixture Filing with Assignment of Leases and Rents to secure an indebtedness in the amount shown below, and any other obligations secured thereby:  
Amount: \$17,500,000.00  
Dated: 04/23/2021  
Grantor: Waypoint Pearl, LLC, an Idaho limited liability company  
Trustee: Blaine County Title, Inc.  
Beneficiary: Dudley Family Investments, LLC, a Delaware limited liability company  
Recorded: 04/23/2021, as Instrument No. 681853, records of Blaine County, Idaho

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ID ALTA Commitment For Title Insurance Schedule B II (07-01-2021)

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**ALTA COMMITMENT FOR TITLE INSURANCE (07-01-2021)**  
**SCHEDULE B PART II**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**Exceptions**

21. Assignment of Leases and Rents, by and between Waypoint Pearl, LLC, an Idaho limited liability company and Dudley Family Investments, LLC, a Delaware limited liability company, recorded 04/23/2021 as Instrument No. 681854, records of Blaine County, Idaho.
22. Financing Statement executed by Waypoint Pearl, LLC to Dudley Family Investments, LLC recorded 04/23/2021 as Instrument No. 681855, records of Blaine County, Idaho.
23. Subordination Agreement, executed by Conrad Brothers of Idaho, Inc., in favor of Dudley Family Investments, LLC , recorded 04/23/2021 as Instrument No. 681856, records of Blaine County, Idaho.
24. Financing Statement executed by Waypoint Pearl, LLC to Dudley Family Investments, LLC Filed 04/26/2001 as File No. 20210632205 records of the Idaho Secretary of State UCC Division.
25. Subordination Agreement, executed by Conrad Brothers of Idaho, Inc., in favor of Dudley Family Investments, LLC , recorded 04/29/2021 as Instrument No. 682017, records of Blaine County, Idaho.
26. Notices of liens if any, in favor of the State Tax Commission, the Department of Labor and Department of Health and Welfare of the State of Idaho filed in the office of the Secretary of State pursuant to Chapter 19, Title 45, Idaho Code. (The Idaho State Tax Commission electronically files liens with the office of the Secretary of State and not with the Blaine County Recorder. Until final review at closing, title may be subject to such further matters as appear necessary and appropriate following such review.)

Item 1 will be removed upon final review at closing, title may be subject to such further matters as appear necessary and appropriate following such review.

Items 2-5 and 7-9 may be removed upon issuance of any ALTA Extended Coverage Policy.

Copies of all recorded documents outlined in this section are available upon request.

*This page is only a part of a 2021 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

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File No. 2224412

ID ALTA Commitment For Title Insurance Schedule B II (07-01-2021)

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AMERICAN  
LAND TITLE  
ASSOCIATION



## STG Privacy Notice Stewart Title Companies

### WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its title affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information.	Do we share	Can you limit this sharing?
<b>For our everyday business purposes</b> — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you.	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness.	No	We don't share
<b>For our affiliates to market to you</b> — For your convenience, Stewart has developed a means for you to opt out from its affiliates marketing even though such mechanism is not legally required.	Yes	Yes, send your first and last name, the email address used in your transaction, your Stewart file number and the Stewart office location that is handling your transaction by email to <a href="mailto:optout@stewart.com">optout@stewart.com</a> or fax to 1-800-335-9591.
<b>For non-affiliates to market to you.</b> Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

### SHARING PRACTICES

<b>How often do the Stewart Title Companies notify me about their practices?</b>	We must notify you about our sharing practices when you request a transaction.
<b>How do the Stewart Title Companies protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer, file, and building safeguards.
<b>How do the Stewart Title Companies collect my personal information?</b>	We collect your personal information, for example, when you <ul style="list-style-type: none"> <li>▪ request insurance-related services</li> <li>▪ provide such information to us</li> </ul> We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.
<b>What sharing can I limit?</b>	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

**Contact us:** *If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1360 Post Oak Blvd., Ste. 100, Privacy Officer, Houston, Texas 77056*

## Privacy Notice for California Residents

Pursuant to the California Consumer Privacy Act of 2018 ("CCPA"), Stewart Information Services Corporation and its subsidiary companies (collectively, "Stewart") are providing this **Privacy Notice for California Residents** ("CCPA Notice"). This CCPA Notice supplements the information contained in Stewart's existing privacy notice and applies solely to all visitors, users and others who reside in the State of California or are considered California Residents ("consumers" or "you"). Terms used but not defined shall have the meaning ascribed to them in the CCPA.

### Information Stewart Collects

Stewart collects information that identifies, relates to, describes, references, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer, household, or device. Most of the information that Stewart collects in the course of its regular business is already protected pursuant to the Gramm-Leach-Bliley Act (GLBA). Additionally, much of this information comes from government records or other information already in the public domain. Personal information under the CCPA does not include:

- Publicly available information from government records.
- Deidentified or aggregated consumer information.
- Certain personal information protected by other sector-specific federal or California laws, including but not limited to the Fair Credit Reporting Act (FCRA), GLBA and California Financial Information Privacy Act (FIPA).

Specifically, Stewart has collected the following categories of personal information from consumers within the last twelve (12) months:

Category	Examples	Collected?
A. Identifiers.	A real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, Social Security number, driver's license number, passport number, or other similar identifiers.	YES
B. Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e)).	A name, signature, Social Security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. Some personal information included in this category may overlap with other categories.	YES
C. Protected classification characteristics under California or federal law.	Age (40 years or older), race, color, ancestry, national origin, citizenship, religion or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, genetic information (including familial genetic information).	YES
D. Commercial information.	Records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.	YES
E. Biometric information.	Genetic, physiological, behavioral, and biological characteristics, or activity patterns used to extract a template or other identifier or identifying information, such as, fingerprints, faceprints, and voiceprints, iris or retina scans, keystroke, gait, or other physical patterns, and sleep, health, or exercise data.	YES
F. Internet or other similar network activity.	Browsing history, search history, information on a consumer's interaction with a website, application, or advertisement.	YES
G. Geolocation data.	Physical location or movements.	YES
H. Sensory data.	Audio, electronic, visual, thermal, olfactory, or similar information.	YES
I. Professional or employment-related information.	Current or past job history or performance evaluations.	YES
J. Non-public education information (per the Family Educational Rights and Privacy Act (20 U.S.C. Section 1232g, 34 C.F.R. Part 99)).	Education records directly related to a student maintained by an educational institution or party acting on its behalf, such as grades, transcripts, class lists, student schedules, student identification codes, student financial information, or student disciplinary records.	YES
K. Inferences drawn from other personal information.	Profile reflecting a person's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.	YES

Stewart obtains the categories of personal information listed above from the following categories of sources:

- Directly and indirectly from customers, their designees or their agents (For example, realtors, lenders, attorneys, etc.)
- Directly and indirectly from activity on Stewart's website or other applications.
- From third-parties that interact with Stewart in connection with the services we provide.

#### Use of Personal Information

Stewart may use or disclose the personal information we collect for one or more of the following purposes:

- To fulfill or meet the reason for which the information is provided.
- To provide, support, personalize, and develop our website, products, and services.
- To create, maintain, customize, and secure your account with Stewart.
- To process your requests, purchases, transactions, and payments and prevent transactional fraud.
- To prevent and/or process claims.
- To assist third party vendors/service providers who complete transactions or perform services on Stewart's behalf.
- As necessary or appropriate to protect the rights, property or safety of Stewart, our customers or others.
- To provide you with support and to respond to your inquiries, including to investigate and address your concerns and monitor and improve our responses.
- To personalize your website experience and to deliver content and product and service offerings relevant to your interests, including targeted offers and ads through our website, third-party sites, and via email or text message (with your consent, where required by law).
- To help maintain the safety, security, and integrity of our website, products and services, databases and other technology assets, and business.
- To respond to law enforcement or regulator requests as required by applicable law, court order, or governmental regulations.
- Auditing for compliance with federal and state laws, rules and regulations.
- Performing services including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing advertising or marketing services or other similar services.
- To evaluate or conduct a merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of our assets, whether as a going concern or as part of bankruptcy, liquidation, or similar proceeding, in which personal information held by us is among the assets transferred.

Stewart will not collect additional categories of personal information or use the personal information we collected for materially different, unrelated, or incompatible purposes without providing you notice.

#### Disclosure of Personal Information to Affiliated Companies and Nonaffiliated Third Parties

Stewart does not sell your personal information to nonaffiliated third parties. Stewart may share your information with those you have designated as your agent in the course of your transaction (for example, a realtor or a lender). Stewart may disclose your personal information to a third party for a business purpose. Typically, when we disclose personal information for a business purpose, we enter a contract that describes the purpose and requires the recipient to both keep that personal information confidential and not use it for any purpose except performing the contract.

We share your personal information with the following categories of third parties:

- Service providers and vendors (For example, search companies, mobile notaries, and companies providing credit/debit card processing, billing, shipping, repair, customer service, auditing, marketing, etc.)
- Affiliated Companies
- Litigation parties and attorneys, as required by law.
- Financial rating organizations, rating bureaus and trade associations.
- Federal and State Regulators, law enforcement and other government entities

In the preceding twelve (12) months, Stewart has disclosed the following categories of personal information for a business purpose:

- Category A: Identifiers
- Category B: California Customer Records personal information categories
- Category C: Protected classification characteristics under California or federal law
- Category D: Commercial Information
- Category E: Biometric Information
- Category F: Internet or other similar network activity
- Category G: Geolocation data
- Category H: Sensory data
- Category I: Professional or employment-related information
- Category J: Non-public education information
- Category K: Inferences

#### Consumer Rights and Choices

The CCPA provides consumers (California residents) with specific rights regarding their personal information. This section describes your CCPA rights and explains how to exercise those rights.

## Access to Specific Information and Data Portability Rights

You have the right to request that Stewart disclose certain information to you about our collection and use of your personal information over the past 12 months. Once we receive and confirm your verifiable consumer request, Stewart will disclose to you:

- The categories of personal information Stewart collected about you.
- The categories of sources for the personal information Stewart collected about you.
- Stewart's business or commercial purpose for collecting that personal information.
- The categories of third parties with whom Stewart shares that personal information.
- The specific pieces of personal information Stewart collected about you (also called a data portability request).
- If Stewart disclosed your personal data for a business purpose, a listing identifying the personal information categories that each category of recipient obtained.

## Deletion Request Rights

You have the right to request that Stewart delete any of your personal information we collected from you and retained, subject to certain exceptions. Once we receive and confirm your verifiable consumer request, Stewart will delete (and direct our service providers to delete) your personal information from our records, unless an exception applies.

Stewart may deny your deletion request if retaining the information is necessary for us or our service providers to:

1. Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, or otherwise perform our contract with you
2. Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.
3. Debug products to identify and repair errors that impair existing intended functionality.
4. Exercise free speech, ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.
5. Comply with the California Electronic Communications Privacy Act (Cal. Penal Code § 1546 *seq.*).
6. Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information's deletion may likely render impossible or seriously impair the research's achievement, if you previously provided informed consent.
7. Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
8. Comply with a legal obligation.
9. Make other internal and lawful uses of that information that are compatible with the context in which you provided it.

## Exercising Access, Data Portability, and Deletion Rights

To exercise the access, data portability, and deletion rights described above, please submit a verifiable consumer request to us either:

- Calling us Toll Free at 1-866-571-9270
- Emailing us at [Privacyrequest@stewart.com](mailto:Privacyrequest@stewart.com)
- Visiting <http://stewart.com/ccpa>

Only you, or someone legally authorized to act on your behalf, may make a verifiable consumer request related to your personal information. You may also make a verifiable consumer request on behalf of your minor child.

To designate an authorized agent, please contact Stewart through one of the methods mentioned above.

You may only make a verifiable consumer request for access or data portability twice within a 12-month period. The verifiable consumer request must:

- Provide sufficient information that allows us to reasonably verify you are the person about whom we collected personal information or an authorized representative.
- Describe your request with sufficient detail that allows us to properly understand, evaluate, and respond to it.

Stewart cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and confirm the personal information relates to you.

Making a verifiable consumer request does not require you to create an account with Stewart.

## Response Timing and Format

We endeavor to respond to a verifiable consumer request within forty-five (45) days of its receipt. If we require more time (up to an additional 45 days), we will inform you of the reason and extension period in writing.

A written response will be delivered by mail or electronically, at your option.

Any disclosures we provide will only cover the 12-month period preceding the verifiable consumer request's receipt. The response we provide will also explain the reasons we cannot comply with a request, if applicable. For data portability requests, we will select a format to provide your personal information that is readily useable and should allow you to transmit the information from one entity to another entity without hindrance.

Stewart does not charge a fee to process or respond to your verifiable consumer request unless it is excessive, repetitive, or manifestly unfounded. If we determine that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

#### Non-Discrimination

Stewart will not discriminate against you for exercising any of your CCPA rights. Unless permitted by the CCPA, we will not:

- Deny you goods or services.
- Charge you a different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties.
- Provide you a different level or quality of goods or services.
- Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.

#### Changes to Our Privacy Notice

Stewart reserves the right to amend this privacy notice at our discretion and at any time. When we make changes to this privacy notice, we will post the updated notice on Stewart's website and update the notice's effective date. **Your continued use of Stewart's website following the posting of changes constitutes your acceptance of such changes.**

#### Contact Information

If you have questions or comments about this notice, the ways in which Stewart collects and uses your information described here, your choices and rights regarding such use, or wish to exercise your rights under California law, please do not hesitate to contact us at:

**Phone:** Toll Free at 1-866-571-9270

**Website:** <http://stewart.com/ccpa>

**Email:** Privacyrequest@stewart.com

**Postal Address:** Stewart Information Services Corporation  
Attn: Mary Thomas, Deputy Chief Compliance Officer  
1360 Post Oak Blvd., Ste. 100, MC #14-1  
Houston, TX 77056



## STG Privacy Notice 2 (Rev 01/26/09) Independent Agencies and Unaffiliated Escrow Agents

### WHAT DO/DOES THE Blaine County Title, Inc. DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of Blaine County Title, Inc. , and its affiliates (" N/A "), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as Blaine County Title, Inc. , need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information	Do we share?	Can you limit this sharing?
<b>For our everyday business purposes</b> — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
<b>For our marketing purposes</b> — to offer our products and services to you.	Yes	No
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes</b> — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies.	Yes	No
<b>For our affiliates' everyday business purposes</b> — information about your creditworthiness.	No	We don't share
<b>For our affiliates to market to you</b>	Yes	No
<b>For non-affiliates to market to you.</b> Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

### Sharing practices

<b>How often do/does Blaine County Title, Inc. notify me about their practices?</b>	We must notify you about our sharing practices when you request a transaction.
<b>How do/does Blaine County Title, Inc. protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state law. These measures include computer, file, and building safeguards.
<b>How do/does Blaine County Title, Inc. collect my personal information?</b>	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• request insurance-related services</li> <li>• provide such information to us</li> </ul> <p>We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.</p>
<b>What sharing can I limit?</b>	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

### Contact Us

If you have any questions about this privacy notice, please contact us at: Blaine County Title, Inc. , 360 Sun Valley Road, PO Box 3176, Ketchum, ID 83340

**BYLAWS**  
**OF**  
**FIRST & FOURTH**  
**CONDOMINIUM OWNERS' ASSOCIATION, INC.**

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**BYLAWS**  
**OF**  
**FIRST & FOURTH**  
**CONDOMINIUM OWNERS' ASSOCIATION, INC.**

THESE BYLAWS of First & Fourth Condominium Owners' Association, Inc., an Idaho nonprofit corporation, were adopted and are effective as of the \_\_\_ day of \_\_\_\_\_, 2023. Capitalized terms used and not otherwise defined herein have the meanings set forth on in the Declaration, as defined herein in Section 1.5.

**Article 1**  
**FORMATION OF THE CORPORATION**

**Section 1.1 Formation.**

On March 10, 2022, the Corporation was organized as an Idaho nonprofit corporation by executing and delivering the Articles of Incorporation to the Idaho Secretary of State in accordance with and pursuant to the Act.

**Section 1.2 Registered Office.**

The registered office of the First & Fourth Condominium Owners' Association, Inc. (the "**Corporation**") required by the Idaho Nonprofit Corporation Act ("Act") to be continuously maintained in the state of Idaho may, but need not, be the same as any of its principal places of business in the state of Idaho. In any case, the Corporation's registered office shall be the business office of the registered agent required by the Act to be continuously maintained in the state of Idaho. The address of the registered office may be changed from time to time by the Board of Directors or the President of the Corporation by delivering a statement to the Idaho Secretary of State containing the information acquired by the Act or by indicating such change in the annual report required by the Act to be filed with the Secretary of State.

**Section 1.3 Principal Office; Other Offices.**

The principal office of the Corporation shall be 675 Sun Valley Road, Suite L, Ketchum, Idaho. The Corporation may also have and maintain an office or principal place of business in Idaho, or at such other place as may be fixed by the Board of Directors, and may also have offices at such other places, both within and without the state of Idaho, as the Board of Directors may from time to time determine or the business of the Corporation may require.

**Section 1.4 Corporate Seal.**

The Corporation may have a corporate seal, which may be altered at will by the Board of Directors. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

**Section 1.5 Declaration.**

The “**Declaration**” shall mean, collectively, the Declaration of Covenants, Conditions and Restrictions for the First & Fourth Condominiums and any amendments or supplements recorded or to be recorded pursuant thereto, and applicable to the condominium development commonly known and referred to as the FIRST & FOURTH CONDOMINIUM DEVELOPMENT located in the County of Blaine, State of Idaho, legally described as set forth in Exhibit “A” attached hereto.

**Section 1.6 Other Definitions.**

Each and every definition set forth in Section 1 of the Declaration shall have the same meaning herein as therein, and each and every such definition is incorporated by reference herein and made a part hereof.

**Article 2  
MEMBERSHIP; VOTING RIGHTS**

The qualification for membership, the classes of membership and the voting rights of members shall be as set forth in Article 8 of the Declaration, all of which are hereby incorporated by reference herein as if set forth in full.

**Article 3  
MEMBERS' MEETINGS**

**Section 3.1 Place of Meetings.**

The Board of Directors may designate any place, either within or without the state of Idaho, as the place of meeting for any annual meeting or for any special meeting of members called by or at the direction of the Board of Directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or without the state of Idaho, as the place for the holding of such meeting. If no place is designated by the Board of Directors or if a special meeting be called otherwise than by or at the direction of the Board of Directors, the place of meeting shall be the principal office of the Corporation.

**Section 3.2 Annual Meetings.**

The annual meeting of the members of the Corporation shall be held on the fourth Monday (or the following day, should this fall on a legal holiday) in the month of December in each year at 3:00 p.m., at the principal office, or on such other date and at such other time which may from time to time be designated by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting. The failure to hold an annual meeting at the time stated or otherwise designated as provided herein shall not affect the validity of any corporate action.

### **Section 3.3 Special Meetings.**

Special meetings of the members of the Corporation may be called at any time, for any purpose or purposes, by a majority of the quorum of the Board of Directors or the President of the Corporation or by the holders of at least twenty five percent (25%) of the votes entitled to be cast on any issue proposed to be considered at the meeting (provided that such holders sign, date and deliver to the Corporation one or more written demands for the meeting describing the purpose(s) for which it is to be held) or by the person or persons authorized to do so by the Articles of Incorporation. Special meetings of the members of the Corporation may not be called by any other person or persons.

### **Section 3.4 Notice of Meetings.**

The Corporation shall notify members of the date, time and place of each annual and special members' meeting and, in case of a special meeting, a description of the purpose or purposes for which the meeting is called, no fewer than ten (10) nor more than sixty (60) days before the meeting date. Unless otherwise required by law or the Articles of Incorporation, the Corporation is required to give notice of a meeting only to members entitled to vote at the meeting. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called. Only business within the purpose(s) described in the special meeting notice may be conducted at such special meeting. Notice shall be given to each member at either: (i) the address of their respective unit; or (ii) the address supplied by the member to the Corporation.

### **Section 3.5 Waiver of Notice.**

Notice of any meeting of members may be waived in writing, signed by the person entitled to notice thereof and delivered to the Corporation for inclusion in the corporate minutes or filing with the corporate records, either before or after the date and time stated in the notice. A member's attendance at a meeting waives objection to lack of notice or defective notice of the meeting unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting, and further waives objection to consideration of a particular matter at the meeting that is not within the purpose of purposes described in the meeting notice unless the member objects to considering the matter when it is presented. Any member so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice hereof had been given.

### **Section 3.6 Quorum.**

Unless the Act or the Articles of Incorporation impose a greater requirement, twenty percent (20%) of the votes, represented in person or by proxy, entitled to be cast on a matter shall constitute a quorum. Unless one-third ( $\frac{1}{3}$ ) or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual or special meeting of members are those matters that are enumerated in the meeting notice.



### **Section 3.7 Adjournment and Notice of Adjourned Meetings.**

Any meeting of members at which a quorum is not present may be adjourned to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. Any meeting of members at which a quorum is present, whether annual or special, may be adjourned from time to time by the vote of a majority of the votes entitled to be cast at the meeting not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called. If an annual or special members' meeting is adjourned to a different date, time or place, notice need not be given of the new date, time or place if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed, however, notice of the adjourned meeting must be given under this Section to persons who are members as of the new record date. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting.

### **Section 3.8 Proxies.**

At all meetings of members, a member may vote either in person or by proxy. A member may appoint a proxy to vote or otherwise act for the member by signing an appointment form or by an electronic transmission, either personally or by the member's attorney-in-fact. The electronic transmission must contain or be accompanied by information from which one can reasonably verify that the member, the member's agent, or the member's attorney-in-fact authorized the transmission. An appointment of proxy is effective upon receipt, before or at the time of the meeting, by the inspector of election or the officer or agent of the Corporation authorized to tabulate votes. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the appointment form, but in no event can be valid for more than three (3) years. An appointment of a proxy is revocable in accordance with the provisions of the Act. The death or incapacity of the member appointing a proxy does not affect the right of the Corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspector of election or the officer or agent of the Corporation authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment. Subject to the acceptance of votes and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, the Corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment. Proxy voting shall not be permitted when member votes are solicited by written ballot to be cast without a meeting.

### **Section 3.9 Voting Rights.**

Except as otherwise provided by law, only persons in whose names shares stand on the records of the Corporation on the record date, as provided in these Bylaws, shall be entitled to vote on any matter. Unless the Articles of Incorporation provide otherwise, each member is entitled to one (1) vote on each matter voted on at a members' meeting. If a quorum exists, action on a matter, other than the election of directors, is approved if the votes cast favoring the action exceed the votes cast opposing the action, unless the Articles of Incorporation or the Act require a greater number of affirmative votes. Unless otherwise provided in the Articles of Incorporation, directors are elected by a plurality of the votes cast by the shares entitled to vote

in the election at a meeting at which a quorum is present. Members shall have no right to cumulate their votes for directors.

### **Section 3.10 Corporation's Acceptance of Votes.**

(1) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the Corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

(2) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its member, the Corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(a) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(b) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the Corporation requests, evidence of fiduciary status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the Corporation requests, evidence of this status acceptable to the Corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the member and, if the Corporation requests, evidence acceptable to the Corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment;

(e) Two or more persons are the member as cotenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(3) The Corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the inspector of election or the officer or agent of the Corporation authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

### **Section 3.11 List of Members.**

After fixing a record date for a meeting, the Corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of such meeting. The list must show the address and the number of votes each member is entitled to. The members' list must be available for inspection by any member, beginning two (2) business days after notice of the

meeting is given and continuing through the meeting, at the Corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the requirements of Act, to copy the list, during regular business hours and at the member's expense, during the period it is available for inspection. The Corporation shall make the members' list available at the meeting; and any member, member's agent, or attorney is entitled to inspect the list at any time during the meeting or any adjournment. Refusal or failure to prepare or make available the members list does not affect the validity of action taken at the meeting.

### **Section 3.12 Conduct of Meeting.**

At every meeting of members, the Presidents, or, if a Chairman has not been appointed or is absent, the President or, if the President is absent, the most senior executive officer present, or in the absence of any such officer, a chairman of the meeting chosen by a majority in interest of the members entitled to vote, present in person or by proxy, shall act as chairman. The Secretary shall act as secretary of the meeting. The order of business shall be as follows: (i) roll call; (ii) proof of notice of meeting or waiver of notice; (iii) reading of minutes of preceding meeting; (iv) reports of board of officers; (v) election of directors, if any are to be elected; (vi) unfinished business; and (vii) new business. The meeting shall proceed in parliamentary procedure, as determined and adopted by the Board.

### **Section 3.13 Action Without Meeting.**

Action required or permitted by Act to be taken at a members' meeting may be taken without a meeting if the action is taken by at least eighty percent (80%) of the members entitled to vote on the action. No written consent shall be effective to take the corporate action unless, within sixty (60) days of the earliest date appearing on a consent delivered to the Corporation in the manner required by Section 30-30-504, Idaho Code, written consents signed by at least eighty percent (80%) of the members entitled to vote on the action are received by the corporation. The action must be evidenced by one (1) or more written consents bearing the date of signature and describing the action taken, signed by at least eighty percent (80%) of members entitled to vote on the action, and delivered to the Corporation for inclusion in the minutes or filing with the corporate records. A consent signed under this Section has the effect of a meeting vote and may be described as such in any document.

### **Section 3.14 Nomination of Directors.**

Nominations of persons for election to the Board of Directors of this Corporation at the annual meeting of members may be made at such meeting by or at the direction of the Board of Directors, or by any nominating committee or person appointed by the Board of Directors. Election to the Board shall be by secret ballot. At such election, the members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of the Bylaws. The candidates receiving the highest number of votes shall be deemed elected.

## **Article 4 DIRECTORS**

### **Section 4.1 Powers.**

All corporate powers shall be exercised by or under the authority, and the business and affairs of the Corporation shall be managed by or under the direction, of the Board of Directors, subject to any limitations set forth in the Articles of Incorporation or any agreement authorized under the Act.

### **Section 4.2 Variable Range-Size Board; Qualifications.**

The authorized number of directors of the Corporation may range between three (3) and seven (7), and the number of directors may be increased or decreased from time to time by amendment to or in the manner provided by law or in these Bylaws by the Board of Directors or the members. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director. A director need not be a resident of the state of Idaho or a member of the Corporation unless so required by the Articles of Incorporation. If for any cause the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the members called for that purpose in the manner provided by law or in these Bylaws.

### **Section 4.3 Term.**

Directors are elected at each annual meeting of the members and shall serve a term of two (2) years. Despite the expiration of the director's term, a director shall continue to serve until the director's successor is duly elected and qualifies, or until there is a decrease in the number of directors, or until the director's earlier death, resignation or removal.

### **Section 4.4 Resignation.**

A director may resign at any time by delivering written notice to the Board of Directors, its chairman, or the Corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date, in which event the resignation shall become effective at such later time. Unless specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective.

### **Section 4.5 Removal by Members.**

The member may remove one (1) or more directors with or without cause unless the Articles of Incorporation provide those directors may be removed only for cause. If cumulative voting is authorized, a director may not be removed if the number of votes sufficient to elect the director under cumulative voting is voted against the director's removal. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director. A director may be removed by the members only at a meeting called for the purpose of removing the director; and the meeting

notice must state that the purposes, or one of the purposes, of the meeting is removal of the director.

#### **Section 4.6 Removal by Board.**

A Director may be removed without cause by the vote of two thirds ( $\frac{2}{3}$ ) of the members and subject to the provisions of Section 30-30-608, Idaho Code, and the Board may declare a position on the Board vacant if the Director holding the position: (i) has been declared of unsound mind by a final court order; (ii) has been convicted of a felony; (iii) fails to attend two consecutive regular meetings of the Board of Directors that have been duly noticed and regularly scheduled; or (iv) becomes more than sixty (60) days delinquent in payment of any assessment.

#### **Section 4.7 Removal Arising Out of Court Action.**

In the event that there is a final judgment or order of any court concluding that a director has breached his or her duties, the Board shall consult with counsel as to whether or not that court determination requires a declaration of vacancy.

#### **Section 4.8 Newly Created Directorships and Vacancies.**

Unless the Articles of Incorporation provide otherwise, newly created directorships resulting from any increase in the number of directors and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause may be filled by the affirmative vote of a majority of the remaining directors then in office even if they constitute fewer than a quorum of the authorized Board of Directors or may be filled by the members. A director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office.

#### **Section 4.9 Meetings.**

(1) Regular Meetings. The regular meeting of the Board of Directors shall be held no less than semi-annually. Notice of the date, time and place of the meeting of the Board (except emergencies) shall be given to the members at least four (4) days prior to the meeting. Such notice shall be given by posting at the Corporation's office, by mail or delivery of the notice to each residence, email, or by newsletter or similar means of communication, as enumerated in Article 8 herein. Any attendance by a member shall constitute waiver of notice.

(2) Place of Meetings. Regular and special meetings of the Board of Directors, or of any committee designated by the Board, may be held at any place within or without the state of Idaho, as determined by the Board.

(3) Telephone Meetings. Unless the Articles of Incorporation provide otherwise, any member of the Board of Directors, or of any committee thereof, may participate in a regular or special meeting by, or conduct the meeting through the uses of, any means of conference telephone or similar communications equipment by which all directors participating in the meeting may simultaneously hear each other during the meeting. A director participating in a meeting by such means is deemed to be present in person at such meeting.

(4) Special Meetings. Special meetings of the Board shall be held when called by the president of the Corporation, or by any two (2) directors, after not less than three (3) days prior notice to each director, which notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be posted in the manner prescribed for notice of regular meetings not less than seventy-two (72) hours prior to the scheduled time of the meeting.

(5) Waiver of Notice. A director may waive any notice required by the Act, the Articles of Incorporation or these Bylaws at any time before or after the date and time stated in the notice. Except as otherwise provided, such waiver must be signed by the director and filed with the minutes or corporate records. The attendance of a director at or participation in a meeting shall constitute a waiver of notice of such meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting any business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

#### **Section 4.10 Quorum and Voting.**

(1) Quorum. Unless the Articles of Incorporation or these Bylaws require a greater number or unless otherwise specifically provided by the Act, a quorum of the Board of Directors consists of (a) a majority of the fixed number of directors if the Corporation has a fixed board size or (b) a majority of the number of directors prescribed, or if no number is prescribed the number in office immediately before the meeting begins, if the Corporation has a variable-range size board.

(2) Majority Vote. If a quorum is present when a vote is taken, the affirmative vote of the majority of the directors present shall be the act of the Board of Directors, unless the Articles of Incorporation or these Bylaws require the vote of a greater number of directors.

#### **Section 4.11 Action Without a Meeting.**

Unless otherwise provided by the Articles of Incorporation or these Bylaws, any action required or permitted by the Act to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if the action is taken by all members of the Board if each Director signs a consent describing the action to be taken and delivers it to the Corporation. Action taken under this Section is the act of the Board of Directors when one or more consents signed by all Directors are delivered to the Corporation. The consent may specify the time at which the action taken thereunder is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the Corporation prior to the delivery to the Corporation of unrevoked written consents signed by all of the Directors. A consent signed under this Section has the effect of action taken at a meeting of the Board of Directors and may be described as such in any document.

#### **Section 4.12 Conduct of Meetings.**

Regular and special meetings of the Board shall be open to all members of the Corporation; provided, however that Corporation members who are not on the Board may not

participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of the members of the Board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Corporation is or may become involved and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

#### **Section 4.13 Fees and Compensation.**

Each director shall receive compensation for any service rendered to the Corporation; provided, however, any director's compensation shall be set at \$1000.00 per year and may be reimbursed for actual out-of-pocket expenses incurred in the performance of duties. All claims for reimbursement must be accompanied by receipt or invoice and signed and dated by the director claiming the expense. Director's compensation shall be paid as a credit against its respective homeowner's dues in the last calendar month of the year so served.

#### **Section 4.14 Standards for Directors.**

- (1) A director when performing in such capacity, shall act:
  - (a) In good faith;
  - (b) With the care that a person in a like position would reasonably exercise under similar circumstances; and
  - (c) In a manner the director reasonably believes to be in the best interests of the Corporation.
- (2) In discharging those duties, a director who does not have knowledge that makes reliance unwarranted, is entitled to rely on:
  - (a) The performance of properly delegated responsibilities by one (1) or more employees of the Corporation whom the Director reasonably believes to be reliable and competent in performing the responsibilities delegated; or
  - (b) Legal counsel, public accountants, or other persons retained by the Corporation as to matters involving skill or expertise the Director reasonably believes are matters:
    - (i) Within the particular person's professional or expert competence; or
    - (ii) As to which the particular person merits confidence.
- (3) A director shall not be liable to the Corporation or its members for any decision to take or not to take action; or any failure to take action, as an officer, if the duties of the office are performed in compliance with this section. Whether a director who does not comply with this

section shall have liability will depend in such instance on applicable law, including those principles of section 30-30-618, Idaho Code, that have relevance.

#### **Section 4.15 Powers and Duties of Board.**

(1) Powers. The Board shall have all powers conferred upon the Corporation as set forth herein and, in the Declaration, excepting only those powers expressly reserved to the members.

(2) Duties. It shall be the duty of the Board: (i) to cause to be kept a completed record of all of its acts and doings and to present a statement thereof to the members at each annual meeting of the members, or at any special meeting when such statement is requested in writing by members; (ii) to supervise all officers, agents and employees of the Corporation, and to see that their duties are properly performed; and (iii) to delegate its powers as provided in the Declaration and these Bylaws.

#### **Section 4.16 Committees.**

Unless the Articles of Incorporation, the Act, or these Bylaws provide otherwise, the Board of Directors may create one or more committees and appoint one or more members of the Board of Directors to serve on any such committee. Each committee must have two or more members, each of whom shall serve at the pleasure of the Board of Directors.

### **Article 5 OFFICERS**

#### **Section 5.1 Offices Designated.**

The offices of the Corporation may consist of a President, a Vice President, a Secretary and a Treasurer, each of whom shall be designated by the Board of Directors in accordance with these Bylaws. The Board of Directors or the President may appoint such other officers as may be deemed necessary or desirable. With the exception of the Secretary and Treasurer, as well as additional appointed offices, no officer may simultaneously hold more than one office. The President and Vice President shall at all times be members of the Board.

#### **Section 5.2 Tenure and Duties of Officers.**

(1) Election of Officers. The election of officers shall take place annually at the meeting of the Board following each annual meeting of the members.

(2) Term of Office. Each officer shall hold office for one year unless the officer shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

(3) The President. The President shall be the principal executive officer of the Corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Corporation. The President shall, when present,



preside at all meetings of the Board of Directors and shall see that all orders or resolutions of the Board are carried out. The President may sign all leases, deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise signed or executed.

(4) The Vice President. In the absence of the President or in the event of the President's removal, resignation, death, or inability or refusal to act, the Vice President shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President, and shall perform other duties as from time to time may be assigned to the Vice President by the Board of Directors.

(5) The Treasurer. The Treasurer shall: (i) have charge and custody of and be responsible for all funds of the Corporation; (ii) receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies or other depositories; (iii) co-sign all checks and promissory notes of the Corporation; (iv) keep proper books of account; (v) cause an annual operating statement reflecting income and expenditures of the Corporation for its fiscal year to be prepared and shall cause copies of said statement to be distributed to each member within sixty (60) days after the end of such fiscal year; and (vi) cause an annual budget to be prepared and presented to each member.

(6) The Secretary. The Secretary shall: (i) attend all meetings and keep the minutes of the meetings and other proceedings of the members and of the Board of Directors in one or more books provided for that purpose; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of and responsible for maintenance and authentication of the corporate records as required to be kept pursuant to the Act; (iv) keep a register of the post office address of each member which shall be furnished to the Secretary by such member; and (v) in general perform all duties commonly incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors.

### **Section 5.3 Resignations.**

Any officer may resign at any time by delivering written notice to the Corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date time, in which event the resignation shall become effective at such later time. If the Board or appointing officer accepts the future effective time, the Board or the appointing officer may fill the pending vacancy before the effective time if the Board or the appointing officer provides that the successor does not take office until the effective time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective.

### **Section 5.4 Removal.**

An officer may be removed at any time without or without cause by the Board of Directors, or by any other officer if authorized by these Bylaws or the Board.

**Section 5.5 Compensation.**

The Board shall determine the compensation, if any, paid to officers; provided, however, any officer may be reimbursed for actual out-of-pocket expenses incurred in the performance of duties. All claims for reimbursement must be accompanied by receipt or invoice and signed and dated by the officer claiming the expense.

**Section 5.6 Standards of Conduct.**

- (1) An officer when performing in such capacity, shall act:
  - (a) In good faith;
  - (b) With the care that a person in a like position would reasonably exercise under similar circumstances; and
  - (c) In a manner the officer reasonably believes to be in the best interests of the Corporation.
- (2) In discharging those duties an officer who does not have knowledge that makes reliance unwarranted, is entitled to rely on:
  - (a) The performance of properly delegated responsibilities by one (1) or more employees of the Corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or
  - (b) Legal counsel, public accountants, or other persons retained by the Corporation as to matters involving skill or expertise the officer reasonably believes are matters:
    - (i) Within the particular person's professional or expert competence; or
    - (ii) As to which the particular person merits confidence.
- (3) An officer shall not be liable to the Corporation or its members for any decision to take or not to take action; or any failure to take action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 30-30-623, Idaho Code, that have relevance.

**Article 6  
ASSESSMENTS**

**Section 6.1 Liability for Assessments; Collection.**

As more fully provided in Article 10 of the Declaration, each member is obliged to pay to the Corporation annual and special assessments to be collected as therein set forth, all of which are hereby incorporated by reference herein.

**Article 7  
INDEMNIFICATION OF DIRECTORS AND OFFICERS**

**Section 7.1 Scope of Indemnification.**

The Corporation may indemnify and advance funds to or for the benefit of the directors and officers of the Corporation to the fullest extent permitted by the Act, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than the Act permitted the Corporation to provide prior to such amendment). (Idaho Code § 30-30-626).

**Section 7.2 Mandatory Indemnification of Directors.**

The Corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the individual was a director of the Corporation against reasonable expenses incurred by the director in connection with the proceeding. (Idaho Code § 30-30-626).

**Section 7.3 Further Indemnification of Directors.**

(1) Except as otherwise provided in this Section, a Corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if:

- (a) The director's conduct was in good faith; and
- (b) The director reasonably believed:
  - (i) In case of conduct in the director's official capacity, that the director's conduct was in the best interests of the Corporation; and
  - (ii) In all cases, that the director's conduct was at least not opposed to the best interests of the Corporation; and
  - (iii) In the case of any criminal proceeding, the director had no reasonable cause to believe the conduct was unlawful.

(2) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea or nolo contendere or its equivalent, is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this Section.

(3) Unless ordered by a court under Act, the Corporation may not indemnify a director in connection with a proceeding by or in the right of the Corporation, except for reasonable expenses incurred in connection with the proceedings if it is determined that the director has met the relevant standard of conduct under subsection (1) of this Section, or as otherwise prescribed in Section 30-30-626, Idaho Code.

#### **Section 7.4 Advance for Expenses.**

(1) The Corporation shall, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding if the director delivers to the Corporation:

(a) A written affirmative of the director's good faith belief that the director has met the relevant standard of conduct described in Section 7.3; and

(b) The director's written undertaking to repay any funds advanced if the director is not entitled to mandatory indemnification, and it is ultimately determined that s/he has not met the relevant standard of conduct described in Section 7.3.

(2) The undertaking required by subsection (1)(b) of this Section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

#### **Section 7.5 Determination of Indemnification.**

(1) The Corporation may not indemnify a director under Section 7.3, unless a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in Section 7.3.

(2) The determination shall be made in accordance with Section 30-30-626(4), Idaho Code.

#### **Section 7.6 Indemnification of Officers.**

The Corporation may indemnify and advance expenses to an officer of the Corporation who is a party to a proceeding because the individual is an officer of the Corporation the same extent as a director.

#### **Section 7.7 Insurance.**

The Corporation may purchase and maintain insurance on behalf of an individual who is a director or officer of the Corporation, or who, while a director or officer of the Corporation, serves at the Corporation's request as a director, officer, partner, trustee, employee, or agent of

another domestic or foreign Corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the Corporation would have power to indemnify or advance expenses to the individual against such liability.

**Section 7.8 Definitions.**

Sections 7.1 through 7.8 of these Bylaws shall be defined in accordance with Section 30-30-626, Idaho Code.

**Section 7.9 Amendments.**

Any repeal or modification of this Article 7 shall only be prospective and shall not affect the rights under this Article 7 in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any director or officer.

**Section 7.10 Saving Clause.**

If this Article 7 of these Bylaws or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director and may nevertheless indemnify each officer to the full extent permitted by any applicable portion of this Article 7 that shall not have been invalidated, or by any other applicable law.

**Article 8  
NOTICES**

**Section 8.1 Methods of Notice.**

(1) Any notice under the Act or these Bylaws must be in writing unless oral notice is reasonable under circumstances. Notice by electronic transmission is written notice.

(2) If oral notice is deemed reasonable, it may be communicated in person; by mail or other method of delivery; or by telephone, voice mail or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by newspaper of general circulation in the area where published, or by radio, television or other form of public broadcast communication.

(1) It shall not be necessary that the same method of giving notice be employed in respect of all directors or members: One permissible method may be employed in respect of any one or more directors or members; and any other permissible method or methods may be employed in respect of any other or others.

**Section 8.2 Notice to Corporation.**

Written notice to the Corporation may be addressed to its registered agent at its registered office or to the Corporation or its Secretary at its principal office shown in its most recent annual report filed with the Idaho Secretary of State.

**Section 8.3 Effective Date of Notice.**

- (1) Written notice by the Corporation to its member, if in a comprehensible form, is effective:
  - (a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the member's address shown in the Corporation's current record of members, or
  - (b) When electronically transmitted to the member in a manner authorized by the member.
- (2) Except as provided above, written notice, if in a comprehensible form, is effective at the earliest of the following:
  - (a) When received;
  - (b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed;
  - (c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.
- (3) Oral notice is effective when communicated if communicated in a comprehensible manner.

**Section 8.4 Address Unknown.**

If no address of a member or director be known, notice may be sent to the office of the Corporation required to be maintained pursuant to Section 8.2.

**Section 8.5 Affidavit of Mailing.**

An affidavit of mailing, executed by a duly authorized and competent employee of the Corporation, specifying the name and address or the names and addresses of the member or members, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall be conclusive evidence of the statements therein contained.

**Section 8.6 Failure to Receive Notice.**

The period or limitation of time within which any member may exercise any option or right, or enjoy any privilege or benefit, or be required to act, or within which any director may exercise any power or right, or enjoy any privilege, pursuant to any notice sent to the member in the manner above provided, shall not be affected or extended in any manner by the failure of such member or such director to receive such notice.

**Section 8.7 Exception to Notice Requirement.**

(1) Whenever notice is required to be given under any provision of this chapter to any member, such notice shall not be required to be given if notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such member at such member's address as shown on the records of the Corporation and have been returned undeliverable.

(2) If any such member shall deliver to the Corporation a written notice setting forth such member's then-current address, the requirement that notice be given to such member shall be reinstated.

**Article 9  
RECORDS AND REPORTS**

**Section 9.1 Corporate Records.**

(1) The Corporation shall keep as permanent records minutes of all meetings of its members and Board of Directors, a record of all actions taken by the members or Board of Directors without a meeting, and a record of all actions taken by a committee of the Board of Directors in place of the Board of Directors on behalf of the Corporation.

(2) The Corporation shall maintain appropriate accounting records.

(3) The Corporation or its agent shall maintain a record of its members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) The Corporation shall keep a copy of the following records at its principal office:

(a) Its Articles of Incorporation and all amendments to them currently in effect; and

(b) Its Bylaws or Restated Bylaws and all amendments to them currently in effect.

**Article 10  
GENERAL PROVISIONS**

**Section 10.1 Amendment by Board of Directors or Members.**

(1) The Corporation's members may amend or repeal these Bylaws only with the vote or written consent of members entitled to cast at least fifty-one percent (51%) of the voting power of the Corporation. Notwithstanding the aforementioned, the percentage of the voting power of the Corporation or of members necessary to amend a specific clause or provision in these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

- (2) The Board of Directors may amend or repeal these Bylaws unless:
- (a) The Articles of Incorporation or the Act reserve this that power exclusively to the members in whole or part, or
  - (b) The members in amending or repealing or adopting a bylaw expressly provide that the Board of Directors may not amend, or repeal, or reinstate that bylaw.

**Section 10.2 Interpretation; Severability.**

These Bylaws may contain any provision for managing the business and regulating the affairs of the Corporation that is not inconsistent with law, the Declaration, or the Articles of Incorporation. In the event any provision of these Bylaws is inconsistent with law, the Declaration, or the Articles of Incorporation, such law, Declaration, or Articles of Incorporation shall govern. If any one or more of the provisions contained in these Bylaws, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein, and any other application thereof shall not in any way be affected or impaired thereby.

**Section 10.3 Fiscal Year.**

The fiscal year of the Corporation shall be the same as a calendar year unless a different fiscal year is adopted by the members at a duly constituted meeting thereof.

**Section 10.4 Proof of Membership.**

No person shall exercise their rights of membership in the Corporation until satisfactory proof thereof has been furnished to the Secretary. Such proof may consist of either a copy of a duly executed and acknowledged grant deed or title insurance policy showing said person to be the owner of an interest in a condominium entitling the individual to membership. Such deed of policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy.

**Section 10.5 Absentee Ballots.**

The Board may make such provisions as it may consider necessary or desirable for absentee ballots.

**Section 10.6 Reserves.**

Any amounts collected by or paid to the Corporation in excess of operational needs shall be set aside as reserves for future financial needs in the manner set forth in the Declaration and shall be deposited into insured interest-bearing accounts. These sums may include amounts collected by Declarants from owners through purchase escrows representing capital contribution by such owners to the Corporation.



The foregoing Bylaws of First & Fourth Condominium Owners' Association, Inc., an Idaho nonprofit Corporation, were adopted by the Board of Directors of the Corporation effective on the 10th day of March 2023.

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**William A. Allison, Secretary**

**EXHIBIT A**

**FIRST & FOURTH CONDOMINIUM DEVELOPMENT**

<p>RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:</p> <p>Waypoint Pearl, LLC Post Office Box 84 Sun Valley, Idaho 83353</p>	
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(SPACE ABOVE LINE FOR RECORDER'S USE)

**CONDOMINIUM DECLARATION  
FOR  
FIRST & FOURTH CONDOMINIUMS**

THIS DECLARATION (the “**Declaration**”) dated March\_\_\_\_, 2023, shall be effective upon recordation and is made by WAYPOINT PEARL, LLC , an Idaho limited liability company (the “**Declarant**”). Declarant is the owner of certain real property in Blaine County, Idaho, more particularly described on Exhibit A (the “**Property**”). Declarant hereby makes the following grants, submissions, and declarations:

**ARTICLE 1. IMPOSITION OF COVENANTS**

Section 1.1 Purpose. The purpose of this Declaration is to create a condominium project known as FIRST & FOURTH (the “**Condominium Project**”) by submitting the Property to the condominium form of ownership and use pursuant to the Condominium Property Act, Idaho Code §§ 55-1501 *et seq.*, as amended and supplemented from time to time (the “**Act**”).

Section 1.2 Intention of Declarant. Declarant desires to protect the value and desirability of the Condominium Project, to further a plan for the improvement, lease, sale and ownership of the Units in the Condominium Project, to create a harmonious and attractive development and to promote and safeguard the health, comfort, safety, convenience, and welfare of the Owners of Units in the Condominium Project.

Section 1.3 Condominium Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances, and facilities relating to or located on the Property now and in the future, to condominium ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions,

easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved subject to the provisions of this Declaration.

Section 1.4 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Unit Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

## ARTICLE 2. DEFINITIONS

The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

Section 2.1 "Act" means the Condominium Property Act as defined in Section 1.1 hereof. In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable to this Declaration.

Section 2.2 "Allocated Interests" means the undivided interest in the Common Elements and the Common Expense Liability and the votes in the Association allocated to each of the Units in the Condominium Project. The formulas used to establish the Allocated Interests are described in Article 4. The Allocated Interests for each Unit are set forth on Exhibit B.

Section 2.3 "Articles of Incorporation" means the Articles of Incorporation of First & Fourth Condominium Owners' Association, Inc. as originally filed with the Idaho Secretary of State and dated March 20, 2022, a copy of which is attached hereto as Exhibit C.

Section 2.4 "Assessments" means the annual, special and default Assessments levied pursuant to this Declaration.

Section 2.5 "Association" means the First & Fourth Condominium Owners' Association, Inc., an Idaho nonprofit corporation, and its successors and assigns.

Section 2.6 "Board of Directors" means the governing body of the Association, as provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association and in the Act.

Section 2.7 "Bylaws" means any instruments, however denominated, which are adopted by the Association for the regulation and management of the

Association, including the amendments thereto, a copy of which is attached hereto as Exhibit D.

Section 2.8 "Commercial Units" means Unit 1B and 1C as shown on the Final Plat Map which are designated in this Declaration for business or commercial uses.

Section 2.9 "Common Elements" means all of the Condominium Project, other than the Units, but including, without limiting the generality of the foregoing, the following components:

- (a) the Property; and
- (b) the Improvements (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, chimney vents, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Improvements consisting of the equipment and materials making up any delivered to the Building central services such as power, light, gas, hot and cold water, sewer, cable or fiber optic internet and television service, heating and central air conditioning which exist for use by one or more of the Unit Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, and other similar utility installations used in connection therewith), except for the individual condominium residential and apartment Units that contain within their condominium space independent heating and cooling mechanical equipment and
- (c) the, sidewalks, walkways, shrubbery, trees, driveway, roadways, landscaping, underground parking areas, and related facilities upon the Property; and mechanical equipment and distribution system necessary for the operation of the snowmelt system located within the private exterior common area of the Property and within City of Ketchum public right of way including the public alley commencing at the southern property line of the Property and ending at the northern edge of the public sidewalk on Sun Valley Road and as illustrated on Exhibit "E" attached hereto and made a part hereof. Annual maintenance and utility costs related to the public alley area and the public alley that is subject to the Right-Of-Way Encroachment Agreement 20548 recorded as Instrument # 675091 including snow plowing, snow removal and the future and ongoing costs of the installation, operation, maintenance and repair of the snow melt system as now built and all related improvements in the public alley as vacated by the City of Ketchum as illustrated in Exhibit "E" are to be shared equally with the owner of the Property ("LOT 1B", 160 Fourth Street) upon the vacation such public

alley as shown on the Final Plat Map for these respective properties as recorded in Blaine County on February 22, 2023 as Instrument No. 698988.

(d) the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, equipment of the Improvements existing for use of one or more of the Unit Owners; and

(e) in general, all other parts of the Condominium Project designated by Declarant as Common Elements and existing for the use of one or more of the Unit Owners.

The Common Elements shall be owned by the Unit Owners of the separate Units, each Unit Owner of a Unit having an undivided interest in the Common Elements as allocated in Exhibit B.

Section 2.10 "Common Expenses Liability" means the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 2.11 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

(a) expenses of administration, insurance, operation, and management, repair or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of a Unit Owner as provided in this Declaration;

(b) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws;

(c) all sums lawfully assessed against the Units by the Board of Directors;

(d) expenses agreed upon as Common Expenses by the members of the Association; and

(e) expenses provided to be paid pursuant to any Management Agreement.

Section 2.12 "Condominium Documents" means the basic documents creating and governing the Condominium Project, including, but not limited to, this

Declaration, the Articles of Incorporation and Bylaws, the Map, and any procedures, Rules and Regulations, or policies relating to the Condominium Project adopted under such documents by the Association or the Board of Directors.

Section 2.13 "Condominium Map" or "Map" means that part of this Declaration that depicts all or any portion of the Condominium Project is executed by the Declarant and as recorded in the Records of Blaine County. A Map and a Plat may be combined in one instrument. In a Map, a "Horizontal Boundary" means a plane of elevation relative to a described benchmark that defines either a lower or upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit. In a Map, a "Vertical Boundary" means the defined limit of a Unit that is not a Horizontal Boundary of that Unit.

Section 2.14 "Condominium Project" or "Project" means the term as defined in Section 1.1 hereof.

Section 2.15 "Condominium Unit" means the fee simple interest in and to a Unit, together with the undivided interest in the Common Elements appurtenant to the Unit, as allocated in Exhibit B.

Section 2.16 "Costs of Enforcement" means all monetary fees, fines, late charges, interest, expenses, costs, including receiver's and appraiser's fees, and reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Condominium Documents.

Section 2.17 "Declarant" means Waypoint Pearl, LLC, an Idaho limited liability company, and its successors and assigns.

Section 2.18 "Declaration" means this Declaration, together with any amendment to this Declaration, recorded in the Records. The term Declaration includes all Maps and Plats recorded with this Declaration and all amendments to the Declaration and supplements to the Maps and Plats without specific reference thereto.

Section 2.19 "Deed" means each initial Warranty Deed recorded after the date hereof by which Declarant conveys a Unit.

Section 2.20 "Development Agreement" means Development Agreement #20427; the First Amendment To Development Agreement #20427 respectively recorded as Instrument Nos. 665841 and 679218; and the Second Amendment To

Development Agreement #20427 recorded as Instrument No. 694924 in Blaine County, Idaho.

Section 2.21 "Eligible First Mortgagee" means a First Mortgagee that has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in Article 20 entitled "Mortgagee Protections".

Section 2.22 "Employee Housing Units" means Apartment Units 1A, 1B, 1C, 1D, 1E, 2A, 2B, 2C, 2D, 2G, 2H, and 2I (Collectively shown on the Final Plat Map as "Units 1A and 2A" and which are designated in this Declaration for employee housing uses to be master leased to Harriman Ketchum Hotel, LLC ("**Hotel Developer**") or the Hotel Management Company retained by Hotel Developer, as described in the Second Amendment To Development Agreement #20427. Units 1A and 2A will be deed restricted by a Covenant between the City of Ketchum and Declarant per Blaine County Housing Authority, Categories 4 and 5, as designated on Exhibit "A" of the Second Amendment To Development Agreement #20427 until such time as these Apartments are Master Leased per Article 3.3, Section 9 as amended by the Second Amendment and no longer thereafter deed restricted by such Covenant.

Section 2.23 "Exceedance Housing Unit" means Units 1F, 2E, and 2F ("Unit 2B as shown on the Final Plat Map") which are hereby designated with Community Housing Deed Restrictions per the terms and conditions of the Development Agreement. Units 1F, 2E and 2F are also permitted to be used as Employee Housing Units in addition to those Employee Housing Units as described in Section 2.9 herein with the Hotel Developer for apartment units containing at least eighteen (18) employee beds and thereby satisfy those certain related obligations of Trail Creek Fund, LLC (and as subsequently assigned to Harriman Ketchum Hotel, LLC) as amended by the Corrected Amendment to Amended and Restated Development Agreement dated June 21, 2016 and the First Amendment to Amended and Restated Development Agreement dated June 4, 2018 ("**Hotel Development Agreement**") as recorded in Section 2.23 above and any subsequent amendments between the City of Ketchum and Declarant.

Section 2.24 "First Mortgagee" means a holder of a Security Interest in a Unit that has priority over all other Security Interests in the Unit.

Section 2.25 "Improvement(s)" means the building(s) (including all fixtures and improvements contained within it) located on the Property in which Units or Common Elements are located.



Section 2.26 "Limited Common Elements" means those parts of the Common Elements that are limited to and reserved for the use in connection with one or more, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements and as specified in Section 7.2 below shall include any terrace deck appurtenant to and accessible only from a Unit, any, awnings, doorsteps, stoops, or terrace deck designated or designed to serve a single Unit but located outside the Unit's boundaries, storage spaces and parking spaces outside Units designated as Limited Common Elements in this Declaration or on the Map, if any. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Limited Common Elements also include any portion of the Common Elements allocated by this Declaration or on the Map as Limited Common Elements. All Limited Common Elements shall be used in connection with the appurtenant Unit(s) to the exclusion of the use thereof by the other Unit Owners, except by invitation. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for any expenses incurred in the routine maintenance and care of the walls, ceilings and floors and operation, repair or replacement of the snowmelt system of the exterior terrace deck or of any other Limited Common Elements appurtenant to and accessible only from the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. No reference to Limited Common Elements need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Elements appurtenant to a Unit.

Section 2.27 "Majority of Owners" means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

Section 2.28 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance, and management of the Condominium Project.

Section 2.30 "Managing Agent" means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.31 "Occupant" means any member of a Unit Owner's family or a Unit Owner's guests, invitees, servants, tenants, employees, or licensees who occupy a Unit or are on the Common Elements for any period of time.

Section 2.32 "On Site Employee Housing Units" means Units 1A, 1B, 1C, 1D, 1E, 1F, 2A, 2B, 2C, 2D, 2E and 2F as defined in the Development Agreement recorded as Instrument #20427 in Blaine County, Paragraph 9. with Units 2G, 2H and 2I, designated as those Units meeting the Exceedance Agreement requirement, that Declarant is permitted to be used, at its election, as additional Hotel Developer Employee Housing Units.

Section 2.33 "Period of Declarant Control" means the maximum period of time defined and limited by Section 8.6 of this Declaration during which the Declarant may, at its option, control the Association.

Section 2.34 "Person" means an individual, association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision or any combination thereof.

Section 2.35 "Plat" means that part of a Declaration that is a land survey plat as set forth in Idaho Code § 50-1301, as amended, depicts all or any portion of the Condominium Project in two dimensions, is executed by the Declarant, and is recorded in the Records.

Section 2.36 "Property" means the real property in Blaine County, Idaho, more particularly described on the attached Exhibit A.

Section 2.37 "Real Estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. Real Estate includes parcels with or without Horizontal Boundaries and spaces that may be filled with air or water.

Section 2.38 "Records" means the Office of the Clerk and Recorder in Blaine County, Idaho, and each other county in which any portion of the Condominium Project is located.

Section 2.39 "Residential Unit" means any for sale Unit which is not a Commercial Unit (unless otherwise designated for either commercial use and designated on the Final Condominium Plat Map as Units 1B and 1C) and designated as Units 2C, 2D, 2E, 3A, 3B, 3C and 3D. Units 2G, 2H and 2I are designated as Units meeting the Exceedance Unit requirements of the Development Agreement for the First & Fourth project.

Section 2.40 "Rules and Regulations" means the Rules and Regulations promulgated by the Board of Directors for the management, preservation, safety, control, and orderly operation of the Condominium Project in order to effectuate the intent and to enforce the obligations set forth in the Condominium Documents, as amended and supplemented from time to time. Separate Rules and Regulations may be promulgated to apply only to Commercial Units, Residential Units, Community or Hotel Employee Housing Units and/or any combination thereof.

Section 2.41 "Security Interest" means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.42 "Special Declarant Rights" means those rights reserved by Declarant in Article 15 of this Declaration.

Section 2.42 "Unit" means a physical portion of the Condominium Project which is designated for separate ownership or occupancy and the boundaries of which are described in or determined by this Declaration. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Condominium Project as more specifically set forth on Exhibit B. If walls, floors or ceilings are designated as boundaries of a Unit in this Declaration, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit and all other portions of the walls, floors or ceilings are a part of the Common Elements. Subject to Section 2.24, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

Section 2.43 "Unit Owner" or "Owner" means the Declarant or any other person who owns record title to a Unit (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Unit unless such person has acquired record title to the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure.

### **ARTICLE 3. DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP**

Section 3.1 Division Into Condominium Units. The Property is hereby divided into that number of Condominium Units described in Exhibit "B", as amended from time to time, including separately designated Commercial Unit(s), each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Elements in accordance with the respective undivided interests in the Common Elements as set forth in Exhibit B. Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units. The total of the undivided interests in the Common Elements set forth in Exhibit B, rounded to the nearest 1%, shall be deemed to equal one hundred percent (100%) for purposes of this Declaration.

Section 3.2 Delineation of Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Map, and those numbers are set forth in Exhibit B.

Section 3.3 Inseparability of Condominium Unit. Except as provided in Section 3.5 below: (a) no part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be partitioned or separated from any other part thereof during the period of condominium ownership prescribed in this Declaration; (b) each Condominium Unit shall always be conveyed, transferred, devised, bequeathed, encumbered, and otherwise affected only as a complete Condominium Unit; and (c) every conveyance, transfer, gift, devise, bequest, encumbrance other disposition of a Condominium Unit or any part thereof shall be presumed to be a disposition of the entire Condominium Unit, together with all appurtenant rights and interests created by law or by this Declaration, including the Unit Owner's membership in the Association.

Section 3.4 No Partition of Common Elements. The Common Elements shall be owned in common by all of the Unit Owners and shall remain physically undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. By acceptance of a deed or other instrument of conveyance or assignment to a Unit, each Unit Owner shall be deemed to have specifically waived such Unit Owner's right to institute or maintain a partition action or any other cause of action designed to cause a division of the Common Elements, and this Section may be pleaded as a bar to the maintenance of such an action. Any Unit Owner who shall institute or maintain any such action shall be liable to the Association and hereby agrees to reimburse the Association for the Costs of Enforcement in defending any such action.

Section 3.5 Alterations and Relocation of Boundaries Between Adjoining Units. Unit Owner(s) shall have the right to alter their Units and relocate

boundaries between their Unit and an adjoining Unit and reallocate Limited Common Elements between or among Units, subject to the provisions and requirements of this Declaration and of the Act.

#### **ARTICLE 4. ALLOCATED INTERESTS**

Section 4.1 Allocation of Interests. The Allocated Interests assigned to each Unit are set forth on Exhibit B. These interests have been allocated in accordance with the formulas set out in Section 4.2 below. These formulas are to be used in reallocating interests if Units are added to the Condominium Project or if Units are converted to Common Elements or Limited Common Elements.

Section 4.2 Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated by the following formulas:

(a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based upon the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project.

(b) Common Expenses Liability. The percentage of Common Expenses Liability allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project.

(c) Votes. Each Residential Unit hereinafter described as Condominium Units 2C, 2D, 2E, 3A, 3B, 3C and 3D (and other than those Units designated as Employee Housing Units or Exceedance Community Housing Units) shall be allocated one (1) vote as set forth on Exhibit "B") The Commercial Units as long owned by the Declarant or its successors or assigns shall each have six (6) votes.

Section 4.3 Rounding Convention. Any Allocated Interest, stated as a fraction, shall be rounded to the nearest one percent (1%). The total of all Allocated Interests shall be deemed to equal to one hundred percent (100%) for purposes of this Declaration.

#### **ARTICLE 5. CONDOMINIUM MAP**

The Map shall be filed in the Records. Any Map filed subsequent to the first Map shall be termed a supplement to such Map, and the numerical sequence of such supplements shall be shown thereon. The Map shall be filed following substantial completion of the Improvement(s) depicted on the Map and prior to the conveyance of any Unit depicted on the Map to a purchaser. The Map shall include a Plat which shows the following:

- (a) the name and a general schematic map of the entire Condominium Project;
- (b) the extent of any existing encroachments across any Condominium Project boundary; and
- (c) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Condominium Project.

The Map shall also show the following:

- (a) the location and interior dimensions of each Unit and that Unit's identifying number;
- (b) horizontal Unit boundaries, if any, with reference to all established data and that Unit's identifying number; and
- (c) the approximate location and dimensions of all Limited Common Elements.

The Map shall contain a certificate of a registered and licensed surveyor certifying that the Map was prepared subsequent to the substantial completion of the improvements and contains all information required by this Declaration and the Act. Each supplement shall set forth a like certificate when appropriate. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries.

## **ARTICLE 6. LEGAL DESCRIPTION AND TAXATION OF UNITS**

Section 6.1 Contracts to Convey Entered into Prior to Recording of Condominium Declaration and Map. A contract or other agreement for the sale of a Unit entered into prior to the filing of this Declaration in the Records may legally describe such Unit in substantially the manner set forth in this Article 6 and may indicate that this Declaration and Map are to be recorded.

Section 6.2 Contracts to Convey and Conveyances Subsequent to Recording of Declaration and Map. Subsequent to the recording of the Declaration and Map, contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit shall be in substantially the following form with such omissions, insertions, recitals of fact, or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority, practice or usage or requirement of law with respect thereto:

Condominium Unit \_\_\_\_\_, according to the Condominium Declaration for the First & Fourth Building, recorded \_\_\_\_\_, 2023, as (Instrument No. \_\_\_\_\_) and the Condominium Map recorded \_\_\_\_\_, 2023, as (Instrument No. \_\_\_\_\_) in the office of the Recorder of Blaine County, Idaho.

Section 6.3 Conveyance Deemed to Describe an Undivided Interest in Common Elements. Every instrument of conveyance, Security Interest, or other instrument affecting the title to a Unit which legally describes the Unit substantially in the manner set forth above shall be construed to describe the Unit plus its allocated share of the common areas attributable to each Owner's Unit together with the undivided interest in the Common Elements appurtenant to it, and together with all fixtures and improvements contained in it, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Elements.

Section 6.4 Separate Tax Assessments. Upon the filing for record of this Declaration and the Map in the Records, Declarant shall deliver a copy of this Declaration to the assessor of each county specified in the Records as provided by law. The lien for taxes assessed shall be confined to the Unit(s). No forfeiture or sale of any Unit for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect the title to any other Unit.

## **ARTICLE 7. UNIT OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS**

Section 7.1 Common Elements. Every Unit Owner shall have a perpetual right and easement of access over, across, and upon the Common Elements for the purpose of access to and from the Unit from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Unit; provided, however, that such right and easement shall be subject to the following:

- (a) the covenants, conditions, restrictions, easements, reservations, rights- of-way, and other provisions contained in this Declaration, and the Map;
- (b) the right of the Declarant and its Successors and Assigns to designate and assign the underground garage parking spaces, storage spaces and ski lockers when provided by Declarant for the exclusive use of

the Unit Owner of a particular Unit or renter of the Employee or Community Housing Apartment by an appropriate instrument in writing;

(c) the right of the Association to adopt, from time to time, any and all rules and regulations concerning vehicular traffic and travel upon, in, under, and across the Condominium Project; and

(d) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Condominium Project as the Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Condominium Project for the benefit of all Unit Owners, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Unit Owners.

Section 7.2 Limited Common Elements. Subject to the provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit, and such Limited Common Elements shall be conveyed along with title to the Unit. Where such Limited Common Elements are appurtenant to Units 3A, 3B, 3C and 3D as exterior terrace decks, the owners of the these Units shall be solely responsible for the costs of maintenance and repair of such decks including but not limited to the roof membrane, snow melt system, deck pavers, deck pedestals, and any electrical, water or natural gas service costs including the costs of heating the snow melt system under the deck pavers on a prorated basis based on the size of the deck in relation to the overall square footage of the decks appurtenant to these Units. In the event of an operational failure of the snow melt mechanical equipment including boilers, related equipment, snow melt piping or the snow melt delivery system to these exterior terrace decks, the Unit owner appurtenant to this deck shall be responsible for the costs of manual snow removal and disposal of snow and ice until such repairs to the snow melt system are completed and the snow melt system is fully operational.

## **ARTICLE 8. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATIONS**

Section 8.1 Association Membership. The Association's Articles of Incorporation shall be filed no later than the date the first interest in a Unit in the Condominium Project is conveyed to a Purchaser. Every Unit Owner shall be a member of the Association and shall remain a member for the period of the Unit Owner's ownership of a Unit. No Unit Owner, whether one or more persons or entity, shall have more than one membership per Unit owned, but all of the persons or entities owning a Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association



shall be appurtenant to, and may not be separated from, ownership of a Unit. If title to a Unit is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity or entities shall appoint and authorize one person or alternate persons to represent the Unit Owners of the Unit. Such representative shall be a natural person who is a Unit Owner, or a designated board member or officer of a corporate Unit Owner, or a general partner of a partnership Unit Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Unit Owners as a member of the Association, and serve on the Board of Directors if elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if only one of the multiple Unit Owners of a Unit is present at a meeting of the Association, such Unit Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Unit Owners are present and there is no written designation of an authorized representative, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Unit Owners, which majority agreement may be assumed for all purposes if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

Section 8.2 Voting Rights and Meetings. Each Unit in the Condominium Project with the exception of the Community Housing Units and Exceedance Agreement Units shall have the votes allocated in Section 4.2; provided, however, no vote allocated to a Unit owned by the Association may be cast. Class voting by Commercial Unit Owner(s) or Residential Unit Owner(s), or combinations thereof, shall be allowed on issues specified in Section 8.10. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Directors, or by Unit Owners having fifty percent (50%), or any lower percentage specified in the Bylaws, of the votes in the Association. Not less than ten (10) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit Owner or as specified in the By-Laws of the Association. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast fifty percent (50%) of the votes which may be cast for election of the Board of Directors are present, in person or by proxy, at the beginning of the meeting.

Section 8.3 Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Unit Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures (both ordinary and capital) and reserves for the Association's next fiscal year as proposed by the Board of Directors. A summary of the proposed budget approved by the Board of Directors shall be mailed or emailed to the Unit Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than ten (10) nor more than fifty (50) days after mailing of the summary to the Unit Owners. Unless at the meeting a Majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Unit Owners continues until such time as the Unit Owners ratify a subsequent budget proposed by the Board of Directors as provided above.

Section 8.4 Unit Owners' and Association's Addresses for Notices. All Unit Owners of each Unit shall have one and the same registered mailing address to be used by the Association or other Unit Owners for notices, demands, and all other communications regarding Association matters. The Unit Owner or the representative of the Unit Owners of a Unit shall furnish such registered address to the secretary of the Association within ten days after transfer of title to the Unit to such Unit Owner or Unit Owners. Said address may be an electronic or email address, in which case the Unit Owner consents to notice by email at that address. Such registration shall be in written form and signed by all of the Unit Owners of the Unit or by such persons as are authorized to represent the interests of all Unit Owners of the Unit. If no address is registered or if all of the Unit Owners cannot agree, then the address of the Unit shall be deemed their registered address until another registered address is furnished as required under this Section 8.4. If the address of the Unit is the registered address of the Unit Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Unit Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the Condominium Project or such other address as the Board of Directors may designate from time to time by notice to the Unit Owner(s).

Section 8.5 Transfer Information. All Persons who acquire Unit(s) other than from Declarant shall provide to the Association written notice of the Person's name, address, Unit owned, date of transfer, and name of the former Unit Owner within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Unit or such other evidence of the conveyance or transfer as is reasonably acceptable to

the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Units. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

Section 8.6 Declarant Control of the Association. There shall be a Period of Declarant Control of the Association, during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors. The Period of Declarant Control shall commence upon filing of the Articles of Incorporation of the Association and shall terminate no later than the earlier of:

- (a) sixty (60) days after conveyance of all Residential Units to Unit Owners other than those Units Declarant does not intend to convey; or
- (b) two (2) years after Declarant's first conveyance of a Unit in the ordinary course of business.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 8.7 Required Election of Unit Owners. Not later than sixty (60) days after conveyance of three (3) of the Units to Unit Owners other than Declarant, at least one (1) member of the Board of Directors shall be elected by Unit Owners other than the Declarant. Not later than the termination of any Period of Declarant Control, the Unit Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom shall be Unit Owners other than the Declarant or designated representatives of Unit Owners other than Declarant. In order to assure representation of Owners of the Commercial Unit(s) and the Residential Unit(s) in the affairs of the Association and to protect the valid interests of the Commercial Unit(s) and Residential Unit(s) in the operation of the Condominium Project, the Owner(s) of the Commercial Unit(s), voting as a class, shall be entitled to elect one of the members of the Board of Directors, and the Owner(s) of the Residential Unit(s), voting as a Class, shall be entitled to elect one member of the Board of Directors. The Board of Directors shall elect the officers. The members of the Board of Directors and officers shall take office upon election.

Section 8.8 Removal of Members of the Board of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Unit Owners, by sixty-seven percent (67%) vote of all persons present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

Section 8.9 Requirements for Turnover of Declarant Control. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

- (a) the original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;
- (b) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;
- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (e) a copy, for the non-exclusive use of the Association, of any plans and specifications used in the construction or renovation of the Improvements;

(f) all insurance policies then in force, in which the Unit Owners, the Association or its members of the Board of Directors and officers are named as insured persons;

(g) copies of any temporary or final certificates of occupancy issued by the City of Ketchum that may have been issued with respect to the Improvements;

(h) any other permits issued by governmental bodies applicable to the Condominium Project and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Association;

(i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) a roster of Unit Owners and First Mortgagees and their mailing addresses; email addresses and telephone numbers, if known, as shown on the Declarant's records;

(k) employment contracts in which the Association is a contracting party; and

(l) any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

Section 8.10 Issues for Class Voting. Any issue relating solely to the Commercial Units or Residential Units shall be decided by the Owner(s) of the particular Unit(s) voting as a Class on the issue. The decision on whether an issue relates solely to only one type of Unit shall be determined in the sole discretion of the Board of Directors. Any issue relating to a Limited Common Element appurtenant to more than one type of Unit, but not appurtenant to all types of Units shall be decided by the Owner(s) of the Units to which the Limited Common Elements are appurtenant, voting as a Class. The decision on whether an issue relates solely to Limited Common Elements appurtenant to less than all types of Units shall be decided in the sole discretion of the Board of Directors.

## **ARTICLE 9. ASSOCIATION POWERS AND DUTIES**

Section 9.1 Association Management Duties. Subject to the rights and obligations of Declarant and other Unit Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Condominium Project and for the exclusive management, control, maintenance,

repair, replacement, and improvement of the Common Elements and the Limited Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Association shall be part of the Assessments, and prior approval of the Unit Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Unit Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Unit Owner and such Unit Owner's authorized agents.

Section 9.2 Association Powers. The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Condominium Project which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect assessments for Common Expenses from Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Condominium Project;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;

- (i) cause additional improvements to be made as part of the Common Elements;
- (j) acquire, hold, encumber, and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;
- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;
- (l) impose and receive a payment, fee, or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;
- (m) impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for preparation of statements of unpaid Assessments;
- (o) provide for the indemnification of the Association's officers and Board of Directors and maintain Board of Directors' and officers' liability insurance;
- (p) assign the Association's right to future income, including the right to receive Assessments;
- (q) by resolution, establish committees of the Board of Directors and/or Unit Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;
- (r) exercise any other powers conferred by this Declaration or the Bylaws;
- (s) exercise any other power that may be exercised in Idaho by legal entities of the same type as the Association; and

(t) exercise any other power necessary and proper for the governance and operation of the Association.

Section 9.3 Actions by Board of Directors. Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association.

Section 9.4 Board of Directors Meetings. All meetings of the Board of Directors, at which action is to be taken by vote, will be open to the Unit Owners and agendas for meetings of the Board of Directors shall be made reasonably available for examination by all members of the Association or their representatives, except that meetings of the Board of Directors may be held in executive session(s), without giving notice and without the requirement that they be open to Unit Owners, in the following situations:

- (a) matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;
- (b) consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (c) investigative proceedings concerning possible or actual criminal misconduct;
- (d) matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- (e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Section 9.5 Right to Notice and Hearing. Whenever the Condominium Documents require that an action be taken after "notice and hearing," the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Unit Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally and/or in writing, subject to reasonable



rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Unit Owner having a right to notice and hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 9.6 Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association may collect from purchasers at the time of the initial sale of each Unit by Declarant an amount equal to three months' worth of annual Assessments based on the Association's budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments.

## **ARTICLE 10. ASSESSMENTS**

Section 10.1 Commencement of Annual Assessments. Until the Declarant and or the Association as the successor in interest makes an Assessment for Common Expenses in the form of Homeowners Association Dues, the Declarant shall pay all Common Expenses for those Units that remain, if any, under Declarant's fee ownership. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

Section 10.2 Annual Assessments. The Association shall levy annual Assessments to pay for the Common Expense Liability allocated to each Unit pursuant to this Declaration. The total annual Assessments shall be based upon a budget of the Association's cash requirements for upkeep of the Condominium Project including maintenance, repair and replacement of the Common Elements as required by the Act and the Condominium Documents. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be credited to the Unit Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 10.3 Apportionment of Annual Assessments. The total annual Assessment for any fiscal year of the Association shall be assessed to the Units in proportion to their Percentage of Common Expenses Liability set forth on Exhibit B, subject to: (a) Common Expenses which are separately metered or assessed

to the Units by third parties; (b) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements which shall be assigned equally or on such other equitable basis as the Board of Directors shall determine to the Units to which the specific Limited Common Elements are appurtenant; (c) Common Expenses or portions thereof benefiting fewer than all of the Units which shall be assessed exclusively against the Units benefited; (d) any increased cost of insurance based upon risk which shall be assessed to Units in proportion to the risk; (e) any Common Expense caused by the misconduct of any Unit Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Directors shall determine against such Unit Owner(s); and (f) any expenses which are charged equally to the Units. All such allocations of Common Expenses Liability to the Commercial Units and Residential Units on a basis other than the Units' Percentage of Common Expenses Liability shall be made by the Board of Directors. In making the allocations, the Board of Directors shall use as a guide the assignment of various Common Expenses to the following categories: utilities (unless separately metered or disproportionately benefiting fewer than all Units), insurance, exterior building maintenance and repairs, and reserves.

Section 10.4 Special Assessments. In addition to the annual Assessments authorized above, the Board of Directors may at any time and from time to time determine, levy, and assess in any fiscal year a special Assessment applicable to that particular fiscal year (and for any such longer period as the Board of Directors may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Condominium Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Units pursuant to the provisions in Section 10.3 entitled "Apportionment of Annual Assessments" set forth above.

Section 10.5 Due Dates for Assessment Payments. Unless otherwise determined by the Board of Directors, the Assessments which are to be paid in installments shall be paid quarterly in advance and shall be due and payable to the Association at its office or as the Board of Directors may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each quarter. If any such installment shall not be paid within thirty (30) days after it shall have become due and payable, then the Board of Directors may assess a late charge, default interest charge (not to exceed the rate from time to time allowed by law), fee, or such other charge as the Board of Directors may fix by rule from time to time to cover the extra expenses involved in handling such delinquent Assessment installment. A Unit Owner's Assessment shall be prorated if the ownership of a Unit commences or terminates on a day

other than the first day or last day, respectively, of a month or other applicable payment period. However, if the Common Expenses Liability is re-allocated, any installment(s) of an assessment not yet due shall be recalculated in accordance with the re-allocated Common Expenses Liability.

Section 10.6 Default Assessments. All Costs of Enforcement assessed against a Unit Owner pursuant to the Condominium Documents, or any expense of the Association which is the obligation of a Unit Owner pursuant to the Condominium Documents shall become a default Assessment assessed against the Unit Owner's Unit. Notice of the amount and demand for payment of such default Assessment shall be sent to the Unit Owner prior to enforcing any remedies for non-payment hereunder.

Section 10.7 Covenant of Personal Obligation for Assessments. Declarant, by creating the Units pursuant to this Declaration, and all other Unit Owners, by acceptance of the deed or other instrument of transfer of his Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Unit Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments, and (c) default Assessments applicable to the Unit Owner's Unit. No Unit Owner, notwithstanding that such form of ownership may be an individual(s); tenancy in common ownership, partnership or limited liability or other form of ownership, may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Unit. A Unit Owner shall be required to pay all Assessments as a condition of bringing any action to challenge an Assessment.

Section 10.8 Lien for Assessments; Assignment of Rents. The annual, special, and default Assessments (including installments of the Assessments) arising under the provisions of the Condominium Documents shall be burdens running with, and a perpetual lien in favor of the Association upon the specific Unit to which such Assessments apply. To further evidence such lien upon a specific Unit, the Association shall prepare a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Unit Owner or Unit Owners of the Unit, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Directors, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning

of the first day of any period for which any Assessment is levied. Upon any default in the payment of annual, special, or default Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Unit payable to the Unit Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Unit Owner, by ownership of a Unit, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of annual, special, or default Assessments.

Section 10.9 Remedies for Nonpayment of Assessments. If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may declare due and payable all unpaid installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred, (c) the Association may thereafter bring an action at law or in equity, or both, against any Unit Owner personally obligated to pay the same, (d) the Association may proceed to foreclose its lien against the particular Unit pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Idaho law for foreclosure of real estate mortgages and (e) the Association may suspend the Owner's right to vote in Association matters until the Assessment is paid. An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against a Unit Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Unit acquired in such proceedings.

Section 10.10 Purchaser's Liability for Assessments. Notwithstanding the personal obligation of each Unit Owner to pay all Assessments on the Unit, and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, all purchasers shall be jointly and severally liable with the prior Unit Owner(s) for any and all unpaid Assessments against such Unit, without prejudice to any such purchaser's right to recover from any prior Unit Owner any amounts paid thereon by such purchaser. A purchaser's obligation to

pay Assessments shall commence upon the date the purchaser becomes the Unit Owner of a Unit. For Assessment purposes, the date a purchaser becomes the Unit Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the Unit Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the Unit Owner of a Unit upon the execution and delivery of the deed or other instruments conveying or transferring title to the Unit, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the Unit Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Unit, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

Section 10.11 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Unit, each Unit Owner irrevocably waives the homestead exemption provided by Idaho Code § 55-1001, as amended. The Association's perpetual lien on a Unit for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) real property ad valorem taxes and special assessment liens duly imposed by an Idaho governmental or political subdivision or special taxing district, or any other liens made superior by statute;
- (b) liens recorded prior to this Declaration unless otherwise agreed by the parties thereto; and
- (c) the lien of any First Mortgagee except to the extent Idaho law grants priority for Assessments to the Association.

Any First Mortgagee who acquires title to a Unit by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Unit free of any claims for unpaid Assessments and Costs of Enforcement against the Unit which accrue prior to the time such First Mortgagee acquires title to the Unit except to the extent the amount of the extinguished lien may be reallocated and assessed to all Units as a Common Expense and except to the extent the Act grants lien priority for Assessments to the Association. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Unit after the

recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or other transfer of any Unit, (a) except as provided above with respect to First Mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section, and (c) except as provided in the next Section, shall not affect the Association's lien on such Unit for Assessments due and owing prior to the time such purchaser acquired title and shall not affect the personal liability of each Unit Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the purchaser of a Unit from liability for, or the Unit from the lien of, any Assessments made after the sale or transfer.

Section 10.12 Statement of Status of Assessments. On or before fourteen (14) calendar days after receipt of written notice to the Managing Agent or, in the absence of a Managing Agent, to the Board of Directors and payment of a reasonable fee set from time to time by the Board of Directors, any Unit Owner, holder of a Security Interest, prospective purchaser of a Unit or their designees shall be furnished a statement of the Unit Owner's account setting forth:

(a) the amount of any unpaid Assessments then existing against a particular Unit;

(b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;

(c) the date(s) for payment of any installments of any special Assessments outstanding against the Unit; and

(d) any other information, deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a member of the Board of Directors, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

Section 10.13 Liens. Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising

under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interest of any Unit Owner in the Common Elements except a Security Interest in the Common Elements granted by the Association pursuant to the requirements of the Act.

## **ARTICLE 11. MAINTENANCE RESPONSIBILITY**

Section 11.1 Unit Owner's Rights and Duties with Respect to Interiors. Except as may be provided in the purchase and sale agreement or other conveyancing documents executed by Declarant in connection with sales to initial purchasers of the Units, each Unit Owner of a Unit shall have the exclusive right and duty to paint, tile, paper, or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings, windows (Declarant provided window coverings shall not be removed or replaced other than with the same or similar window shades) and doors forming the boundaries of such Unit Owner's Unit and all walls, floors, ceilings, and doors within such boundaries. Notwithstanding the foregoing, no Unit Owner shall be permitted to remove and replace the hardwood floor or other hard surface improvements in his Unit as originally constructed by Declarant that might affect adjoining Units by increasing noise or vibrations, without the prior written approval of the Association, which approval may be denied, or conditioned, in the Association's sole discretion.

Section 11.2 Responsibility of the Unit Owner. The Unit Owner of any Unit shall, at the Unit Owner's expense, maintain and keep in repair all fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit. A Unit Owner shall not allow any action or work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of the Improvement(s), or impair any easement or hereditament. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, floors, ceilings, windows and doors of any balcony or of any other Limited Common Elements appurtenant to the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. Notwithstanding the foregoing, Unit Owners shall not be responsible for damage to exterior doors and windows, except if as a result of a negligent or willful act of said Owner. The Association shall not be responsible for repairs occasioned by casualty due to the act or negligence of the Unit Owner or Occupant of the Unit except as provided in Article 16.

Section 11.3 Unit Owner's Negligence. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Unit Owner or

Occupant, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Unit Owner; and, if the Unit Owner fails to repay the expenses incurred by the Association within seven days after notice to the Unit Owner of the amount owed, then the failure to so repay shall be a default by the Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with this Declaration.

Section 11.4 Responsibility of the Association. The Association, without the requirement of approval of the Unit Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all of the Condominium Project not required in this Declaration to be maintained and kept in good repair by a Unit Owner or by Declarant.

## **ARTICLE 12. MECHANICS' LIENS**

Section 12.1 Mechanics' Liens. Subsequent to recording of this Declaration and the filing of the Map in the Records, no labor performed or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Unit Owner or the Unit Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Unit Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Unit Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Unit Owner shall indemnify and hold harmless each of the other Unit Owners and the Association from and against any liability or loss arising from the claim of any mechanics' lien or for labor performed or for materials furnished in work on such Unit Owner's Unit, against the Unit of another Unit Owner or against the Common Elements, or any part thereof.

Section 12.2 Enforcement by the Association. At its own initiative or upon the written request of any Unit Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of this Article 12 by collecting from the Unit Owner of the Unit on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanics' lien, to pay all costs and reasonable attorneys' fees incidental to the lien, and to obtain a release of such lien. If the Unit Owner of the Unit on which the labor was performed or materials furnished refuses or fails to indemnify within five (5) days after the Association shall have given notice to such Unit Owner of the total amount of the claim, then the failure to so indemnify shall be a default by such Unit Owner under the provisions of this Section 12.2, and such amount to be indemnified shall



automatically become a default Assessment determined and levied against such Unit, and enforceable by the Association pursuant to this Declaration.

### **ARTICLE 13. USE RESTRICTIONS**

Section 13.1 Use of Units. Except for uses reserved to Declarant in Article 15 entitled “Special Declarant Rights and Additional Reserved Rights”, and except for Commercial Units, Residential Units shall be used only for residential purposes and Commercial Units for commercial activities permitted by applicable zoning codes which do not cause unreasonable disturbance to other Unit Owners including but not limited to any such disturbance generated by a retail food service business that creates smells, odors or other noxious fumes. Subject to Section 13.6, below, Unit Owners may rent or lease such Units to others for such purposes subject to the Rules and Regulations established by Declarant or as amended from time to time by the Board of Directors of the Association and after Declarant has surrendered control of the Property to the Association.

Section 13.2 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by any Unit Owner without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from the Common Elements by any Unit Owner without the prior written approval of the Association.

Section 13.3 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Condominium Project or in an increase in the rate of the insurance on all or any part of the Condominium Project over what the Association, but for such activity, would pay, without the prior written approval of the Association. Nothing shall be done or kept in any Unit or in or on the Common Elements which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the Condominium Project. No damage to or waste of the Common Elements shall be committed by any Unit Owner or Occupant, and each Unit Owner shall indemnify and hold the Association and the other Unit Owners harmless against all loss resulting from any such damage or waste caused by him or an Occupant of his Unit. Failure to so indemnify shall be a default by such Unit Owner under this Section. At its own initiative or upon the written request of any Unit Owner (and if the Association determines that further action by the Association is proper), the Association shall enforce the foregoing indemnity in the same manner as a default Assessment levied against such Unit.

Section 13.4 Structural Alterations and Exterior Appearance. No structural alterations to any Unit, including the construction of any additional skylight, window, door or other alteration visible from the exterior of the Unit or to any Common Element shall be made or caused to be made by any Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, the Association. No window coverings or other improvements, alterations or decorations visible from outside a Unit shall be added by a Unit Owner without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, the Association, which may adopt written guidelines to address the same. No alteration or relocation of boundaries between adjoining Units shall be made by the Unit Owners without the prior written approval of the Declarant during the Period of Declarant Control and, thereafter, by the Association. The Association shall promulgate Rules and Regulations establishing procedures for the approvals required by this Section 13.4. Such Rules and Regulations shall include, but shall not be limited to, requirements that the applicant submit (a) plans and specifications showing the nature, kind, shape, height, color, materials, and location of the proposed alterations in sufficient detail for the Association and Declarant to review them; and (b) processing and/or review fees, which may include any professional fees the Association or Declarant might incur in retaining architects or engineers to review the plans and specifications. The Rules and Regulations shall specifically consider the impact of the alteration on the harmony of external design and location in relation to surrounding structures and topography.

Section 13.5 Use Restrictions. No animal pens, sheds, fences or other outbuildings or structures of any kind shall be erected by any Unit Owner. No activity shall be allowed which interferes unduly with the peaceful possession and proper use of the Condominium Project by the Unit Owners, nor shall any fire hazard or unsightly accumulation of refuse be allowed. No animals, birds, insects, or livestock of any kind shall be raised, bred, or kept on or in the Condominium Project. Notwithstanding the foregoing, residents of Residential Condominium Units may have up to two (2) domestic dogs and/or cats so long as they do not interfere with the quiet enjoyment of occupants of other Units, or other properly licensed and certified service animals for disabled persons. No pets are permitted in the Employee or Community Housing Apartments (other than service dogs or as permitted by Declarant or for individual apartment renters as approved by Declarant or the Association, on a case by case basis). No lights shall be emitted which are unreasonably bright or cause unreasonable glare; no sound shall be emitted which is unreasonably loud or annoying; and no odor shall be emitted which is noxious or offensive to others.

Section 13.6 Limits on Timesharing / Short-Term Rentals.

- (a) No Unit Owner shall offer to sell or sell any interest in such Unit under a “timesharing” or “interval ownership” plan, or any similar plan without the specific prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association.
- (b) No Unit Owner shall rent his Unit for any period less than thirty (30) consecutive days (“**Short Term Rental**”) without the written approval of Declarant during the Period of Declarant Control and thereafter the Association Property Manager. The State of Idaho does not allow any city, town or other municipal organization to prohibit short term rentals but has permitted certain cities and towns to adopt some controlling ordinances to require, as in the case of a First & Fourth Unit Owner, to register with the City of Ketchum that the Unit Owner intends to do short term rentals of less than thirty (30) days. A short term rental fee is payable to the City of Ketchum, if a Unit Owner so registers, and the Unit Owner is also responsible to pay the short term rental Local Options Tax to the City for each short term rental. A Unit Owner electing to do short term rentals must also obtain approval of the Declarant and or Association and shall make a written or email request, not less than ten business (10) business days prior to the date of any such proposed Short Term Rental period. All short term rentals by Residential Unit Owners shall be subject to Rules and Regulations as adopted by the Declarant during the Period of Declarant Control or thereafter by the Association Board of Directors. By purchasing a Unit, each Unit Owner expressly agrees to the limitations contained herein.

Section 13.7 Restriction on Signs. No signs, billboards, posterboards, or advertising structure of any kind shall be displayed, erected, or maintained for any purpose whatsoever except such signs as have been approved by the Declarant during the Period of Declarant Control and, thereafter, the Association. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on the Condominium Project only with the prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association, which approval shall be given only if such signs are of attractive design and as small a size as reasonably possible and shall be placed or located as directed or approved by the Association. External signage must also comply with applicable master signage program guidelines and restrictions of the City of Ketchum to be approved by the City of Ketchum Planning Department.

Section 13.8 Commercial Operations. Each Owner of a Commercial Unit must comply with the Rules and Regulations for commercial establishments as adopted from time to time by the Association; provided, however, that the

Association shall not adopt Rules and Regulations that substantially impede or effectively prohibit commercial, professional office and or retail operations.

Section 13.9 Restrictions on Use of Parking and Storage Areas. Residential Unit Owners will be assigned two (2) parking spaces per Residence for the Unit Owners exclusive use and its guests and renters under a Parking Space Agreement with the Declarant and or the Association pursuant to which the Declarant or Association may allocate or reallocate to a Residential Unit two (2) parking spaces in the Underground Garage as Limited Common Area. No parking shall be permitted at any location in the Underground Garage unless specifically designated for parking by the Declarant or Association. No storage is permitted outside of Units except in specifically designated storage areas. No Owner may use any parking or storage space assigned to another. No Owner may use any parking space for storage or use any parking or storage space for any other purpose or in any manner that obstructs or interferes with any other Owner's parking or storage rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to parking or storage, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, or any improperly stored or hazardous materials, in all cases at the expense of the Owner or Occupant that owns such vehicle or materials. Expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such Owner and, if the Owner fails to pay such amount within seven (7) days after notice to the Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a default Assessment determined and levied against such Unit enforceable by the Association as provided in this Declaration. No parking space once assigned in the underground garage by Declarant or the Association may be rented or leased by a Unit Owner, commercial user, apartment renter, once assigned, to any outside party (not a Residential Unit Owner, Commercial Tenant, Employee or Community Housing Renter). Declarant, however, shall maintain the right, to assign and rent unassigned parking spaces to outside third parties throughout the term of its ownership of the Commercial Units and Deed Restricted Employee or Community Housing Apartment Condominium Units.

#### **ARTICLE 14. EASEMENTS**

Section 14.1 Easement of Enjoyment. Every Unit Owner shall have a non-exclusive easement for the use and enjoyment of the Common Elements, which shall be appurtenant to and shall pass with the title to every Unit, subject to

the easements set forth in this Article 14 and the easements and restrictions set forth in Article 7 entitled "Unit Owners' Property Rights in Common Elements".

Section 14.2 Delegation of Use. Any Unit Owner may delegate, in accordance with the Condominium Documents, the Unit Owner's right of enjoyment in the Common Elements to an Occupant of the Unit Owner's Unit.

Section 14.3 Recorded Easements. The Property shall be subject to any easements shown on any recorded plat affecting the Property, shown on the recorded Map or reserved or granted under this Declaration.

Section 14.4 Easements for Encroachments. The Condominium Project, and all portions of it, are subject to easements hereby created for encroachments between Units and the Common Elements as follows:

(a) in favor of all Unit Owners, so that they shall have no legal liability when any part of the Common Elements encroaches upon a Unit;

(b) in favor of each Unit Owner, so that the Unit Owner shall have no legal liability when any part of his Unit encroaches upon the Common Elements or upon another Unit; and

(c) in favor of all Unit Owners, the Association, and the Unit Owner of any encroaching Unit for the maintenance and repair of such encroachments.

Encroachments referred to in this Section 14.4 include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Improvements or any Unit constructed on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Condominium Project. Such encroachments shall not be considered to be encumbrances upon any part of the Condominium Project; provided, however, that encroachments created by the intentional act of a Unit Owner shall not be deemed to create an easement on the Property and shall be considered an encroachment upon the Condominium Project. Such encroachment shall be removed at Unit Owner's expense immediately upon notice from the Association. In the event such encroachment is not timely removed, the Association may effect removal of the encroachment and the expense thereof shall be a default Assessment to the Unit Owner.

Section 14.5 Utility Easements. There is hereby created a general easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable

communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Unit Owners, the Association, and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant during the Period of Declarant Control and, thereafter, the Association, shall have the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 14.5 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 14.6 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 14.7 Maintenance Easement. An easement is hereby granted to the Association and any Managing Agent and their respective officers, agents, employees and assigns upon, across, over, in, and under the Common Elements and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Declaration.

Section 14.8 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Unit Owners and the Association shall have the irrevocable right, to be exercised by the Association as the Unit Owners' agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit. Unless caused by the negligent or willful act or omission of a Unit Owner or Occupant, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repair within another Unit at the instance of the Association or of the Unit Owners shall be a Common Expense.

Section 14.9 Easements Deemed Created. All conveyances of Units hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 14, even though no specific reference to such easements or to this Article 14 appears in the instrument for such conveyance.

## **ARTICLE 15. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

Section 15.1 Special Declarant Rights. Declarant hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified (the “**Special Declarant Rights**”). Declarant’s Special Declarant Rights include the following:

(a) Completion of Improvements. The right to complete improvements indicated on Plats and Maps filed with this Declaration.

(b) Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Condominium Project.

(c) Amendment of Declaration and/or Plat. The right to Amend this Declaration and or to amend the Plat in connection with the exercise of its development rights.

(d) Signs. The right to maintain signs on the Common Elements advertising the Condominium Project.

(e) Post-Sales. The right to use the Common Elements to maintain customer relations and provide post-sale services to Unit Owners.

(f) Parking/Storage. The right to use and to allow others to use all parking and storage areas in connection with its marketing efforts.

Section 15.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 15.1 above, Declarant also reserves the following additional rights (the “**Additional Reserved Rights**”):

(a) Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, ski-ways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Unit Owners within the Condominium Project.

(b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or common facilities for the benefit of the Unit Owners and/or the Association.

(c) Easement Rights. The rights to an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under this Declaration or the Act.

(d) Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 15.3 Limitations on Special Declarant Rights and Additional Reserved Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Right or Additional Reserved Rights may be exercised by the Declarant so long as the Declarant (a) is obligated under any warranty or obligation; (b) owns any Unit; or (c) holds a Security Interest in any Unit(s); provided, however, all Special Declarant Rights and Additional Reserved Rights shall terminate ten (10) years after the date of recording this Declaration. Earlier termination of certain rights may occur pursuant to requirements of the Act.

Section 15.4 Interference with Special Declarant Rights. Neither the Association nor any Unit Owners may take any action or adopt any rule and/or regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant.

Section 15.5 Rights Transferable. Any Special Declarant Rights or Additional Reserved Right created or reserved under this Article 15 for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

## **ARTICLE 16. INSURANCE**

Section 16.1 Coverage. Commencing not later than the first conveyance of a Unit to a purchaser and to the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described herein will not be maintained, the Board of Directors shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners and Eligible First Mortgagees at their respective last known addresses.



(a) Property Insurance. The Association shall maintain property insurance on the Condominium Project for broad form covered causes of loss in amount of insurance not less than the full insurable replacement cost of the insured property less applicable deductibles at the time insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property insurance policies.

(b) Liability Insurance. The Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Condominium Project, insuring the Board of Directors, the Association, the Managing Agent, and their respective employees, agents and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and member of the Board of Directors. Unit Owners and Eligible First Mortgagees shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements or membership in the Association. The insurance shall cover claims of one or more insured parties against the other insured parties.

(c) Fidelity Insurance. The Association shall maintain fidelity insurance on all persons who control or disburse funds of the Association. Coverage shall not be less in the aggregate than two months' current Assessments plus reserves, as calculated from the current budget of the Association. Any person employed as an independent contractor by the Association, including the Managing Agent must obtain and maintain fidelity insurance in like amount for the benefit of the Association unless the Association names such person as an insured employee in the policy of fidelity insurance specified above.

(d) Other Insurance. The Board of Directors may also procure insurance against such additional risks of a type normally carried with respect to properties of comparable character and use that the Board of Directors deems reasonable and necessary in order to protect the Condominium Project, the Association and the Unit Owners.

(e) Unit Owners' Policies. Each Unit Owner may obtain additional insurance at his own cost for his own benefit so long as all such policies shall contain waivers of subrogation and provide further that the liability of the carriers issuing insurance to the Association hereunder shall not be effected or diminished by reason of any such insurance carried by any Unit Owner.

Section 16.2 Required Provisions. All insurance policies carried pursuant to the requirements of this Article 16 must provide that:

(a) each Unit Owner and each Eligible First Mortgagee is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association;

(b) the insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household;

(c) no act or omission by any Unit Owner or Eligible First Mortgagee, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the risks covered by the policy, the Association's policy provides primary insurance;

(e) any loss covered by the policies must be adjusted with the Association;

(f) the insurance proceeds for any loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association and not to any holder of a Security Interest;

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a Security Interest; and

(h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and any Unit Owner(s) and holder(s) of Security Interests to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Section 16.3 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association

in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

Section 16.4 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Eligible First Mortgagee at reasonable times.

## **ARTICLE 17. RESTORATION UPON DAMAGE OR DESTRUCTION**

Section 17.1 Duty to Restore. Any portion of the Condominium Project, for which insurance is required under the Act or for which insurance carried by the Association is in effect, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (a) the Condominium Project is terminated;
- (b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety;
- (c) seventy-five percent (75%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or
- (d) prior to the conveyance of any Unit to a purchaser, the holder of a Security Interest on the damaged portion of the Condominium Project rightfully demands all or a substantial part of the insurance proceeds.

In the event the Condominium Project is not repaired or replaced as allowed by Subparagraphs (a), (b) and (c) above, then the Real Estate in the Condominium Project shall be sold and the proceeds distributed pursuant to the procedures provided for in the Act for termination of condominium projects.

Section 17.2 Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 17.3 Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Directors and a Majority of Owners.

Section 17.4 Replacement of Less Than Entire Property. If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements shall be used to restore the

damaged area to a condition compatible with the remainder of the Condominium Project and, except to the extent that other persons will be Distributees:

(a) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Unit Owner of the Unit and the Unit Owner of the Unit to which the Limited Common Elements were allocated, or to holders of Security Interests, as their interests may appear;

(b) the remainder of the proceeds must be distributed to each Unit Owner or holders of Security Interests, as their interests may appear, in proportion to the Allocated Interests in the Common Elements of all the Units; and

(c) if the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations.

Section 17.5 Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Board of Directors, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and holders of Security Interests as their interest may appear. Subject to the provisions of the Sections above, the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and holders of Security Interests are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium Project is terminated, in which event the surplus proceeds will be distributed as provided in this Declaration.

Section 17.6 Certificates by the Board of Directors. The insurance trustee, if any, may rely on the following certifications in writing made by the Board of Directors:

(a) whether or not damaged or destroyed Property is to be repaired or restored; and

(b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 17.7 Certificates by Attorneys or Title insurance Companies. If payments are to be made to Unit Owners or holders of Security Interests, the Board of Directors, and the insurance trustee, if any, shall obtain and may rely on a title

insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records from the date of recording of this Declaration stating the names of the Unit Owners and the holders of Security Interest.

## **ARTICLE 18. CONDEMNATION**

If all or part of the Condominium Project is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with the provisions on eminent domain in the Act.

## **ARTICLE 19. MORTGAGEE PROTECTIONS**

Section 19.1 Introduction. This Article 19 establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article 19 is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 19.2 Percentage of First Mortgagees. Unless specifically provided otherwise, wherever in this Declaration the approval or consent of a specified percentage of Eligible First Mortgagees is required, it shall mean the approval or consent of sixty-seven percent (67%) of Eligible First Mortgagees. Each Eligible First Mortgagee shall be entitled to one vote for each Security Interest held by such Eligible First Mortgagee.

Section 19.3 Notice of Actions. If requested in writing to do so, the Association shall give prompt written notice of the following to each Eligible First Mortgagee making such request:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible First Mortgagee;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by a Unit Owner whose Unit is encumbered by a Security Interest held by such Eligible First Mortgagee;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of Eligible First Mortgagees as set forth in this Article;
- (e) any judgment rendered against the Association; and

(f) a copy of any financial statement of the Association.

Section 19.4 Consent Required. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Declaration, without the consent of sixty-seven percent (67%) of the Eligible First Mortgagees:

(a) sale, conveyance or encumbrance of the Common Elements (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Condominium Project, or for other purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause);

(b) restoration or repair of the Condominium Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

(c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

(d) merger of the Condominium Project with any other common interest community; or

(e) any action not to repair or to replace the Common Elements except as permitted in this Declaration.

Section 19.5 Notice of Objection. Unless an Eligible First Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of Eligible First Mortgagees within thirty (30) days following the receipt of notice of such proposed amendment or action, the Eligible First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

Section 19.6 First Mortgagees' Rights.

(a) Advances. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

(b) Cure Rights. First Mortgagees shall be entitled to cure any delinquency of the Unit Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

(c) Priority. No provision of the Condominium Project documents gives a Condominium Unit Owner or any other party priority over any rights of the First Mortgagee of the Condominium Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

Section 19.7 Limitations on First Mortgagee's Rights. No requirement for approval or consent by a First Mortgagee provided in this Article 19 shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors;

(b) prevent the Association or Board of Directors from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article 18 entitled "Restoration Upon Damage or Destruction".

Section 19.8 Special Declarant Rights. No provision or requirement of this Article 19 entitled "Mortgagee Protections" shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

## **ARTICLE 20. DURATION OF COVENANTS; AMENDMENT AND TERMINATION**

Section 20.1 Term. This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 20.2 Amendment of Declaration. Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration (including the

Map) may be amended only by a vote or agreement of Unit Owners to which more than sixty-seven percent (67%) of the votes in the Association are allocated.

Section 20.3 Execution of Amendments; Expenses. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of: (a) any Unit Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; or (c) in all other cases by the Association as a Common Expense.

Section 20.4 When Modifications Permitted. Notwithstanding the provisions of Section 20.2 above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 20.5 Recording of Amendments. Any amendment to this Declaration made in accordance with this Article 20 shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Unit Owners, if any, and required consents of First Mortgagees (and/or Eligible First Mortgagee, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the grantee's index in the name of the Condominium Project and the Association and in the grantor's index in the name of each person or entity executing the Amendment.

Section 20.6 Rights of Eligible First Mortgagees. To the extent allowed by the Act, Eligible First Mortgagees shall have the rights to approve specified action of the Unit Owners or the Association as a condition to the effectiveness of those actions as provided in Article 19 entitled "Mortgagee Protections".

Section 20.7 Termination of the Condominium Project. The Condominium Project may only be terminated as provided in the Act.

## **ARTICLE 21. MISCELLANEOUS**

Section 21.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration and the other Condominium Documents shall be through any proceedings at law or in equity brought by any aggrieved Unit Owner, the Association, or Declarant against the Association or any Unit Owner. Such



actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Notwithstanding any other provision in this Declaration, except in emergencies, or in cases where immediate injunctive relief is necessary, prior to the instigation of any litigation, either by an Owner(s) or the Association, to enforce or construe the terms of this Declaration, all parties shall attempt in good faith to reach a mutually acceptable resolution of the dispute, first by direct negotiations between the disputing parties, then if no resolution is obtained through a formal mediation process. In the event a resolution is not agreed upon after mediating for a reasonable period, litigation may be commenced, provided that any lawsuit involving an objection to a minor improvement or change to the existing state of an Owner's property, must be brought within one year of the substantial completion of that minor improvement or change.

Section 21.2 Notices. All notices, demands, or other communications required or permitted to be given hereunder shall be in writing, and any and all such items shall be deemed to have been duly delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid; as of 12:00 Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier. Notices by email shall be valid only if all parties to the communication have consented to notice by email.

Section 21.3 Nonwaiver. Failure by Declarant, the Association, or any Unit Owner or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Condominium Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 21.4 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 21.5 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 21.6 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 21.7 Conflicts in Legal Documents. In case of conflicts between the provisions in this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

Section 21.8 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 21.9 Choice of Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Idaho.

Executed as of the \_\_\_\_\_ day of \_\_\_\_\_ 2023

Waypoint Pearl, LLC, an Idaho limited liability company

By: \_\_\_\_\_

Jack E. Bariteau, Jr.,  
Managing Member

STATE OF IDAHO            )  
  ss  
County of Blaine            )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said state, personally appeared Jack E. Bariteau, Jr., known or identified to me to be the Managing Member of Waypoint Pearl, LLC, and the person that executed the foregoing instrument on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

**EXHIBIT A  
TO  
DECLARATION**

Legal Description

Units \_\_ through \_\_ inclusive as shown on the plat map for the First & Fourth Condominiums recorded in the records of Blaine County, Idaho on \_\_\_\_\_, 2023 as Instrument No. \_\_\_\_\_.

**EXHIBIT B**

**TABLE OF ALLOCATED INTERESTS (TO BE FINALIZED PRIOR TO  
RECORDATION OF THE FINAL DECLARATION)**

<b>RESIDENTIAL UNITS</b>	<b>PERCENTAGE SHARE OF COMMON ELEMENTS AND EXPENSES</b>	<b>VOTES IN THE AFFAIRS OF THE ASSOCIATION</b>
2C	5.51%	ONE
2D	5.25%	ONE
2E	5.42%	ONE
3A	6.32%	ONE
3B	6.40%	ONE
3C	10.32%	ONE
3D	10.34%	ONE
<b>EMPLOYEE HOUSING UNITS</b>		
1A	12.47%	NONE
2A	12.47%	NONE
<b>COMMUNITY HOUSING UNIT</b>		
2B	6.12%	NONE
<b>COMMERCIAL UNITS</b>		
1A	10.54%	SIX
2A	<u>8.84%</u>	<u>SIX</u>
	<b>100.00%</b>	<b>NINETEE</b>

**EXHIBIT C  
TO  
DECLARATION**

**ARTICLES OF INCORPORATION**

**EXHIBIT D  
TO  
DECLARATION**

**BYLAWS**

**EXHIBIT E**  
**MAP OF ALLEY VACATION**





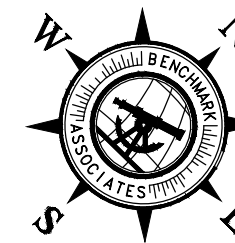
City of Ketchum

# Attachment 2: Final Plat

# FIRST & FOURTH CONDOMINIUMS

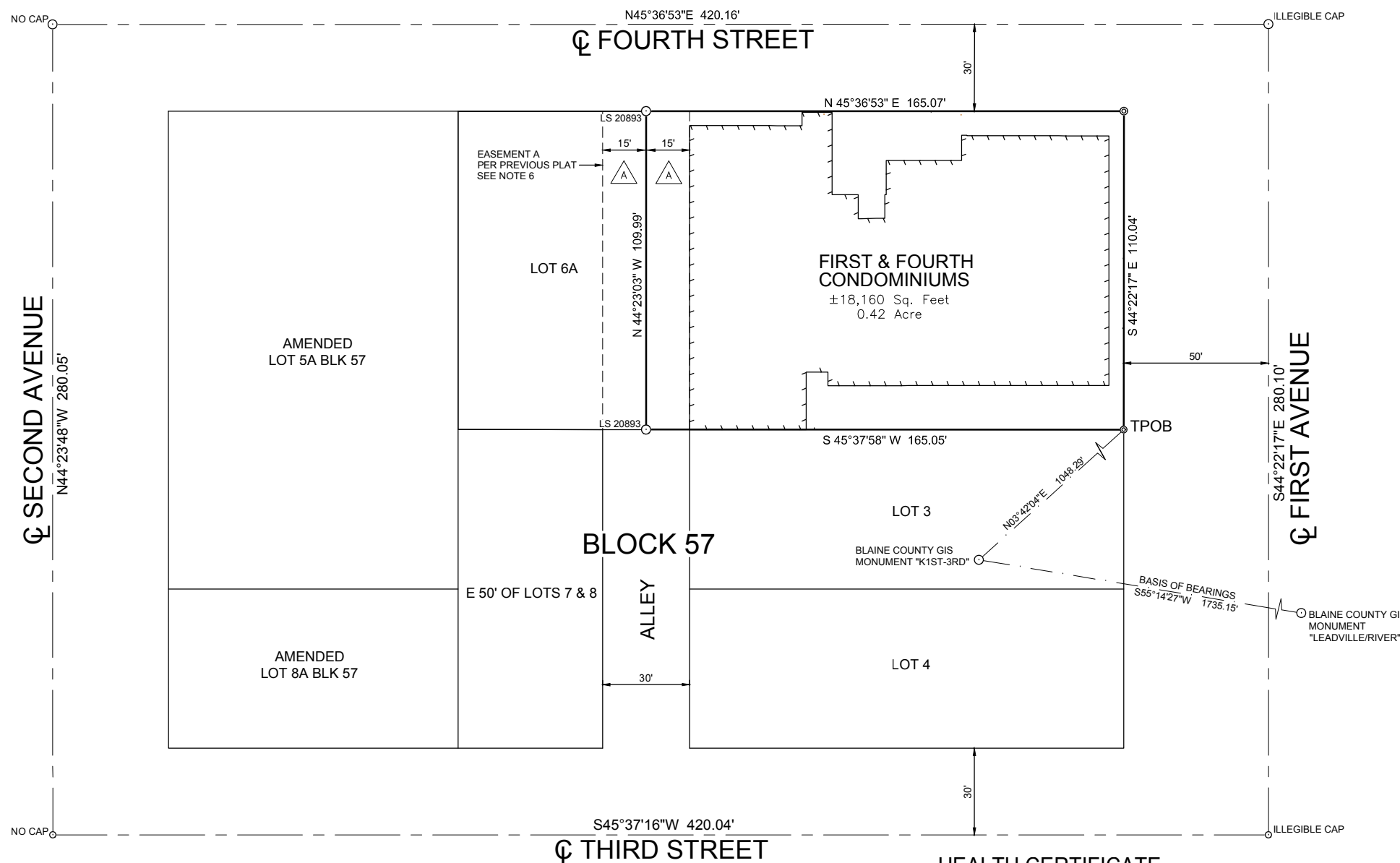
A CONDOMINIUM PLAT OF KETCHUM TOWNSITE, BLOCK 57, LOT 1B.  
 LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

APRIL 2023



## LEGEND

	PROPERTY LINE
	ADJOINING PROPERTY LINE
	CENTERLINE
	EASEMENT LINE (AS NOTED)
	BLAINE COUNTY GIS TIES
	EXTERIOR BUILDING FOOTPRINT
	L/C LIMITED COMMON AREA
	C/A COMMON AREA
	CHU COMMUNITY HOUSING UNIT
	EHU EMPLOYEE HOUSING UNIT
	FOUND 5/8" REBAR, AS NOTED
	FOUND 1/2" REBAR, AS NOTED
	FOUND BRASS SURVEY TAG, PLS 20893



## SURVEYOR'S NARRATIVE

1. THE PURPOSE OF THIS PLAT IS TO CREATE A CONDOMINIUM SUBDIVISION OF LOT 1B, BLOCK 57, KETCHUM TOWNSITE. FOUND MONUMENTS WERE ACCEPTED AS EITHER ORIGINAL, OR REPLACEMENTS OF ORIGINAL CORNERS.
2. DOCUMENTS USED IN THE COURSE OF THIS SURVEY:
  - a. ORIGINAL PLAT OF "KETCHUM TOWNSITE", INSTRUMENT NO. 302967.
  - b. RECORD OF SURVEY OF "KETCHUM TOWNSITE, BLOCK 57, LOTS 1A & 2A, INST. NO. 656178.
  - c. PLAT OF "KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A", INSTRUMENT NO. 698988.
  - d. ALTA COMMITMENT FOR TITLE INSURANCE, COMMITMENT NO. 2224412, DATED FEBRUARY 16, 2022.

## NOTES:

1. THIS PLAT IS SUBJECT TO THE "CONDOMINIUM DECLARATION FOR FIRST & FOURTH CONDOMINIUMS", RECORDED AS INSTRUMENT NO. \_\_\_\_\_, RECORDS OF BLAINE COUNTY, IDAHO.
2. CONSULT THE CONDOMINIUM DECLARATION FOR THE DEFINITION OF COMMON AREA & LIMITED COMMON AREA.
3. THIS PLAT IS SUBJECT TO "DEVELOPMENT AGREEMENT #20427", "FIRST AMENDMENT TO DEVELOPMENT AGREEMENT #20427" AND "SECOND AMENDMENT TO DEVELOPMENT AGREEMENT #20427", RECORDED AS INSTRUMENT NOS. 665841, 679218 & 694924, RECORDS OF BLAINE COUNTY, IDAHO.
4. THIS PLAT IS SUBJECT TO "RIGHT-OF-WAY ENCROACHMENT AGREEMENT 20548", RECORDED AS INSTRUMENT NO. 675091 AND "RIGHT-OF-WAY ENCROACHMENT AGREEMENT 20536", RECORDED AS INST. NO. 675171, RECORDS OF BLAINE COUNTY, IDAHO.
5. THE COMMUNITY HOUSING AGREEMENT FOR UNITS 1A, 2A & 2B WAS RECORDED AS INST. NO. \_\_\_\_\_.
6. EASEMENT A: AN EXISTING 30' WIDE BY 110' PUBLIC UTILITY, EMERGENCY ACCESS AND PUBLIC PEDESTRIAN ACCESS EASEMENT PER PLAT OF "KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A", INST. NO. 698988. SAID EASEMENT INCLUDES MUTUAL RECIPROCAL INGRESS & EGRESS TO BENEFIT THE OWNERS AND TENANTS OF LOT 1B AND LOT 6A.
7. IN INTERPRETING THE DECLARATION, PLAT OR PLATS, AND DEEDS THE EXISTING BOUNDARIES OF A UNIT AS ORIGINALLY CONSTRUCTED OR RECONSTRUCTED IN LIEU THEREOF SHALL BE CONCLUSIVELY PRESUMED TO BE ITS BOUNDARIES RATHER THAN THE METES AND BOUNDS SHOWN ON THIS PLAT.
8. HORIZONTAL OR SLOPING PLANES SHOWN HEREON ARE TOP OF FINISHED SUBFLOOR AND BOTTOM OF FINISHED CEILING; VERTICAL PLANES ARE FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS.
9. DIMENSIONS SHOWN HEREON WILL BE SUBJECT TO SLIGHT VARIATIONS OWING TO NORMAL CONSTRUCTION TOLERANCES.
10. ELEVATIONS BASED ON NAVD 88 DATUM.

## HEALTH CERTIFICATE

Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.

South Central Public Health District, REHS

Dated: \_\_\_\_\_



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

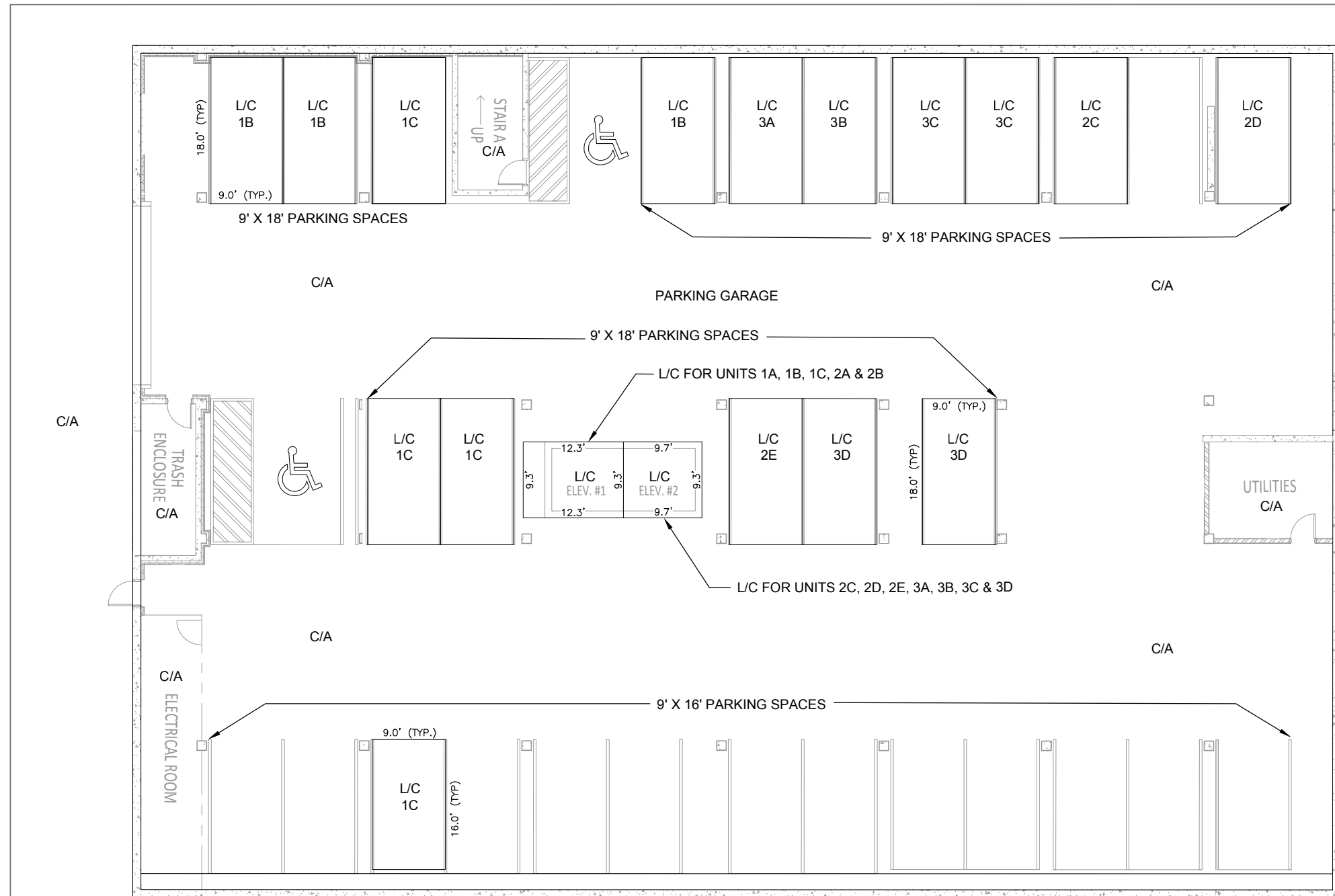
PROJECT NO. 21077	DWG BY: DWS/CPL	FILE: 21077PG1.DWG
FINAL PLAT	DATE: 04/21/2023	SHEET: 1 OF 7

# FIRST & FOURTH CONDOMINIUMS

A CONDOMINIUM PLAT OF KETCHUM TOWNSITE, BLOCK 57, LOT 1B.  
 LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

APRIL 2023

KETCHUM FILE NO. P22-016C

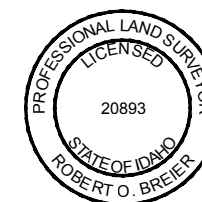


## LEGEND

- L/C LIMITED COMMON AREA
- C/A COMMON AREA
- COLUMN

BASEMENT

⊙ TPOB



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

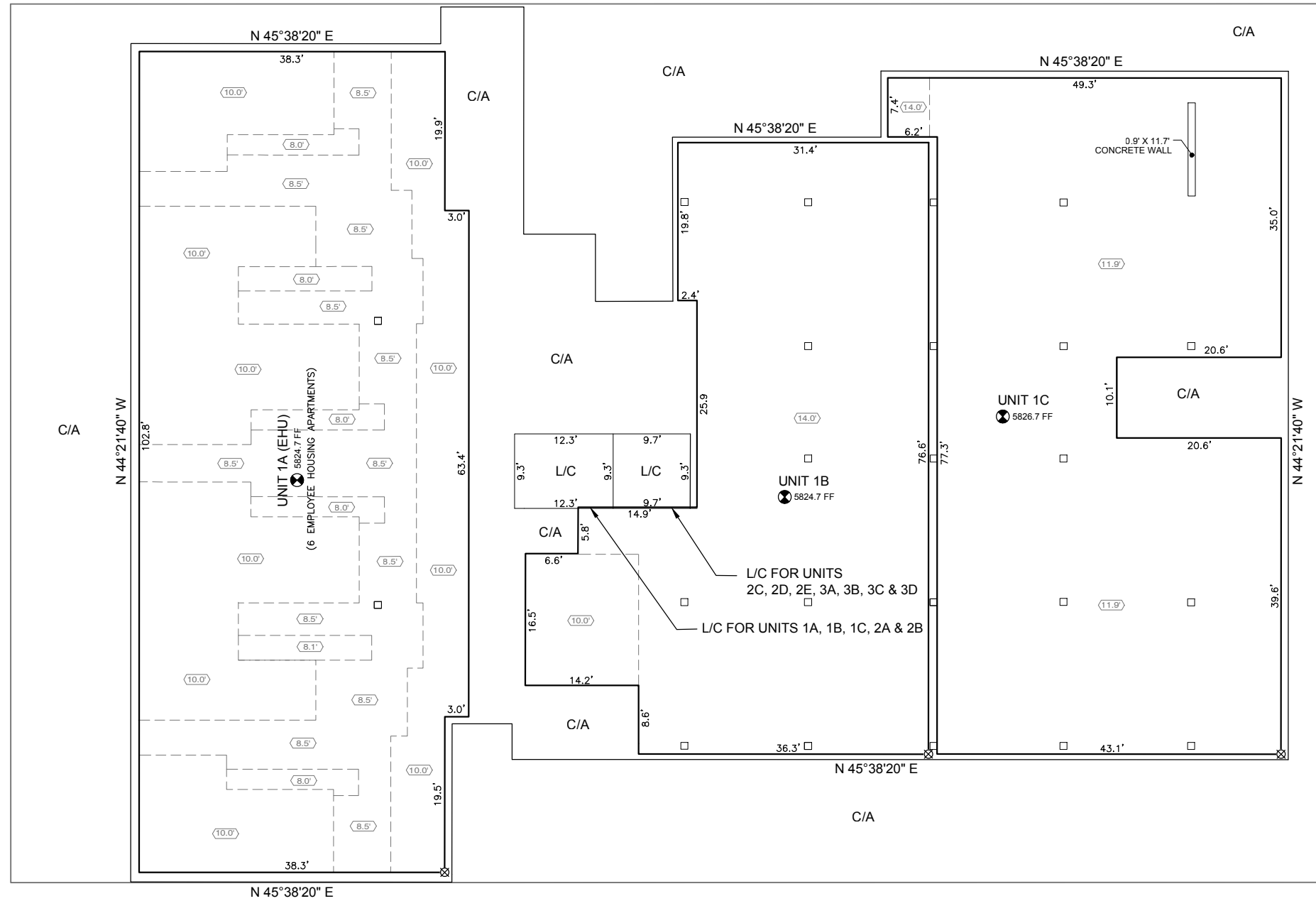
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FINAL PLAT	DATE: 04/21/2023	SHEET: 2 OF 7

# FIRST & FOURTH CONDOMINIUMS

KETCHUM FILE NO. P22-016C

A CONDOMINIUM PLAT OF KETCHUM TOWNSITE, BLOCK 57, LOT 1B.  
 LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

APRIL 2023

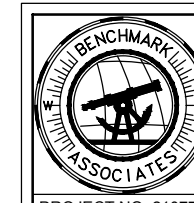
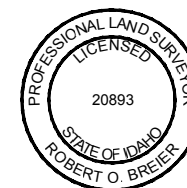


## LEGEND

- ⊗ UNIT TIE POINT
- ⊗ FINISHED FLOOR (FF) ELEVATION
- ⊙ FD BRASS SURVEY TAG, PLS 20893
- Ⓢ CEILING HEIGHT ABOVE FINISHED FLOOR
- - - CHANGE IN CEILING HEIGHT
- COLUMN - 0.9' X 0.9'
- L/C LIMITED COMMON AREA
- C/A COMMON AREA

UNIT	TIE TO TPOB
1A	N46°06'15"E 110.46'
1B	N63°08'48"E 52.28'
1C	S64°09'56"E 16.73'

FIRST FLOOR



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

PROJECT NO. 21077	DWG BY: DWS/CPL	FILE: 21077PG1.DWG
FINAL PLAT	DATE: 04/21/2023	SHEET: 3 OF 7

# FIRST & FOURTH CONDOMINIUMS

KETCHUM FILE NO. P22-016C

A CONDOMINIUM PLAT OF KETCHUM TOWNSITE, BLOCK 57, LOT 1B.

LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

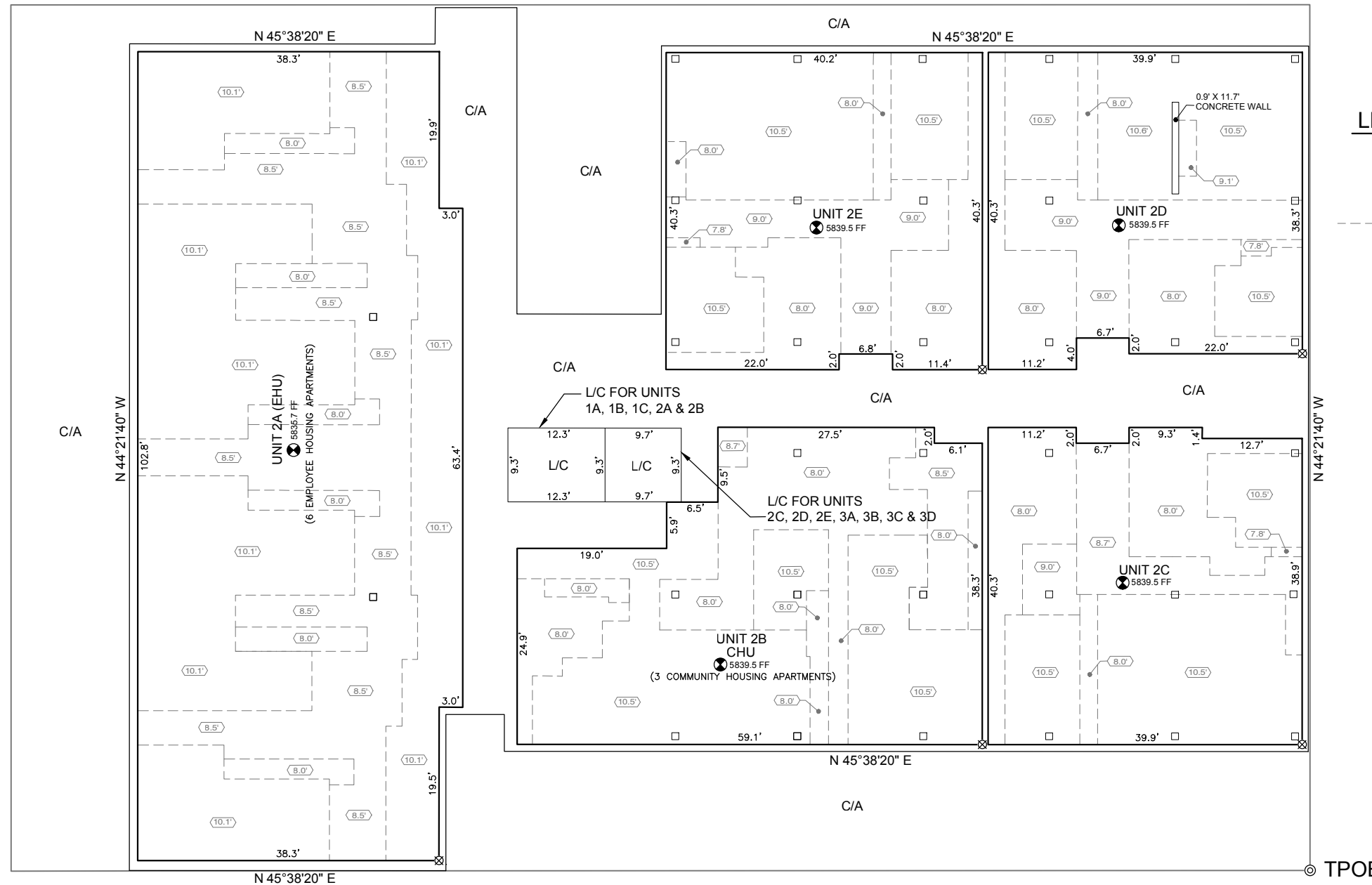
APRIL 2023



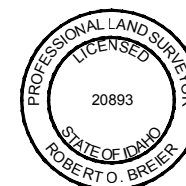
## LEGEND

- ⊗ UNIT TIE POINT
- ⊗ FINISHED FLOOR (FF) ELEVATION
- ⊙ FD BRASS SURVEY TAG, PLS 20893
- ⊙ CEILING HEIGHT ABOVE FF
- - - CHANGE IN CEILING HEIGHT
- COLUMN - 0.9' X 0.9'
- L/C LIMITED COMMON AREA
- C/A COMMON AREA

UNIT	TIE TO TPOB
2A	N46°06'15"E 110.46'
2B	N66°21'53"E 44.30'
2C	S47°15'30"E 15.70'
2D	S45°02'53"E 65.36'
2E	S77°33'50"E 75.67'



## SECOND FLOOR



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

PROJECT NO. 21077	DWG BY: DWS/CPL	FILE: 21077PG1.DWG
FINAL PLAT	DATE: 04/21/2023	SHEET: 4 OF 7

# FIRST & FOURTH CONDOMINIUMS

KETCHUM FILE NO. P22-016C

A CONDOMINIUM PLAT OF KETCHUM TOWNSITE, BLOCK 57, LOT 1B.  
 LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

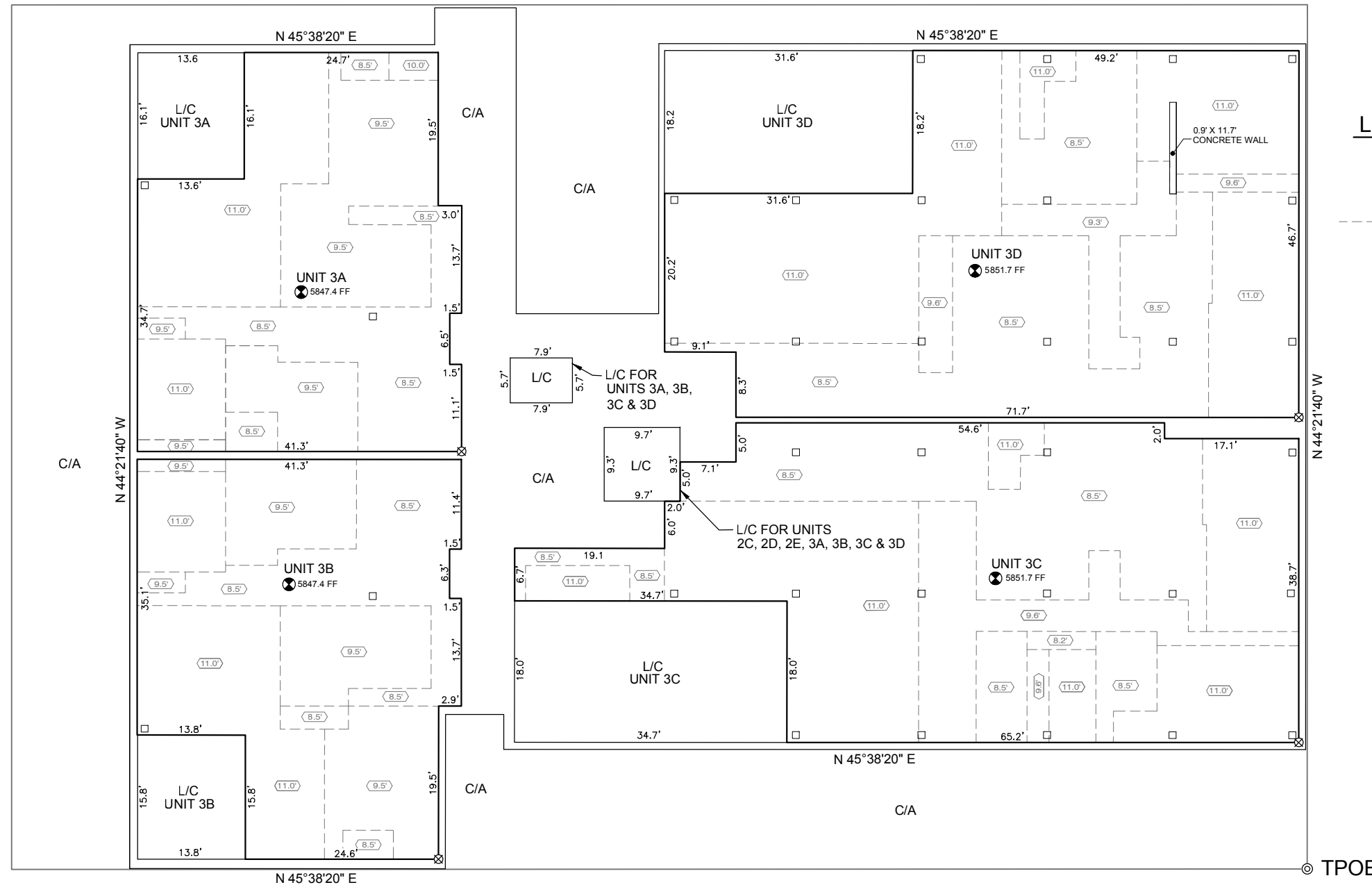
APRIL 2023



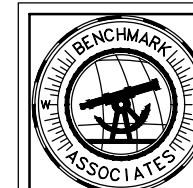
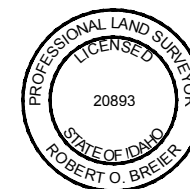
### LEGEND

- UNIT TIE POINT
- FINISHED FLOOR (FF) ELEVATION
- FD BRASS SURVEY TAG, PLS 20893
- CEILING HEIGHT ABOVE FF
- CHANGE IN CEILING HEIGHT
- COLUMN - 0.9' X 0.9'
- L/C LIMITED COMMON AREA
- C/A COMMON AREA

UNIT	TIE TO TPOB
3A	N71°47'32"E 119.80'
3B	N46°06'15"E 110.46'
3C	S47°32'26"E 15.81'
3D	S45°14'23"E 57.19'



THIRD FLOOR



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SECTION 13, T4N, R17E, B.M.,  
 CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

PROJECT NO. 21077	DWG BY: DWS/CPL	FILE: 21077PG1.DWG
FINAL PLAT	DATE: 04/21/2023	SHEET: 5 OF 7

# FIRST & FOURTH CONDOMINIUMS

## OWNER'S CERTIFICATE

THIS IS TO CERTIFY that WAYPOINT PEARL, LLC, an Idaho limited liability company is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, Ketchum, Idaho, more particularly described as follows:

Lot 1B of KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A, according to the official plat thereof, recorded as Instrument No. 698988, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

It is their intention to create a project including said Real Property in this condominium plat. The Owners also hereby certify that they consent to the recordation of documents pursuant to Chapter 15, Title 55 of Idaho Code and that this plat complies with Idaho Code 50-1334. We do hereby certify that the condominium project described in this plat will be eligible to receive domestic water service from an existing water distribution system and that the City of Ketchum has agreed in writing to serve the condominium project shown on this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

WAYPOINT PEARL, LLC, an Idaho limited liability company

By: \_\_\_\_\_  
JACK ELI BARITEAU, JR., Managing Member

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## ACKNOWLEDGMENT

STATE OF IDAHO

COUNTY OF BLAINE

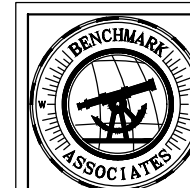
On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 20\_\_\_\_, before me, the undersigned, personally appeared JACK ELI BARITEAU, JR., known or identified to me (or proved to me), to be the Managing Member of WAYPOINT PEARL, LLC, an Idaho limited liability company and acknowledged to me that he and said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

Residing at: \_\_\_\_\_

Commission Expires: \_\_\_\_\_



## FIRST & FOURTH CONDOMINIUMS

LOCATED WITHIN: SEC. 13, T4N, R17E, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WAYPOINT PEARL, LLC

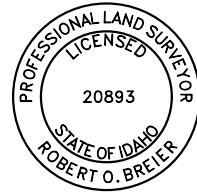
PROJECT NO. 21077	DWG BY: CPL	FILE: 21077CRT.DWG
FINAL PLAT	DATE: 02/24/2023	SHEET: 6 OF 7

# FIRST & FOURTH CONDOMINIUMS

## SURVEYOR'S CERTIFICATE

I, Robert O. Breier, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed under my direct supervision in accordance with the State of Idaho Code relating to plats and surveys.

ROBERT O. BREIER, P.L.S. #20893



## PROJECT ENGINEER'S CERTIFICATE

I, the undersigned, Project Engineer for First & Fourth Condominiums do hereby certify that the subdivision is in accordance with the City of Ketchum subdivision standards, on this \_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_

## COUNTY SURVEYOR'S APPROVAL

This is to certify that I, SAM YOUNG, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

\_\_\_\_\_  
BLAINE COUNTY SURVEYOR

\_\_\_\_\_  
DATE

## BLAINE COUNTY TREASURER'S CERTIFICATE

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: \_\_\_\_\_

## BLAINE COUNTY RECORDER'S CERTIFICATE

## KETCHUM CITY COUNCIL CERTIFICATE

I, the undersigned, City Clerk in and for the City of Ketchum, Blaine County, Idaho do hereby certify that at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2023, this plat was duly accepted and approved.

\_\_\_\_\_  
TRENT DONAT, City Clerk

## CITY ENGINEER'S CERTIFICATE


I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
ROBYN MATTISON, City Engineer

## CITY PLANNER'S CERTIFICATE

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

By: \_\_\_\_\_

	<b>FIRST &amp; FOURTH CONDOMINIUMS</b>	
	LOCATED WITHIN: SEC. 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
PREPARED FOR: WAYPOINT PEARL, LLC		
PROJECT NO. 21077	DWG BY: CPL	FILE: 21077CRT.DWG
FINAL PLAT	DATE: MAY 2023	SHEET: 7 OF 7





City of Ketchum

# Attachment 3: Draft Findings of Fact, Conclusions of Law, and Decision



**City of Ketchum  
Planning & Building**

IN RE: )  
 )  
**First and Fourth Condominiums** ) **KETCHUM CITY COUNCIL**  
**Condominium Final Plat** ) **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**  
**Date: May 15, 2023** ) **DECISION**  
 )  
**File Number: P22-016C** )

PROJECT: First and Fourth Condominiums

FILE NUMBERS: P22-016C

APPLICATION: Condominium Subdivision Final Plat

REPRESENTATIVE: Cinda Williams, Galena/Benchmark Engineering

OWNER: Waypoint Pearl, LLC

LOCATION: 391 N 1<sup>st</sup> Ave (Ketchum Townsite, Lot 1B, Blk 57)

ZONING: Community Core Subdistrict 2 – Mixed Use (CC-2) Zoning District

OVERLAY: None

NOTICE: A public hearing was conducted for the condominium preliminary plat approval. Public hearings are not required for condominium final plats; therefore, no public hearing was scheduled for the application.

**RECORD OF PROCEEDINGS**

The City of Ketchum received the application for the First and Fourth Condominium final plat on March 15, 2023. The application was deemed complete on April 17, 2023. City departments conducted a thorough review of the application. Per the conditions of approval for the condominium preliminary plat, all conditions of the Design Review approval, preliminary plat, and development agreement must be met prior to approval of the final plat. As of the date of these findings, all conditions have been met and all department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

The Ketchum City Council conducted their final consideration of the Condominium Subdivision Final Plat (File No. P22-016C) application at their May 15, 2023, meeting. After considering the staff’s analysis and the application materials, the Council approved the application unanimously.

**BACKGROUND**

The First and Fourth Mixed Use development is comprised of an underground parking garage, approximately 6,700 sq ft of commercial space, 12 employee housing units, 3 community housing units, and seven market rate condominium units at the southwest corner of N 1st Ave and W 4th St in the Community Core Subdistrict 2 – Mixed Use (CC-2) zone district. The Planning & Zoning Commission held a public hearing and approved the

Design Review (Application No. P19-038) on June 10, 2019. The Planning and Zoning Commission recommended approval of the condominium preliminary plat (P22-016A) on May 24, 2022 and the City Council approved the preliminary plat on July 5, 2022. The development is subject to Development Agreement #20472, First Amendment to DA 20472, and Second Amendment to DA 20472 as recorded with the Blaine County Clerk and Recorder.

**FINDINGS OF FACT**

The Council, having reviewed the entire project record, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

**FINDINGS REGARDING COMPLIANCE WITH CONDOMINIUM SUBDIVISION REQUIREMENTS**

			Condominium Plat Requirements	
Compliant				
Yes	No	N/A	City Code	Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.B	The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed bylaws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control and maintenance of all common areas, recreational facilities and open space.
			<i>Findings</i>	<i>The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.D	All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit.
			<i>Findings</i>	<i>The development includes an underground garage as outlined on Sheet 2 of the Final Plat. To satisfy the parking requirements for the project, each residential and commercial unit has the required amount of parking noted on a surface parking space as "limited common element" and a corresponding unit number. The remaining parking spaces not allocated to a unit can be used or allocated at the discretion of the management association.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.E	Adequate storage areas shall be provided for boats, campers and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit.
			<i>Findings</i>	<i>Storage for personal property for each unit is located within the condominium unit as shown on the floor plans approved with the building permit issuance. No additional parking for boats, campers, and trailers is required for the proposed project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.F	A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.
			<i>Findings</i>	<i>The basement includes storage and maintenance areas for trash, utilities, and mechanical equipment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.G	The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area usable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access.

			<i>Findings</i>	<i>The third floor condominium units each include outdoor deck space. On the second and first floors, the residents have access to outside common areas available to all residents as noted on the floor plans.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.H	All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions.
			<i>Findings</i>	<i>The project has been reviewed for compliance with all other sections of the subdivision standards. The project is in compliance as discussed above.</i>

**FINDINGS REGARDING COMPLIANCE WITH SUBDIVISION FINAL PLAT REQUIREMENTS**

Final Plat Requirements				
Compliant			Standards and City Council Findings	
YES	NO	N/A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	Contents Of Final Plat: The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:  <i>Findings</i> <i>The Final Plat mylar shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.  <i>Findings</i> <i>As shown on sheet 1, there are two points of beginning for the proposed subdivision. Therefore, this standard is met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	Location and description of monuments.  <i>Findings</i> <i>As shown on Sheet 1, all monuments are noted and described. Therefore, this standard is met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.  <i>Findings</i> <i>Sheet 1 provides property lines and boundary lines for the subject property, adjacent subdivisions, easements, and adjacent streets. As shown, this standard is met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	Names and locations of all adjoining subdivisions.

			<i>Findings</i>	<i>As shown on Sheet 1, all adjacent properties are lots within the original Ketchum Townsite and are noted as such.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	Name and right of way width of each street and other public rights of way.
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for Fourth Street, First Ave, and the alley are all named and dimensioned.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	Location, dimension and purpose of all easements, public or private.
			<i>Findings</i>	<i>Sheet 1 outlines all applicable easements on the property, public and private, including easements for utilities and access.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>Findings</i>	<i>This condominium subdivision is part of an existing subdivision and no additional blocks are being created or numbered.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>Findings</i>	<i>N/A as no dedications have been required or proposed for this condominium subdivision.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>Findings</i>	<i>This standard has been met. The name of the proposed subdivision is First and Fourth Condominiums.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			<i>Findings</i>	<i>As shown on Sheet 1, this standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for First Ave and 4<sup>th</sup> St are both named and dimensioned. No new public streets are being proposed or required for the development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.12	A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.
			<i>Findings</i>	<i>Plat note 1 on Sheet 1 includes the required note with a space to put the instrument number for the recorded declarations.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
			<i>Findings</i>	<i>Sheet 7 includes the required signature block that will be signed prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat.
			<i>Findings</i>	<i>This standard has been met. A title report and warranty deed were submitted with the Final Plat application and both are current.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.

			<i>Findings</i>	<i>Sheet 6 includes the required signature block for signature of the applicable property owners.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.
			<i>Findings</i>	<i>Sheet 7 includes the required certificate and signature space for the project Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.
			<i>Findings</i>	<i>Sheet 7 includes the required certificate and signature space for the City Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.
			<i>Findings</i>	<i>Sheet 7 includes the required certificate and signature space for the City Clerk to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.19	Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.
			<i>Findings</i>	<i>The development provides for deed restricted community housing and employee housing units that require a separate deed covenant. Plat Note 5 on Sheet 1 references the deed covenant and instrument number under which the covenant was recorded.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.L	Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.
			<i>Findings</i>	<i>The city received the required application materials on March 15, 2023.</i>

**CONCLUSIONS OF LAW**

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67, of the Idaho Code the City has passed a subdivision ordinance, Title 16.
4. The City Council has authority to review and approve the applicant's Condominium Subdivision Final Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
5. The project does meet the standards of approval under Chapter 16.04 of Subdivision Code Title 16.

**DECISION**

THEREFORE, the Ketchum City Council approves this Final Plat application this Monday, May 15, 2023 subject to the following conditions of approval.

**CONDITIONS OF APPROVAL**

1. The Condominium Declaration shall be simultaneously recorded with the Final Plat. The City will not now, nor in the future, determine the validity of the Condominium Declaration.
2. The Community Housing Agreement shall be simultaneously recorded with the Final Plat.

3. The Final Plat shall not be recorded until a temporary certificate of occupancy or certificate of occupancy has been issued for the building.
4. The final plat shall be filed with the Blaine County Recorder within one year after final plat approval by the council. Failure to file such final plat within that time shall cause all approvals of such final plat to be null and void.

Findings of Fact adopted this 15<sup>th</sup> day of May 2023.

---

Neil Bradshaw  
Mayor  
City of Ketchum

Attest:

---

Trent Donat, City Clerk



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to approve the Quit Claim Deed for the alley vacation associated with the 1st and 4th Mixed Use Development

Recommended Motion:

Recommendation to affirm, ratify, and approve the P&Z recommendation for vacation of the northern portion of the alley adjacent to the 1st and 4th Mixed Use Development with 1/2 of the length to each adjoining property owner as reflected in the deeds.

Reasons for Recommendation:

- The 1st and 4th Mixed Use project received Design Review approval on June 10, 2019 and the City Council approved the Condominium Preliminary Plat on July 5, 2022. Both reflecting vacation of the alley between 3rd and 4th Streets and N 1st Ave and N 2nd Ave as shown in Attachment 1.
The City Council approved the alley vacation request on December 16, 2019. The City Council also approved a lot line shift application to vacate the alley, of which was recorded on February 22, 2023 under Instrument Number 698988 (Attachment 1).
The Quit Claim Deeds (Attachment 2) serve the purpose of legally transferring the property from the City of Ketchum to the two adjacent property owners as plats do not affect the transfer of ownership. Prior to execution of the deeds, final exhibits with legal descriptions for each piece of the alley as shown in Attachment A will be attached to each deed for reference.

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

None OR state impact here: Approval of the final plat does not limit the city's ability to reach its sustainability goals outlined in the Sustainability Action Plan.

Financial Impact:

None OR Adequate funds exist in account: None

Attachments:

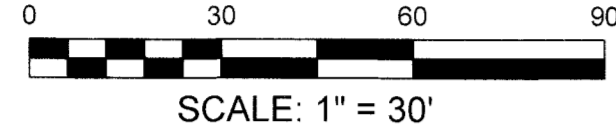
- 1. Recorded Plat for Lot Consolidation from Alley Vacation
2. Quit Claim Deeds





City of Ketchum

# Attachment 1: Recorded Plat for Lot Consolidation from Alley Vacation



# KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A

LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

WHEREIN THE BOUNDARY COMMON TO AMENDED LOTS 1 & 2 IS ELIMINATED AND THE EAST 15' OF  
VACATED ALLEY IS ADDED TO AMENDED LOT 2, CREATING LOT 1B;

AND THE WEST 15' OF VACATED ALLEY IS ADDED TO THE EAST 50' OF LOTS 5 & 6, CREATING LOT 6A.

## JUNE 2022

### LEGEND

- BOUNDARY LINE
- STREET CENTERLINE
- PUBLIC MONUMENT TIES
- LOT LINE ELIMINATED
- FOUND 1/2" REBAR
- FOUND 5/8" REBAR
- SET 5/8" REBAR, PLS 20893
- SET BRASS SURVEY MARKER, PLS 20893

### SURVEYOR'S NARRATIVE:

- THE PURPOSE OF THIS PLAT IS TO RECONFIGURE AMENDED LOTS 1 & 2, THE EAST 50' OF LOTS 5 & 6, AND THE VACATED ALLEY INTO LOTS 1B & 6A. FOUND MONUMENTS WERE ACCEPTED AS EITHER ORIGINAL, OR REPLACEMENTS OF ORIGINAL CORNERS. SET MONUMENTS WERE ESTABLISHED BY BLOCK BREAKDOWN AND PROPORTIONING RECORD DISTANCES.
- DOCUMENTS USED IN THE COURSE OF THIS SURVEY:
  - "A RECORD OF SURVEY OF: KETCHUM TOWNSITE, BLOCK 57, LOTS 1A & 2A", RECORDED AS INSTRUMENT NO. 656178.
  - AMENDED LOTS 1 & 2 PER THE PLAT OF THE "RE-DIVISION OF LOTS 1 & 2, BLOCK 57, ORIGINAL KETCHUM TOWNSITE", RECORDED AS INSTRUMENT NO. 191607.
  - THE EASTERLY 50 FEET OF LOTS 5 AND 6 PER CORPORATION WARRANTY DEED, RECORDED AS INSTRUMENT NO. 445984.

### NOTES:

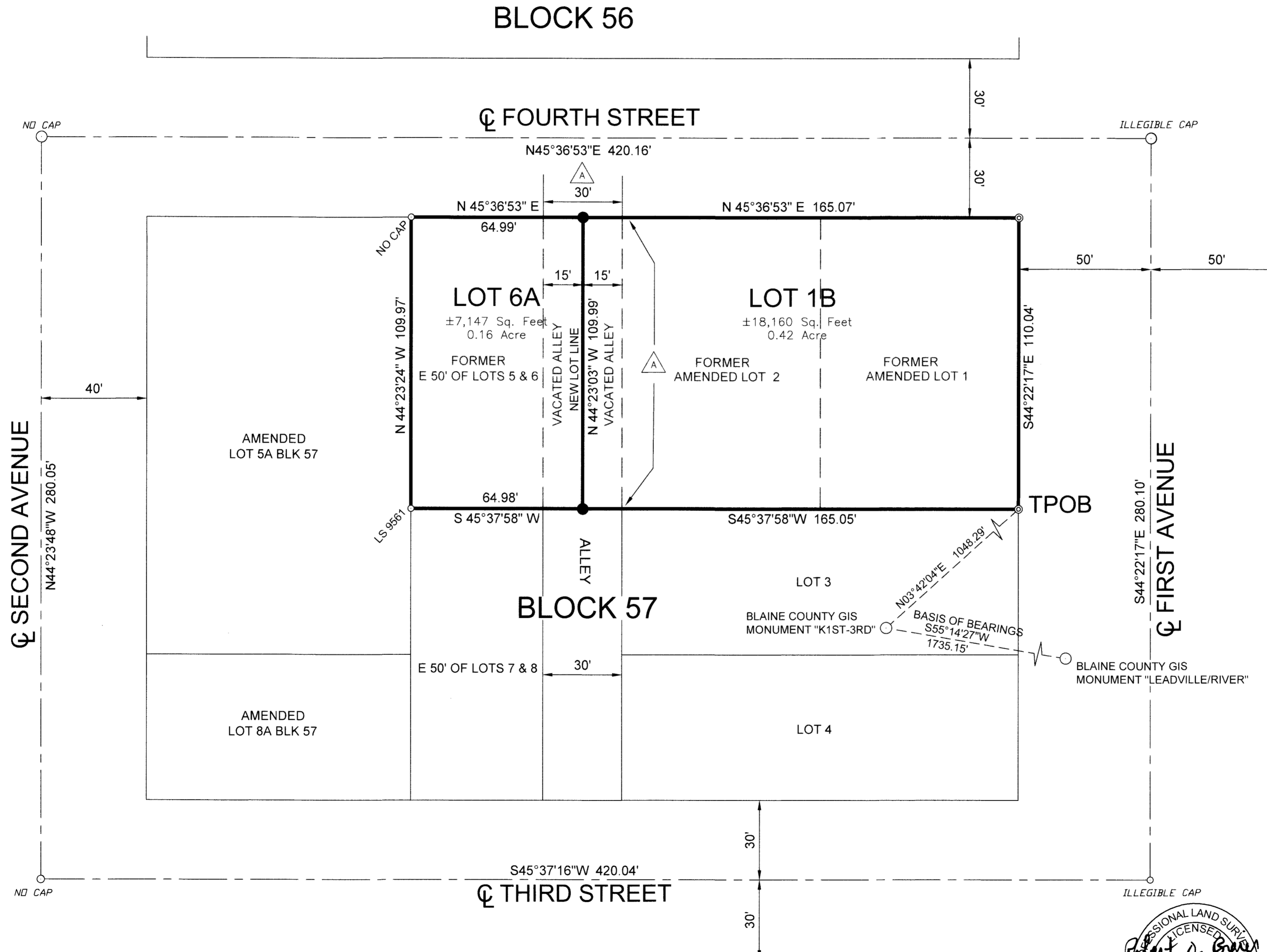
- EASEMENT A: A 30' WIDE BY 110' PUBLIC UTILITY, EMERGENCY ACCESS AND PUBLIC PEDESTRIAN ACCESS EASEMENT. SAID EASEMENT INCLUDES MUTUAL RECIPROCAL INGRESS AND EGRESS TO BENEFIT THE OWNERS AND TENANTS OF LOTS 1B AND 6A. PUBLIC PEDESTRIAN AMENITIES MAY BE INSTALLED WITHIN THIS EASEMENT BY THE OWNERS OF LOT 1B & LOT 6A AND/OR BY THE CITY OF KETCHUM.
- NO BUILDINGS ON LOT 1B OR LOT 6A SHALL ENCROACH INTO THE APPROXIMATELY 30' X 110' VACATED ALLEY.
- DEVELOPMENT AGREEMENT #20427 FOR LOT 1B WAS RECORDED AS INSTRUMENT NO. 665841 AND THE FIRST AMENDMENT TO DEVELOPMENT AGREEMENT #20427 WAS RECORDED AS INSTRUMENT NO. 679218, RECORDS OF BLAINE COUNTY, IDAHO.
- RIGHT-OF-WAY ENCROACHMENT AGREEMENT 20548 WAS RECORDED AS INSTRUMENT NO. 675091 AND ENCROACHMENT AGREEMENT 20536 WAS RECORDED AS INSTRUMENT NO. 675171, RECORDS OF BLAINE COUNTY, IDAHO.

### HEALTH CERTIFICATE

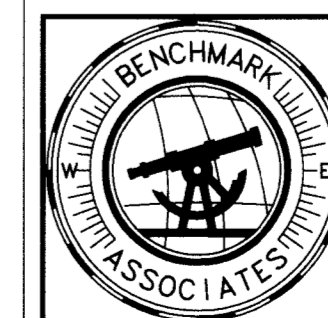
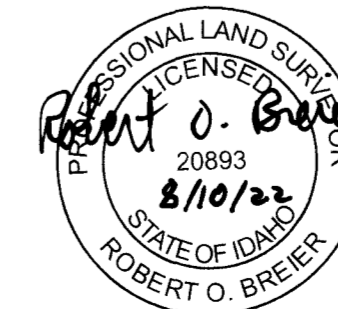
Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.

Date: 9-15-2022

South Central Public Health District, REHS



PREPARED BY: BENCHMARK ASSOCIATES



## KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A

LOCATED WITHIN  
SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: JACK BARITEAU

PROJECT NO. 19020	DWG BY: DWS/CPL	19020-2022.DWG
FINAL PLAT	DATE: 06/21/2022	SHEET: 1 OF 3

# KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A

## OWNER'S CERTIFICATE

THIS IS TO CERTIFY that WAYPOINT PEARL, LLC, an Idaho limited liability company is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, Ketchum, Idaho, more particularly described as follows:

Lots 1 and 2, of RE-DIVISION OF LOTS 1 & 2, BLOCK 57, ORIGINAL KETCHUM TOWNSITE, according to the official plat thereof, recorded as Instrument No. 191607, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

Pursuant to Idaho Code 50-1334, the undersigned, as owner, does hereby state that the lots on this plat are eligible to receive water service from the Ketchum Water Department, and that said district has agreed in writing to serve the lots shown on this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

WAYPOINT PEARL, LLC, an Idaho limited liability company

By: *Jack Eli Bariteau, Jr.*  
JACK ELI BARITEAU, JR. Managing Member  
Signed this 14<sup>th</sup> day of February, 2023

## ACKNOWLEDGMENT

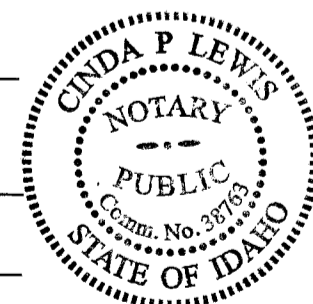
STATE OF IDAHO

COUNTY OF BLAINE

On this 14<sup>th</sup> day of FEBRUARY, in the year of 2023, before me, the undersigned, personally appeared JACK ELI BARITEAU, JR., known or identified to me (or proved to me), to be the Managing Member of WAYPOINT PEARL, LLC, an Idaho limited liability company and acknowledged to me that he and said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

*Cinda P. Lewis*  
Notary Public  
Residing at: KETCHUM, ID  
Commission Expires: 09-28-2026



## OWNER'S CERTIFICATE

THIS IS TO CERTIFY that 160 W. 4TH STREET, LLC, an Idaho limited liability company is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, Ketchum, Idaho, more particularly described as follows:

The easterly 50 feet of Lots 5 and 6, Block 57 of the VILLAGE OF KETCHUM, according to the official map thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

Pursuant to Idaho Code 50-1334, the undersigned, as owner, does hereby state that the lots on this plat are eligible to receive water service from the Ketchum Water Department, and that said district has agreed in writing to serve the lots shown on this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

160 W. 4TH STREET LLC, an Idaho limited liability company

By: *David G. Whorton*  
Its: Managing Member  
Signed this 4<sup>th</sup> day of August, 2022

## ACKNOWLEDGMENT

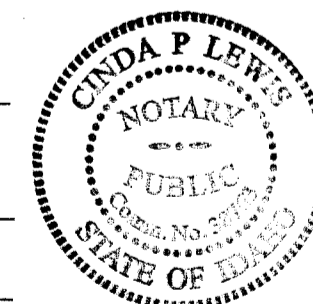
STATE OF IDAHO

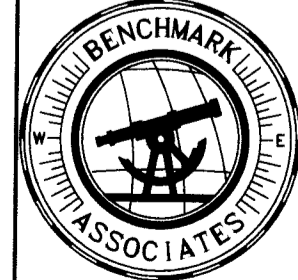
COUNTY OF BLAINE

On this 4<sup>th</sup> day of AUGUST, in the year of 2022, before me, the undersigned, personally appeared DAVID G. WHORTON, known or identified to me (or proved to me), to be the Manager of 160 W. 4TH STREET, LLC, an Idaho limited liability company and acknowledged to me that he and said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

*Cinda P. Lewis*  
Notary Public  
Residing at: KETCHUM, ID  
Commission Expires: 09-28-2026



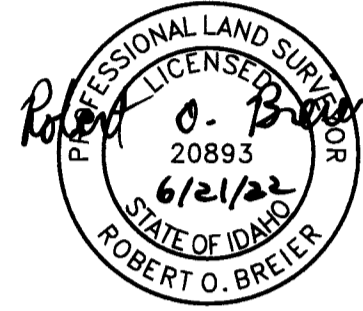
	<b>KETCHUM TOWNSITE: BLOCK 57: LOTS 1B &amp; 6A</b>	
	LOCATED WITHIN: SEC. 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
PREPARED FOR: JACK BARITEAU		
PROJECT NO. 19020	DWG BY: CPL	FILE: 19020CRT.DWG
FINAL PLAT	DATE: 04/27/2022	SHEET: 2 OF 3

# KETCHUM TOWNSITE: BLOCK 57: LOTS 1B & 6A

## SURVEYOR'S CERTIFICATE

I, Robert O. Breier, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed under my direct supervision in accordance with the State of Idaho Code relating to plats and surveys.

ROBERT O. BREIER, P.L.S. #20893



## COUNTY SURVEYOR'S APPROVAL

This is to certify that I, SAM YOUNG, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

Sam Young  
BLAINE COUNTY SURVEYOR

6/27/22  
DATE

## BLAINE COUNTY TREASURER'S CERTIFICATE

On this 22<sup>nd</sup> day of February, 2023, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: Morgan Drage

## BLAINE COUNTY RECORDER'S CERTIFICATE

Instrument # 698988  
HAILEY, BLAINE, IDAHO  
2-22-2023 01:11:40 PM No. of Pages: 3  
Recorded for: BENCHMARK PARTNERS, LLC  
STEPHEN MCDUGALL GRAHAM Fee: 12.00  
Ex-Officio Recorder Deputy  
Index to: PLATS

## KETCHUM CITY COUNCIL CERTIFICATE

I, the undersigned, City Clerk in and for the City of Ketchum, Blaine County, Idaho do hereby certify that at a regular meeting of the City Council held on the 13<sup>th</sup> day of June, 2022, this plat was duly accepted and approved.

Lisa Enourato City Clerk, INTERIM



## CITY ENGINEER'S CERTIFICATE

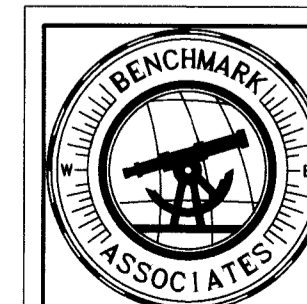
I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this 12<sup>th</sup> day of July, 2022, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

Sherril Newland  
SHERRIL NEWLAND, City Engineer

## CITY PLANNER'S CERTIFICATE

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this 12<sup>th</sup> day of JULY, 2022, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

By: Morgan Landers  
MORGAN LANDERS, SENIOR PLANNER



KETCHUM TOWNSITE:  
BLOCK 57: LOTS 1B & 6A

LOCATED WITHIN: SEC. 13, T4N, R17E, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: JACK BARITEAU

PROJECT NO. 19020	DWG BY: CPL	FILE: 19020CRT-2022.DWG
FINAL PLAT	DATE: 04/27/2022	SHEET: 3 OF 3



City of Ketchum

# Attachment 2: Quit Claim Deeds

**QUITCLAIM DEED**

For value received City of Ketchum, (“Grantor”), hereby releases and forever Quitclaims unto Waypoint Pearl, L.L.C., (“Grantee”), whose address is PO BOX 84, Sun Valley, ID 83353, all interest in which Grantor has or may hereafter acquire in the following described real property:

**All that certain lot, piece or parcel of land situated in Blaine County, Idaho and as shown on Exhibit A attached hereto, a plat which is recorded in the office of the recorder of Blaine, County, Idaho.**

IN WITNESS WHEREOF, the Grantor has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Neil Bradshaw  
Mayor

STATE OF IDAHO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2023, personally appeared before me, the undersigned, a Notary Public in and for the State of Idaho, duly commissioned and sworn as such, personally appeared Neil Bradshaw, Mayor of City Ketchum known to be the individual described in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

\_\_\_\_\_  
Notary Public in and for Idaho  
My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the Grantee has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**WAYPOINT PEARL, L.L.C.**

\_\_\_\_\_  
Jack E. Bariteau  
Member

STATE OF IDAHO )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2023, personally appeared before me, the undersigned, a Notary Public in and for the State of Idaho, duly commissioned and sworn as such, personally appeared Jack E. Bariteau known to me to be the individual described in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

\_\_\_\_\_  
Notary Public in and for Idaho  
My commission expires: \_\_\_\_\_

**Exhibit “A”**

**Legal Description of Property**



**QUITCLAIM DEED**

For value received City of Ketchum, (“Grantor”), hereby releases and forever Quitclaims unto 160 W 4<sup>th</sup> Street, L.L.C., (“Grantee”), whose address is PO Box 2638, Ketchum, ID 83340, all interest in which Grantor has or may hereafter acquire in the following described real property:

**All that certain lot, piece or parcel of land situated in Blaine County, Idaho and as shown on Exhibit A attached hereto, a plat which is recorded in the office of the recorder of Blaine, County, Idaho.**

IN WITNESS WHEREOF, the Grantor has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Neil Bradshaw  
Mayor

STATE OF IDAHO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2023, personally appeared before me, the undersigned, a Notary Public in and for the State of Idaho, duly commissioned and sworn as such, personally appeared Neil Bradshaw, Mayor of City Ketchum known to me to be the individual described in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

\_\_\_\_\_  
Notary Public in and for Idaho  
My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the Grantee has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**160 W 4<sup>TH</sup> STREET, L.L.C.**

\_\_\_\_\_  
Dave Whorton  
As Member

STATE OF IDAHO )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

THIS IS TO CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 2023, personally appeared before me, the undersigned, a Notary Public in and for the State of Idaho, duly commissioned and sworn as such, personally appeared Dave Whorton known to me to be the individual described in and who executed the within and foregoing instrument, and acknowledged to me that the same was signed as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.

\_\_\_\_\_  
Notary Public in and for Idaho  
My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the Grantor has executed this instrument on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**Exhibit “A”**

**Legal Description of Property**



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to review and approve the Westcliff Townhomes Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision.

Recommended Motion:

I move to approve the Westcliff Townhomes Final Plat and adopt the Findings of Fact, Conclusions of Law, and Decision.

Reasons for Recommendation:

- The Westcliff Townhomes project received Design Review approval on April 27, 2021 and the City Council approved the Townhouse Preliminary Plat and Phased Development Agreement on May 17, 2021.
The phased development agreement allows review and approval of the final plat following a certificate of occupancy being issued on the first townhouse unit.
A certificate of occupancy for the first townhouse was issued on May 9, 2023.
The final plat meets all the conditions of approval of the design review, preliminary plat, phased development agreement, and subdivision requirements.

Policy Analysis and Background (non-consent items only):

[Empty box for Policy Analysis and Background]

Sustainability Impact:

None OR state impact here: Approval of the final plat does not limit the city's ability to reach its sustainability goals outlined in the Sustainability Action Plan.

Financial Impact:

None OR Adequate funds exist in account: None

Attachments:

- 1. Application and Supporting Materials
2. Final Plat
3. Draft Findings of Fact, Conclusions of Law, and Decision



City of Ketchum

# Attachment A: Application and Supporting Materials



**City of Ketchum  
Planning & Building**

OFFICIAL USE ONLY
Application Number: P23-011
Date Received: 2/22/23
By: HLN
Fee Paid: \$1500
Approved Date:
By:

**Subdivision Application**

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 480 East Ave. N., Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: Westcliff Townhomes			
Owner of Record: Westcliff LLC c/o Layne Thompson			
Address of Owner: PO Box 2490, Ketchum, ID 83340			
Representative of Owner: Benchmark Associates			
Legal Description: Bavarian Subdivision, Lot 3B			
Street Address: 106/110 Rember Street			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 4 townhouse sublots			
Total Land Area: 18,130 sf			
Current Zoning District: GR-H			
Proposed Zoning District: GR-H			
Overlay District: none			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input checked="" type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: Existing 10' utility esmts. per Inst. Nos. 660804 & 661178; 20' ingress, egress, public utility & emergency vehicle access esmt.			
Briefly describe the improvements to be installed prior to final plat approval: Building 4 completion & C of O, utilities, drainage infrastructure & driveways installed.			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the preliminary plat			
All files should be submitted in an electronic format.			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortuous conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

Resigned by:  
  
 35183D4CA51A49E...  
 Applicant Signature

2/7/2023

Date



## WARRANTY DEED

FOR VALUE RECEIVED

Westcliff Investments LLC, an Ohio limited liability company,

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

Westcliff, LLC, an Idaho Limited Liability Company

the Grantee, whose current address is: 4755 Lake Forest Dr. Suite 100, Cincinnati, OH 45242

the following described premises, to-wit:

Lot 3B, of BAVARIAN VILLAGE SUBDIVISION: LOT 3B, as shown on the official plat thereof recorded as Instrument No. 680918, records of Blaine County, Idaho.

**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated this 29<sup>th</sup> day of July, 2021.

WESTCLIFF INVESTMENTS LLC

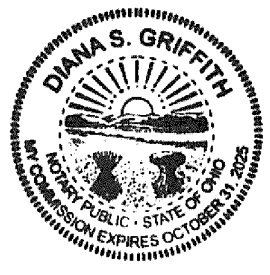
  
\_\_\_\_\_  
Gary Green  
Manager

State of OHIO  
County of Hamilton

This record was acknowledged before me on 29<sup>th</sup> day of July, 2021, by Gary Green, as Manager of Westcliff Investments, LLC.

Diana S. Griffith  
Notary Public  
My Commission Expires: 10/31/2025

(STAMP)







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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**WESTCLIFF HOMEOWNERS ASSOCIATION, INC.**

DRAFT

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR WESTCLIFF HOMEOWNERS ASSOCIATION, INC.**

THIS DECLARATION (the “**Declaration**”) dated for reference purposes \_\_\_\_\_, 2021, shall be effective upon recordation. This Declaration is made by Westcliff, LLC, an Idaho limited liability company (the “**Declarant**”). Declarant is the owner of certain real property in Ketchum, Idaho, more particularly described Lot 3B, of BAVARIAN VILLAGE SUBDIVISION: LOT 3B, as shown on the official plat thereof recorded as Instrument No. 680918, records of Blaine County, Idaho (the “**Property**”). Declarant hereby makes the following grants, submissions, and declarations:

**ARTICLE 1. IMPOSITION OF COVENANTS**

Section 1.1 Purpose.

The purpose of this Declaration is to provide a structured system of management and maintenance of the Property within the scope of the Project. To accomplish the purposes and intentions recited above, Declarant hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, occupied, and improved subject to the provisions of this Declaration.

Section 1.2 Covenants Running With the Land.

All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

**ARTICLE 2. DEFINITIONS**

The following words, when used in this Declaration, shall have the meanings designated below unless the context expressly requires otherwise:

Section 2.1 “Articles of Incorporation” means the Articles of Incorporation of the Association, as filed with the Idaho Secretary of State, a copy of which is attached hereto as Exhibit A.

Section 2.2 “Assessments” means the annual, special and default Assessments levied pursuant to this Declaration.

Section 2.3 “Association” means the Westcliff Homeowners Association, Inc., an Idaho nonprofit corporation, and its successors and assigns.

Section 2.4 “Board of Directors” means the governing body of the Association, as provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association and in the Act.

Section 2.5 “Bylaws” means any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including the amendments thereto, copies of which are attached hereto as Exhibit B.

Section 2.6 “City” means the City of Ketchum, Idaho.

Section 2.7 “Common Elements” means all of the Property, other than the Sublots or streets dedicated to the City.

Section 2.8 “Common Expenses Liability” means the liability for Common Expenses allocated to each Sublot pursuant to this Declaration.

Section 2.9 “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

- (a) expenses of administration, insurance, operation, and management, repair or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of an Owner as provided in this Declaration;
- (b) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws;
- (d) all sums lawfully assessed against the Sublots by the Board of Directors;
- (e) expenses agreed upon as Common Expenses by the members of the Association; and
- (f) expenses provided to be paid pursuant to any Management Agreement with a property manager.

Section 2.10 “Costs of Enforcement” means all monetary fees, fines, late charges, interest, expenses, costs, including receiver’s and appraiser’s fees, and reasonable attorneys’ fees and disbursements, including legal assistants’ fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Project Documents.

Section 2.11 “Declarant” means Westcliff, LLC, an Idaho limited liability company, its successors and assigns.

Section 2.12 “Declaration” means this Declaration, together with any supplement or amendment to this Declaration, and any other recorded instrument however denominated that

exercises a Development Right, executed by Declarant and recorded in the Records. The term Declaration includes all Maps and Plats recorded with this Declaration and all amendments to the Declaration and supplements to the Maps and Plats without specific reference thereto.

Section 2.13 “Deed” means each initial Warranty Deed recorded after the date hereof by which Declarant conveys a Sublot.

Section 2.14 “Eligible First Mortgagee” means a First Mortgagee that has notified the Association in writing of its name and address and status as a First Mortgagee.

Section 2.15 “First Mortgagee” means a holder of a Security Interest in a Sublot that has priority over all other Security Interests in the Sublot.

Section 2.16 “Lot” means one of the separate numbered parcels of real estate within the Project and depicted on a plat or map of the Project.

Section 2.17 “Majority of Owners” means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

Section 2.18 “Management Agreement” means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance, and management of the Project.

Section 2.19 “Managing Agent” means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.20 “Owner” means the Declarant or any other person who owns record title to a Sublot (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Sublot unless such person has acquired record title to the Sublot pursuant to foreclosure or any proceedings in lieu of foreclosure.

Section 2.21 “Person” means an individual, association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision or any combination thereof.

Section 2.22 “Plat” or “Map” means that part of a Declaration that is a land survey plat as set forth in Idaho Code § 50-1301, as amended, depicts all or any portion of the Property in two dimensions, and is recorded in the Records.

Section 2.23 “Project” means the term as defined in Section 1.1 hereof.

Section 2.24 “Project Documents” means the basic documents creating and governing the Project, including, but not limited to the Articles of Incorporation and Bylaws, the plat or

Map of the Project, and any procedures, Rules and Regulations, or policies relating to the Project adopted under such documents by the Master Association or its board of directors.

Section 2.25 “Real Estate” means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance.

Section 2.26 “Records” means the Office of the Clerk and Recorder in Blaine County, Idaho.

Section 2.27 “Rules and Regulations” means the rules and regulations promulgated by the Board of Directors for the management, preservation, safety, control, and orderly operation of the Property, as amended or supplemented from time to time.

Section 2.28 “Security Interest” means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.29 “Special Declarant Rights” means those rights reserved by Declarant in this Declaration.

Section 2.30 “Sublot” means one separate numbered parcels of real estate within the Property and depicted on a Plat or Map.

### **ARTICLE 3. DEVELOPMENT**

#### **Section 3.1 Subdivision.**

The Property shall be subdivided into Sublots which shall be developed in accordance with this Declaration and the Master Declaration. The Map shall be filed in the Records. The Map shall be filed following substantial completion of the infrastructure improvements required by the City and prior to the conveyance of any Sublot depicted on the Map to a purchaser.

#### **Section 3.2 Contracts to Convey Entered into Prior to Recording of Declaration and Map.**

A contract or other agreement for the sale of a Sublot entered into prior to the filing of this Declaration in the Records may legally describe such Sublot in substantially the manner set forth in this Article 3 and may indicate that this Declaration and Map are to be recorded.

**Section 3.3 Separate Tax Assessments.**

Upon the filing for record of this Declaration and the Map in the Records, the lien for taxes assessed shall be confined to the Sublots. No forfeiture or sale of any Sublot for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect the title to any other Sublot.

**Section 3.4 Owners' Property Rights in Common Elements.**

Every Owner shall have a perpetual right and easement of access over, across, and upon the Common Elements for the purpose of access to and from the Sublot from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Sublot; provided, however, that such right and easement shall be subject to the following:

- (a) the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, the Master Declaration and the Map; and
- (b) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Project as the Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Project for the benefit of all Owners, and for facilitating the greatest and most convenient availability and use of the Sublots and Common Elements by Owners.

**ARTICLE 4. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION**

**Section 4.1 Association Membership.**

Every Owner shall be a member of the Association and shall remain a member for the period of the Owner's ownership of a Sublot. No Owner, whether one or more persons or entity, shall have more than one membership per Sublot owned, but all of the persons or entities owning a Sublot shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Sublot. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Sublot. If title to a Sublot is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity or entities shall appoint and authorize one person or alternate persons to represent the Owners of the Sublot. Such representative shall be a natural person who is an Owner, or a designated board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Owners as a member of the Association, and

serve on the Board of Directors if elected, subject to the provisions of, and in accordance with, the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if only one of the multiple Owners of a Sublot is present at a meeting of the Association, such Owner is entitled to cast the vote allocated to that Sublot. If more than one of the multiple Owners are present and there is no written designation of an authorized representative, the vote allocated to that Sublot may be cast only in accordance with the agreement of a majority in interest of the Owners, which majority agreement may be assumed for all purposes if any one of the multiple Owners casts the vote allocated to that Sublot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Sublot.

#### Section 4.2 Voting Rights and Meetings.

Each Sublot in the Property shall have a single vote; provided, however, no vote allocated to a Sublot owned by the Association may be cast. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Directors, or by Owners of more than fifty percent (50%), of the votes in the Association. Not less than ten (10) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast fifty percent (50%) of the votes which may be cast for election of the Board of Directors are present, in person or by proxy, at the beginning of the meeting.

#### Section 4.3 Meeting to Approve Annual Budget and Elect Representative to Master Association.

At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures (both ordinary and capital) and reserves for the Association's next fiscal year as proposed by the Board of Directors. A summary of the proposed budget approved by the Board of Directors shall be mailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than ten (10) nor more than fifty (50) days after mailing of the summary to the Owners. Unless at the meeting a Majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratify a subsequent budget proposed by the Board of Directors as provided above. At the same meeting, the Owners shall elect a representative of the Association to



represent the Association's interests as a member of the Master Association and to vote in the collective interest of the Owners of the Property as a member of the Master Association.

Section 4.4 Owners' and Association's Addresses for Notices.

All Owners of each Sublot shall have one and the same registered mailing and email address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or the representative of the Owners of a Sublot shall furnish such addresses to the secretary of the Association within ten days after transfer of title to the Sublot to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Sublot or by such persons as are authorized to represent the interests of all Owners of the Sublot. If no address is registered or if all of the Owners cannot agree, then the address of the Sublot shall be deemed their registered address until another registered address is furnished as required under this Section 4.4. If the address of the Sublot is the registered address of the Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Sublot or, if the Sublot is unoccupied, if the notice is held and available for the Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to such address as the Board of Directors may designate from time to time by notice to the Owner(s).

Section 4.5 Transfer Information.

All Persons who acquire Sublot(s) other than from Declarant shall provide to the Association written notice of the Person's name, address (mailing and email), Sublot owned, date of transfer, and name of the former Owner within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Sublot or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Sublots. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

Section 4.6 Required Election of Owners.

Until 100 percent (100%) of the Sublots that may be created have been sold by Declarant, Declarant shall appoint the Board of Directors, who may be individual owners or affiliates of Declarant. Not later than sixty (60) days after conveyance of 100 percent (100%) of the Sublots that may be created to Owners other than Declarant, each of the Owners (one appointed individual for each Sublot), shall become a Director and member of the Board of Directors (four (4) members). The members of the Board of Directors and officers shall take office upon election.

Section 4.7 Requirements for Turnover of Declarant Control.

Upon the appointment of Owners set forth in Section 4.6, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

- (a) the original or a certified copy of the recorded Declaration as amended, the Association's articles of incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;
- (b) financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends.
- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (e) all insurance policies then in force, in which the Owners, the Association or its members of the Board of Directors and officers are named as insured persons;
- (f) any other permits issued by governmental bodies applicable to the Project and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;
- (g) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (h) employment contracts in which the Association is a contracting party; and
- (i) any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

**ARTICLE 5. ASSOCIATION POWERS AND DUTIES**

Section 5.1 Association Management Duties.

Subject to the rights and obligations of Declarant and other Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Property as a subdivided Lot within the Project and for the exclusive management, control, maintenance, repair, replacement, and improvement of the Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Association shall be

part of the Assessments, and prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association may establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Owner and such Owner's authorized agents.

Section 5.2 Association Powers.

The Association shall have, subject to the limitations contained in this Declaration, the Master Declaration, and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Property which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect assessments for Common Expenses from Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, the Master Declaration, Bylaws or Rules and Regulations or other provisions of the Project Documents in the Association's name on behalf of the Association or two or more Owners on matters affecting the Property;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional improvements to be made as part of the Common Elements;
- (j) acquire, hold, encumber, and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;

(k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;

(l) impose and receive a payment, fee, or charge for the use, rental or operation of the Common Elements, and for services provided to Owners;

(m) impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;

(n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for preparation of statements of unpaid Assessments;

(o) provide for the indemnification of the Association's officers and Board of Directors and maintain Board of Directors' and officers' liability insurance;

(p) assign the Association's right to future income, including the right to receive Assessments;

(q) by resolution, establish committees of the Board of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;

(r) exercise any other powers conferred by this Declaration or the Bylaws;

(s) exercise any other power that may be exercised in Idaho by legal entities of the same type as the Association; and

(t) exercise any other power necessary and proper for the governance and operation of the Association.

### Section 5.3 Actions by Board of Directors.

Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association.

### Section 5.4 Board of Directors Meetings.

All meetings of the Board of Directors, at which action is to be taken by vote, will be open to the Owners and agendas for meetings of the Board of Directors shall be made reasonably available for examination by all members of the Association or their representatives, except that meetings of the Board of Directors may be held in executive session(s), without giving notice and without the requirement that they be open to Owners, in the following situations:

- (a) matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;
- (b) consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (c) investigative proceedings concerning possible or actual criminal misconduct;
- (d) matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- (e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

Section 5.5 Right to Notice and Hearing.

Whenever the Declaration requires that an action be taken after “notice and hearing,” the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally and/or in writing, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Owner having a right to notice and hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 5.6 Payments to Working Capital Account.

In order to provide the Association with adequate working capital funds, the Association may collect from purchasers at the time of the initial sale of each Sublot by Declarant an amount equal to three months’ worth of annual Assessments based on the Association’s budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments.

## ARTICLE 6. ASSESSMENTS

### Section 6.1 Commencement of Annual Assessments.

Until the Association makes an Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

### Section 6.2 Annual Assessments.

The Association shall levy annual Assessments to pay for the Common Expense Liability allocated to each Sublot pursuant to this Declaration. The total annual Assessments shall be based upon a budget of the Association's cash requirements for upkeep of the Property including maintenance, repair and replacement of the Common Elements, as well as the Association's obligations to the Master Association pursuant to the Project Documents. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be credited to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future Assessments for Common Expenses.

### Section 6.3 Apportionment of Annual Assessments.

The total annual Assessment for any fiscal year of the Association shall be assessed to the Sublots on as set forth in (see Exhibit C) subject to: (a) Common Expenses which are separately metered or assessed to the Sublots by third parties; (b) any increased cost of insurance based upon risk which shall be assessed to Sublots in proportion to the risk; and (c) any Common Expense caused by the misconduct of any Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Directors shall determine against such Owner(s).

### Section 6.4 Special Assessments.

In addition to the annual Assessments authorized above, the Board of Directors may at any time and from time to time determine, levy, and assess in any fiscal year a special Assessment applicable to that particular fiscal year (and for any such longer period as the Board of Directors may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Project, specifically including any fixtures and personal property related to it. Any amounts determined, levied, and assessed pursuant to this Declaration shall be assessed to the Sublots pursuant to the provisions in Section 6.3 entitled "Apportionment of Annual Assessments" set forth above.

### Section 6.5 Due Dates for Assessment Payments.

Unless otherwise determined by the Board of Directors, the Assessments which are to be paid in installments shall be paid quarterly in advance and shall be due and payable to the Association at its office or as the Board of Directors may otherwise direct in any Management Agreement, without notice (except for the initial notice of any special Assessment), on the first day of each month. If any such installment shall not be paid within thirty (30) days after it shall have become due and payable, then the Board of Directors may assess a late charge, default interest charge (not to exceed the rate from time to time allowed by law), fee, or such other charge as the Board of Directors may fix by rule from time to time to cover the extra expenses involved in handling such delinquent Assessment installment. An Owner's Assessment shall be prorated if the ownership of a Sublot commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period. However, if the Common Expenses Liability is re-allocated, any installment(s) of an assessment not yet due shall be recalculated in accordance with the re-allocated Common Expenses Liability.

#### Section 6.6 Default Assessments.

All Costs of Enforcement assessed against an Owner pursuant to the Declaration, or any expense of the Association which is the obligation of an Owner pursuant to the Declaration shall become a default Assessment assessed against the Owner's Sublot. Notice of the amount and demand for payment of such default Assessment shall be sent to the Owner prior to enforcing any remedies for non-payment hereunder.

#### Section 6.7 Covenant of Personal Obligation for Assessments.

Declarant, by creating the Sublots pursuant to this Declaration, and all other Owners, by acceptance of the deed or other instrument of transfer of his Sublot (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments, and (c) default Assessments applicable to the Owner's Sublot. No Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Sublot.

#### Section 6.8 Lien for Assessments; Assignment of Rents.

The annual, special, and default Assessments (including installments of the Assessments) shall be burdens running with the specific Sublot to which such Assessments apply. The Association may impose a lien upon a specific Sublot, by preparing a written lien notice setting forth the description of the Sublot, the amount of Assessments on the Sublot unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Owner or Owners of the Sublot, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Directors, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Upon any default in the payment of annual, special, or default Assessments, the Association shall also

have the right to appoint a receiver to collect all rents, profits, or other income from the Sublot payable to the Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Owner, by ownership of a Sublot, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of annual, special, or default Assessments.

#### Section 6.9 Remedies for Nonpayment of Assessments.

If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may declare due and payable all unpaid installments of the annual Assessment or any special Assessment otherwise due during the fiscal year during which such default occurred, (c) the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same, (d) the Association may proceed to foreclose its lien against the particular Sublot pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Idaho law for foreclosure of real estate mortgages and (e) the Association may suspend the Owner's right to vote in Association matters until the Assessment is paid. An action at law or in equity by the Association (or counterclaims or cross-claims for such relief in any action) against an Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Sublot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Sublot acquired in such proceedings.

#### Section 6.10 Purchaser's Liability for Assessments.

Notwithstanding the personal obligation of each Owner to pay all Assessments on the Sublot, and notwithstanding the Association's perpetual lien upon a Sublot for such Assessments, all purchasers shall be jointly and severally liable with the prior Owner(s) for any and all unpaid Assessments against such Sublot, without prejudice to any such purchaser's right to recover from any prior Owner any amounts paid thereon by such purchaser. A purchaser's obligation to pay Assessments shall commence upon the date the purchaser becomes the Owner of a Sublot. For Assessment purposes, the date a purchaser becomes the Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the Owner of a Sublot upon the execution and delivery of



the deed or other instruments conveying or transferring title to the Sublot, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Sublot, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

Section 6.11 Subordination of Association's Lien for Assessments.

The Association's perpetual lien on a Sublot for Assessments shall be superior to all other liens and encumbrances except the following:

- (a) real property ad valorem taxes and special assessment liens duly imposed by an Idaho governmental or political subdivision or special taxing district, or any other liens made superior by statute;
- (b) liens recorded prior to this Declaration unless otherwise agreed by the parties thereto; and
- (c) the lien of any First Mortgagee except to the extent Idaho law grants priority for Assessments to the Association.

Any First Mortgagee who acquires title to a Sublot by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Sublot free of any claims for unpaid Assessments and Costs of Enforcement against the Sublot which accrue prior to the time such First Mortgagee acquires title to the Sublot except to the extent the amount of the extinguished lien may be reallocated and assessed to all Sublots as a Common Expense. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Sublot after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or other transfer of any Sublot, (a) except as provided above with respect to First Mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section, and (c) except as provided in the next Section, shall not affect the Association's lien on such Sublot for Assessments due and owing prior to the time such purchaser acquired title and shall not affect the personal liability of each Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the purchaser of a Sublot from liability for, or the Sublot from the lien of, any Assessments made after the sale or transfer.

Section 6.12 Statement of Status of Assessments.

On or before fourteen (14) calendar days after receipt of written notice to the Managing Agent or, in the absence of a Managing Agent, to the Board of Directors and payment of a reasonable fee set from time to time by the Board of Directors, any Owner, holder of a Security Interest, prospective purchaser of a Sublot or their designees shall be furnished a statement of the Owner's account setting forth:

- (a) the amount of any unpaid Assessments then existing against a particular Sublot;
- (b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;
- (c) the date(s) for payment of any installments of any special Assessments outstanding against the Sublot; and
- (d) any other information, deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a member of the Board of Directors, by an officer of the Association, or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

#### Section 6.13 Liens.

Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interest of any Owner in the Common Elements.

### **ARTICLE 7. MAINTENANCE RESPONSIBILITY**

#### Section 7.1 Responsibility of the Owner.

Each Owner shall be responsible for ongoing maintenance and care of the Sublots and for keeping the same in an excellent, clean, sanitary, and attractive condition.

#### Section 7.2 Owner's Negligence.

In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of an Owner, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Owner; and, if the Owner fails to repay the expenses incurred by the Association within seven days after notice to the Owner of the amount owed, then the failure to so repay shall be a default by the Owner, and such expenses shall

automatically become a default Assessment determined and levied against such Sublot, enforceable by the Association in accordance with this Declaration.

Section 7.3 Responsibility of the Association.

The Association, without the requirement of approval of the Owners, shall maintain and keep in good repair, replace, and improve, as a Common Expense, all of the Property not required in this Declaration to be maintained and kept in good repair by an Owner or by Declarant. Without limiting the foregoing, the Association shall be responsible for the maintenance and repair of the following:

a) all landscape areas, including landscaped areas within the dedicated street right-of-ways and those areas set aside as parks for the enjoyment of the community at large, if any. This maintenance shall include, but not be limited to, irrigation, planting, pruning, replacement of dying trees, grasses, and shrubs, and maintenance and replacement of park amenities such as tables and benches.

b) all streets, ways, alleys, and parking areas not dedicated to the public. These areas shall be maintained in a neat, attractive and safe manner and shall include necessary paving, drainage, and snow removal.

c) removal of snow from sidewalks within the public right of way.

d) snow removal and snow storage areas not located on land dedicated to the City.

Section 7.4 Mechanics' Liens.

Subsequent to recording of this Declaration and the filing of the Map in the Records, no labor performed or materials furnished for use and incorporated in any Sublot with the consent of or at the request of the Owner or the Owner's agent, contractor or subcontractor, shall be the basis for the filing of a lien against a Sublot of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Sublot of the Owner for whom such labor shall have been performed or such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanics' lien or for labor performed or for materials furnished in work on such Owner's Sublot, against the Sublot of another Owner or against the Common Elements, or any part thereof.

Section 7.5 Enforcement by the Association.

At its own initiative or upon the written request of any Owner (if the Association determines that further action by the Association is proper), the Association shall enforce the indemnity provided by the provisions of this Article 7 by collecting from the Owner of the

Sublot on which the labor was performed or materials furnished the amount necessary to discharge by bond or otherwise any such mechanics' lien, to pay all costs and reasonable attorneys' fees incidental to the lien, and to obtain a release of such lien. If the Owner of the Sublot on which the labor was performed or materials furnished refuses or fails to indemnify within five (5) days after the Association shall have given notice to such Owner of the total amount of the claim, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section 7.5, and such amount to be indemnified shall automatically become a default Assessment determined and levied against such Sublot, and enforceable by the Association pursuant to this Declaration.

## **ARTICLE 8. USE RESTRICTIONS**

### **Section 8.1 Use of Sublots.**

No alterations to any Sublot, including painting, excavation, construction or other alteration shall be made or caused to be made by any Owner without the prior written consent of the Board of Directors.

### **Section 8.2 Short Term Rentals.**

No Sublot or unit shall be rented or leased for a period of less than thirty (30) days, and any rental or lease below this threshold shall be forbidden.

## **ARTICLE 9. EASEMENTS**

### **Section 9.1 Easement of Enjoyment.**

Every Owner shall have a non-exclusive easement for the use and enjoyment of the Common Elements, which shall be appurtenant to and shall pass with the title to every Sublot, subject to the easements set forth in this Agreement.

### **Section 9.2 Delegation of Use.**

Any Owner may delegate, in accordance with the Project Documents, the Owner's right of enjoyment in the Common Elements to an Occupant of the Owner's Sublot.

### **Section 9.3 Recorded Easements.**

The Property shall be subject to any easements shown on any recorded plat affecting the Property, shown on the recorded Map or reserved or granted under this Declaration.

### **Section 9.4 Utility Easements.**

There is hereby created a general easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable

communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Owners, the Association, and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant during the Period of Declarant Control and, thereafter, the Association, shall have the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 9.4 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 9.5 Emergency Access Easement.

A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and upon the Property in the proper performance of their duties.

Section 9.6 Easements of Access for Repair, Maintenance, and Emergencies.

Some of the Common Elements are or may be located within the Sublots or may be conveniently accessible only through the Sublots. The Owners and the Association shall have the irrevocable right, to be exercised by the Association as the Owners' agent, to have access to each Sublot and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Sublot.

Section 9.7 Easements Deemed Created.

All conveyances of Sublots hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 9, even though no specific reference to such easements or to this Article 9 appears in the instrument for such conveyance.

**ARTICLE 10. DURATION OF COVENANTS; AMENDMENT AND TERMINATION**

Section 10.1 Term.

This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, this Declaration shall be

automatically extended for successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 10.2 Amendment of Declaration.

Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration (including the Map) may be amended only by a vote or agreement of Owners to which seventy-five (75%) of the votes in the Association are allocated.

Section 10.3 Execution of Amendments; Expenses.

Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of: (a) any Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; or (c) in all other cases by the Association as a Common Expense.

Section 10.4 Recording of Amendments.

Any amendment to this Declaration shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Owners, if any, and required consents of First Mortgagees (and/or Eligible First Mortgagee, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of each person or entity executing the Amendment.

**ARTICLE 11. MISCELLANEOUS**

Section 11.1 Enforcement.

Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration shall be through any proceedings at law or in equity brought by any aggrieved Owner, the Association, or Declarant against the Association or any Owner. Such actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Section 11.2 Notices.

All notices, demands, or other communications required or permitted to be given hereunder shall be in writing, and any and all such items shall be deemed to have been duly

delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid; as of 12:00 Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier or email.

Section 11.3 Nonwaiver.

Failure by Declarant, the Association, or any Owner to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 11.4 Severability.

The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 11.5 Number and Gender.

Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 11.6 Captions.

The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 11.7 Conflicts in Legal Documents.

. In case of conflicts between the provisions in this Declaration and the Master Declaration, the Master Declaration shall control. In case of conflicts between the provisions in this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control

Section 11.8 Exhibits.

All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 11.9 Choice of Law.

This Declaration shall be construed and interpreted in accordance with the laws of the State of Idaho.

Section 11.10 Negotiation and Mediation. If any dispute arises by and among the Owners or Directors, the parties shall negotiate in good faith in an attempt to resolve the dispute or claim. If the parties are unable to resolve the dispute, prior to initiating any legal proceedings, the parties shall submit the dispute to a mediator or mediation service as may be mutually agreed upon by the parties. If the parties do not settle the claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings.

Executed as of \_\_\_\_\_, 2021

WESTCLIFF LLC

\_\_\_\_\_  
By:

Its:

STATE OF IDAHO )

)  
ss

County of Blaine )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, a notary public in and for said state, personally appeared \_\_\_\_\_, known or identified to me to be an authorized agent of WESTCLIFF, LLC, an Idaho limited liability company, who subscribed said limited partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



\_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

DRAFT

**EXHIBIT A  
TO  
DECLARATION**

**ASSOCIATION ARTICLES OF INCORPORATION**

DRAFT

**EXHIBIT B  
TO  
DECLARATION**

**ASSOCIATION BYLAWS**

DRAFT

**EXHIBIT C  
TO  
DECLARATION**

**COMMON AREA OWNERSHIP INTEREST**

Allocation of Garage and Livable Square Footage in Common Area  
and Project Building

<u>Lot Number</u>	<u>Interest in Common Area (% of Lot Area of Project Building Area)</u>
1	25%
2	25%
3	25%
3	25%
	100.00%

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:  
Michael D. Pogue  
Gravis Law, PLLC  
P.O. Box 3020  
Sun Valley, ID 83353

---

(space above line for recorder's use)

## ACCESS EASEMENT

This Easement Agreement ("Agreement") is dated for reference purposes the \_\_\_\_ day of \_\_\_\_\_, 2023, and is made and entered by Westcliff, LLC, an Idaho limited liability company ("Owner").

- 1) Recitals. This Agreement is made in contemplation of the following facts and purposes:
  - b) Westcliff, LLC is the owner in fee simple of a parcel of property located in Blaine County, Idaho, 110 Rember St., Ketchum, ID, more particularly described as Bavarian Village Sub Lot 3B, Blaine County, Idaho (the "Property").
  - c) The Property shall be subdivided into four (4) sublots as reflected in the Attached Exhibit A (page 2).
  - d) Owner desires to create and designate a 20-foot-wide easement within Sublot 2 for ingress, egress, public utilities and emergency vehicle access (the "Easement Area") to benefit Sublot 1. Sublot 1, Sublot 2 and the Easement Area are reflected in Exhibit A.
  - e) The Easement Area is more particularly described on Exhibit A.

Now, therefore, on the basis of the foregoing Recitals, and intending to be bound thereby:

- 2) Grant of Easement
  - a) Owner hereby grants and conveys to Sublot 1, its owners, successors and assigns (collectively, "Grantee"), a non-exclusive easement over and across the Easement Area for the purposes of ingress, egress, public utilities and emergency vehicle access.
  - b) Grantee shall keep and maintain the Easement Area in a clean and safe condition, and shall be responsible for improving, repairing and removing snow from the Easement Area and all improvements thereto at its sole expense. In particular, Grantee shall maintain and perform necessary repairs on the boiler and snowmelt system that relates and benefits Grantee's Sublot 1 property and the Easement Area.
- 3) Grantee hereby indemnifies and agrees to hold Owner, Sublot 2 (and its owners and successors and assigns) and the Westcliff Townhomes Owners Association, Inc. safe and

harmless from and against any and all loss, cost, damage and expense (including attorney's fees and court costs), suffered or incurred by reason of this Agreement or the use of the Easement Area by Grantee, Grantee's invitees, or anyone claiming, by, through or under Grantee.

- 4) **Successors and Assigns.** All provisions of this Agreement, including the benefits and burdens, run with the land covered hereby and are binding on and inure to the benefit of the heirs, permitted assigns, permitted successors, tenants and personal representatives of the parties hereto.
- 5) **Recordation of Instrument.** The parties agree that this Agreement may be duly recorded.
- 6) **Owner Indemnification.** The owners of Sublot 1, Sublot 2 and the Westcliff Townhomes Owners Association, Inc. agree to hold Owner harmless from any and all claims relating to the preparation, force and effect of this Access Agreement.
- 7) **Miscellaneous Provisions**
  - a) The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.
  - b) Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
  - c) Should any action be brought to interpret or enforce any provision hereof, or for damages for breach hereof, the prevailing party shall be entitled to such reasonable attorney's fees as may be determined by any court of competent jurisdiction wherein such action is brought.
  - d) This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matter.
  - e) This Agreement shall be construed in accordance with the laws of the State of Idaho.
  - f) No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of the document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

WESTCLIFF, LLC

\_\_\_\_\_  
By:  
Its:

STATE OF IDAHO                    )  
  ) ss.  
County of Blaine                 )

On this \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_, known to me or proved to me upon satisfactory evidence to be the authorized agent for Westcliff, LLC, the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public for Idaho  
Residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

# Benchmark Associates

ENGINEERING, PLANNING, SURVEYING & MAPPING  
P.O. Box 733 - 100 Bell Drive  
Ketchum, Idaho 83340  
208/726-9512 Fax 208/726-9514 www.benchmark-associates.com

## EASEMENT DESCRIPTION

A parcel of land lying within Lot 3B of Bavarian Village Subdivision, Instrument No. 680918, Section 13, Township 4 North, Range 17 East, B.M., Ketchum, Blaine County, Idaho. Said parcel of land being more particularly described by metes and bounds as follows:

**Commencing** at a 1/2" rebar with cap marked LS 11179, marking the southeast corner of Lot 3B of Bavarian Village Subdivision, said point being the **Point Of Beginning**;

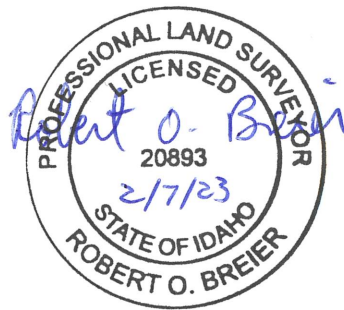
thence N89°25'35"W, 79.65 feet along the southerly boundary of said Lot 3B;

thence departing said southerly boundary, N00°34'38"E, 20.00 feet;

thence S89°25'35"E, 75.12 feet to the westerly right-of-way of Bird Drive;

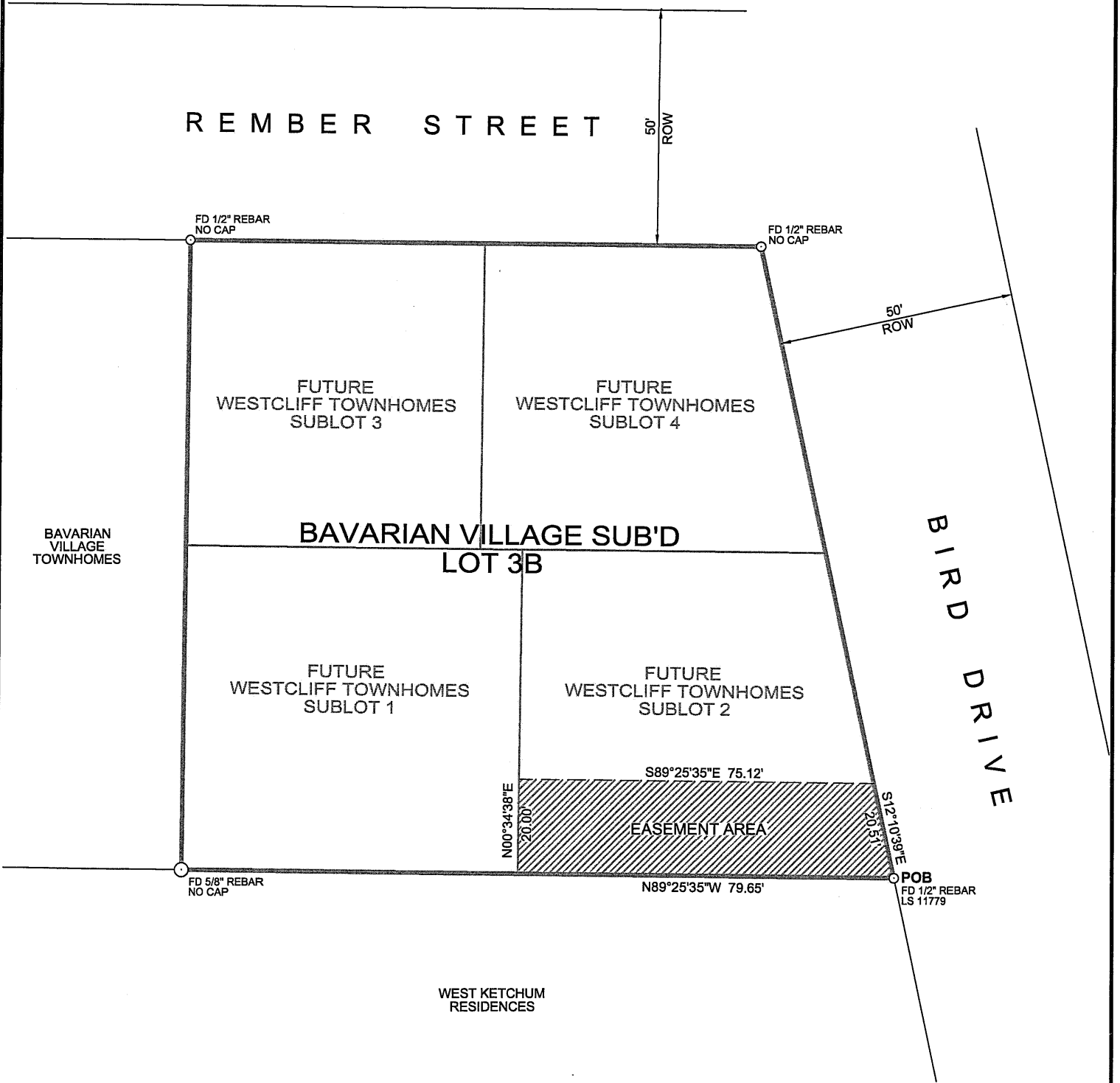
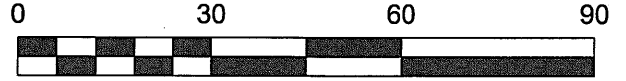
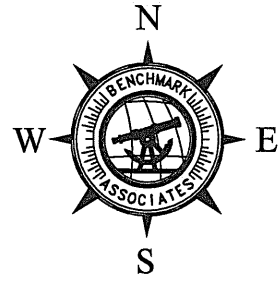
thence S12°10'39"E along said westerly right-of-way, 20.51 feet to the **Point of Beginning**.

Said parcel having an approximate area of 0.04 acres (1548 square feet), more or less. See exhibit map attached hereto and made a part of this description.





# EASEMENT EXHIBIT





City of Ketchum

# Attachment B: Final Plat

# WESTCLIFF TOWNHOMES

FILE NO. P23-011

LOCATED WITHIN: SECTION 13, TOWNSHIP 4 NORTH, RANGE 17 EAST, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

A TOWNHOUSE SUBDIVISION OF BAVARIAN VILLAGE SUBDIVISION, LOT 3B.

MARCH 2023

### LEGEND:

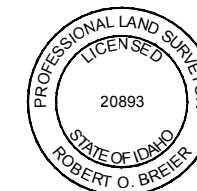
- PROPERTY BOUNDARY
- SUBLOT LINE
- ADJOINING PROPERTY LINE
- EASEMENT LINE AS SHOWN
- BE
- BUILDING ENVELOPE
- BLAINE COUNTY GIS TIES
- FOUND 5/8" REBAR (MARKED AS NOTED)
- FOUND 1/2" REBAR (MARKED AS NOTED)
- SET 5/8" REBAR, PLS 20893

### SURVEYOR'S NARRATIVE:

- THE PURPOSE OF THIS PLAT IS TO CREATE FOUR TOWNHOUSE SUBLOTS WITHIN BAVARIAN VILLAGE SUBDIVISION, LOT 3B. FOUND MONUMENTS WERE ACCEPTED AS EITHER ORIGINAL OR REPLACEMENTS OF ORIGINAL CORNERS.
- DIMENSIONS SHOWN HEREON ARE MEASURED. FOR RECORD DIMENSIONS, SEE REFERENCED SURVEYS.
- DOCUMENTS USED IN THE COURSE OF THIS SURVEY:
  - ORIGINAL PLAT OF "BAVARIAN VILLAGE SUBDIVISION", INST. NO. 139821.
  - PLAT OF "BAVARIAN VILLAGE SUBDIVISION: LOTS 3A, 4A, 5A, 6A, 7A & 8A", INST. NO. 631181.
  - PLAT OF "BAVARIAN VILLAGE SUBDIVISION: LOT 3B", INST. NO. 680918.

### NOTES:

- REFER TO THE ORIGINAL PLAT OF BAVARIAN VILLAGE SUBDIVISION, INST. NO. 139821, TO THE PLAT OF BAVARIAN VILLAGE SUBDIVISION: LOTS 3A, 4A, 5A, 6A, 7A & 8A, INST. NO. 631181 AND TO THE PLAT OF BAVARIAN VILLAGE SUBDIVISION: LOT 3B, INST. NO. 680918 FOR CONDITIONS, RESTRICTIONS AND PLAT NOTES GOVERNING THIS PROPERTY.
- THE TOWNHOME DECLARATION FOR WESTCLIFF TOWNHOMES WERE RECORDED AS INST. NO. \_\_\_\_\_, RECORDS OF BLAINE COUNTY, IDAHO.
- THE PHASED DEVELOPMENT AGREEMENT FOR WESTCLIFF TOWNHOMES WAS RECORDED AS INST. NO. 683171, RECORDS OF BLAINE COUNTY, IDAHO.
- ALL TOWNHOUSE OWNERS SHALL HAVE MUTUAL RECIPROCAL EASEMENTS FOR EXISTING AND FUTURE PUBLIC AND PRIVATE UTILITIES INCLUDING, BUT NOT LIMITED TO, WATER, CABLE TV, SEWER, NATURAL GAS, TELEPHONE, AND ELECTRIC LINES OVER, UNDER AND ACROSS THEIR TOWNHOUSE SUBLOTS AND COMMON AREA FOR THE REPAIR, MAINTENANCE AND REPLACEMENT THEREOF.
- A 20 FOOT WIDE EASEMENT WITHIN SUBLOT 2 FOR INGRESS, EGRESS, PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS PER INST. NO. \_\_\_\_\_.



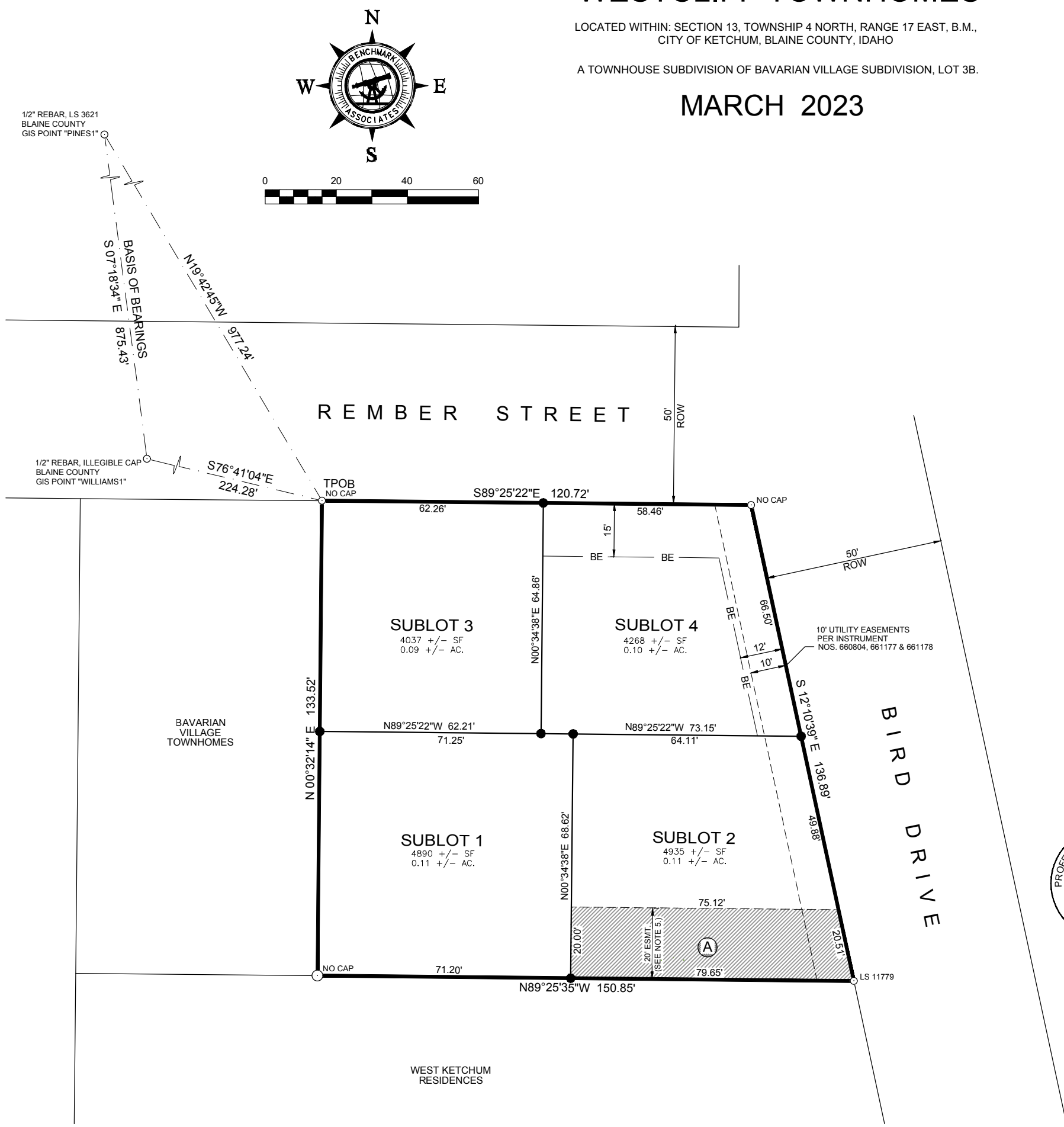
### HEALTH CERTIFICATE

Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 50-1326, by the issuance of a certificate of disapproval.

Dated: \_\_\_\_\_

South Central Public Health District, REHS

	<b>WESTCLIFF TOWNHOMES</b>	
	LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO	
PREPARED FOR: WESTCLIFF, LLC		
PROJECT NO. 20261	DWG BY: DWS/CPL	FILE: 20261pg1.DWG
FINAL PLAT	DATE: 03/27/2023	SHEET: 1 OF 3



# WESTCLIFF TOWNHOMES

### OWNER'S CERTIFICATE

THIS IS TO CERTIFY that WESTCLIFF, LLC, an Idaho limited liability company is the owner in fee simple of Real Property described as follows:

A parcel of land located within Section 13, Township 4 North, Range 17 East, Boise Meridian, Ketchum, Idaho, more particularly described as follows:

Lot 3B of BAVARIAN VILLAGE SUBDIVISION: LOT 3B, as shown on the official plat thereof, recorded as Instrument No. 680918, records of Blaine County, Idaho.

The easements shown hereon are not dedicated to the public, but the right to use said easements for the intended purposes is hereby reserved. No structures other than for such utility and other designated uses are to be erected within the lines of said easements.

Pursuant to Idaho Code 50-1334, the undersigned, as owner, does hereby state that the lots on this plat are eligible to receive water service from the Ketchum Water Department, and that said district has agreed in writing to serve the lots shown on this plat.

IN WITNESS WHEREOF, I have hereunto set my hand.

WESTCLIFF, LLC, an Idaho limited liability company \_\_\_\_\_

By: WESTCLIFF INVESTMENTS, LLC, an Ohio limited liability company

By: \_\_\_\_\_  
LAYNE THOMPSON, Manager

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

### ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 20\_\_, before me, the undersigned, personally appeared LAYNE THOMPSON, known or identified to me (or proved to me), to be the manager of Westcliff Investments, LLC, the manager of Westcliff, LLC and acknowledged to me that he and said limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public

Residing at: \_\_\_\_\_

Commission Expires: \_\_\_\_\_



### WESTCLIFF TOWNHOMES

LOCATED WITHIN: SEC. 12, T4N, R17E, B.M.,  
CITY OF KETCHUM, BLAINE COUNTY, IDAHO

PREPARED FOR: WESTCLIFF, LLC

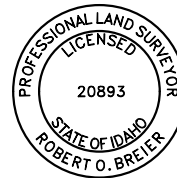
PROJECT NO. 20261	DWG BY: CPL	FILE: 20261CRT.DWG
FINAL PLAT	DATE: 01/26/2023	SHEET: 2 OF 3

# WESTCLIFF TOWNHOMES

**SURVEYOR'S CERTIFICATE**

I, Robert O. Breier, a duly Registered Professional Land Surveyor in the State of Idaho, do hereby certify that this is a true and accurate map of the land surveyed under my direct supervision in accordance with the State of Idaho Code relating to plats and surveys.

ROBERT O. BREIER, P.L.S. #20893



**PROJECT ENGINEER'S CERTIFICATE**

I, the undersigned, Project Engineer for Westcliff Townhomes do hereby certify that the subdivision is in accordance with the City of Ketchum subdivision standards, on this \_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_

**COUNTY SURVEYOR'S APPROVAL**

This is to certify that I, SAM YOUNG, County Surveyor for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.

\_\_\_\_\_  
BLAINE COUNTY SURVEYOR

\_\_\_\_\_  
DATE

**BLAINE COUNTY TREASURER'S CERTIFICATE**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the foregoing plat was approved and accepted by the Blaine County Treasurer, Blaine County, Idaho.

By: \_\_\_\_\_

**BLAINE COUNTY RECORDER'S CERTIFICATE**

**KETCHUM CITY COUNCIL CERTIFICATE**

I, the undersigned, City Clerk in and for the City of Ketchum, Blaine County, Idaho do hereby certify that at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2023, this plat was duly accepted and approved.

By: \_\_\_\_\_  
TRENT DONAT, City Clerk

**CITY ENGINEER'S CERTIFICATE**

I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
ROBYN MATTISON, City Engineer

**CITY PLANNER'S CERTIFICATE**

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

By: \_\_\_\_\_

	<b>WESTCLIFF TOWNHOMES</b>	
	LOCATED WITHIN: SECTION 13, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO PREPARED FOR: WESTCLIFF, LLC	
PROJECT NO. 20261	DWG BY: CPL	FILE: 20261CRT.DWG
FINAL PLAT	DATE: 05/09/2023	SHEET: 3 OF 3



City of Ketchum

# Attachment C: Draft Findings of Fact, Conclusions of Law, and Decision



City of Ketchum  
Planning & Building

<b>IN RE:</b>	)	
	)	
<b>Westcliff Townhomes</b>	)	<b>KETCHUM CITY COUNCIL</b>
<b>Townhouse Final Plat</b>	)	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND</b>
<b>Date: May 15, 2023</b>	)	<b>DECISION</b>
	)	
<b>File Number: P23-011</b>	)	

**PROJECT:** Westcliff Townhomes

**FILE NUMBERS:** P23-011

**APPLICATION:** Townhouse Subdivision Final Plat

**REPRESENTATIVE:** Cinda Williams, Galena/Benchmark Engineering

**OWNER:** Westcliff, LLC

**LOCATION:** 110 Rember Street (Bavarian Village Subdivision, Lot 3B)

**ZONING:** General Residential High Density (GR-H) Zoning District

**OVERLAY:** None

**NOTICE:** A public hearing was conducted for the townhouse preliminary plat approval. Public hearings are not required for townhouse final plats; therefore, no public hearing was scheduled for the application.

**RECORD OF PROCEEDINGS**

The City of Ketchum received the application for the Westcliff Townhomes final plat on February 22, 2023. The application was deemed complete on March 24, 2023. City departments conducted a thorough review of the application. Per the conditions of approval for the townhouse preliminary plat, all conditions of the Design Review approval, townhouse preliminary plat, and phased development agreement must be met prior to approval of the final plat. As of the date of these findings, all conditions have been met and all department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

The Ketchum City Council conducted their final consideration of the Townhouse Subdivision Final Plat (File No. P23-011) application at their May 15, 2023, meeting. After considering the staff’s analysis and the application materials, the Council approved the application unanimously.

**BACKGROUND**

The Westcliff Townhomes is a 4-unit detached townhome development on a 0.42 acre vacant lot at the southwest corner of Rember Street and Bird Drive within the General Residential High Density (GR-H) Zoning District. The Planning & Zoning Commission held a public hearing and approved the Design Review (Application No. P20-019) and unanimously recommended approval of the Townhouse Subdivision Preliminary Plat and Phased Development Agreement (Application P21-008) to the City Council on April 27, 2021. The Ketchum City Council considered and approved the Townhouse Subdivision application and Phased Development Agreement at their May 17, 2021 meeting.

**FINDINGS OF FACT**

The Council, having reviewed the entire project record, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

**FINDINGS REGARDING COMPLIANCE WITH TOWNHOUSE SUBDIVISION REQUIREMENTS**

Townhouse Plat Requirements					
Compliant			Standards and City Council Findings		
Yes	No	N/A	City Code	City Standards and City Council Findings	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.B	Townhouse Owners' Documents: The subdivider of the townhouse project shall submit with the preliminary plat application a copy of the proposed party wall agreement and any proposed document(s) creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, parking and/or open spaces. Prior to final plat approval, the subdivider shall submit to the city a final copy of such documents and shall file such documents prior to recordation of the plat, which shall reflect the recording instrument numbers.	
			<i>Findings</i>	<i>The applicant has submitted a complete final plat application including the CC&amp;Rs. Per condition of approval #1, the applicant shall file such document for recording in conjunction with the final plat for recording.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C. 2	The subdivider may apply for preliminary plat approval from the City Council pursuant to subsection 16.04.030D of this chapter at the time application is made for design review approval pursuant to title 17, chapter 17.96 of this code. The City Council may approve, deny or conditionally approve such preliminary plat upon consideration of the action taken on the application for design review of the project.	
			<i>Findings</i>	<i>The townhome subdivision preliminary plat and design review applications for the development were reviewed concurrently. The design review was approved by the Planning and Zoning Commission on April 27, 2021 and the Preliminary Plat was approved by the City Council on May 17, 2021.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C. 3	The preliminary plat, other data, and the commission's findings may be transmitted to the council prior to commencement of construction of the project under a valid building permit issued by the City. The council shall act on the preliminary plat pursuant to subsection 16.04.030E and F of this chapter.	



			<i>Findings</i>	<i>The Ketchum City Council reviewed the preliminary plat per the requirements of all applicable sections and approved the plat as outlined in the findings of fact dated May 17, 2021.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C.4	In the event a phased townhouse development project is proposed, after preliminary plat is granted for the entirety of a project, the final plat procedure for each phase of a phased development project shall follow §16.04.030.G and comply with the additional provisions of §16.04.110 of this code.
			<i>Findings</i>	<i>A Phased Development Agreement was approved by City Council on May 17, 2021 and recorded under Instrument #683171. All requirements of the agreement have been met as of the date of these findings.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.D	D. Final Plat Procedure: 1. The final plat procedure contained in subsection 16.04.030G of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the townhouse has received either: a. A certificate of occupancy issued by the city of Ketchum for all structures in the townhouse development and completion of all design review elements as approved by the planning and zoning administrator; or b. Signed council approval of a phased development project consistent with §16.04.110 herein. 2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code.
			<i>Findings</i>	<i>Per the phased development agreement, a certificate of occupancy for one unit was required prior to approval of the final plat. A certificate of occupancy for the first unit was issued on May 9, 2023, and therefore the final plat can be approved and recorded.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E.1	E. Required Findings: In addition to all Townhouse Developments complying with the applicable provisions of Title 17 and this Subdivision Chapter (§16.04), the Administrator shall find that  All Townhouse Developments, including each individual subplot, shall not exceed the maximum building coverage requirements of the zoning district.
			<i>Findings</i>	<i>The townhome project is located within the GR-H Zone. Building coverage requirements do not apply to the project as the size of the project is dictated by Floor Area Ratio. The townhomes development has a Floor Area Ratio of 0.72. As the FAR exceeds the 0.5 FAR maximum, a community housing contribution was made in the form of a fee-in-lieu payment. The fee was paid prior to issuance of the first building permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E.2	Garage: All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots; provided, that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents, and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

			<i>Findings</i>	<i>Each townhome unit includes an attached 2-car garage within each subplot.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E.3	General Applicability: All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by townhouse subdivisions. (Ord. 1061 § 3, 2009: Ord. 879 § 4, 2001: Ord. 460 § 2, 1987)
			<i>Findings</i>	<i>This townhouse subdivision will comply with all applicable local, state, and federal ordinances, rules, and regulations.</i>

**FINDINGS REGARDING COMPLIANCE WITH SUBDIVISION FINAL PLAT REQUIREMENTS**

Final Plat Requirements				
Compliant			Standards and City Council Findings	
YES	NO	N / A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	<p>Contents Of Final Plat: The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:</p> <p><i>Findings</i>  <i>The Final Plat mylar shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	<p>Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.</p> <p><i>Findings</i>  <i>As shown on sheet 1, there are two points of beginning for the proposed subdivision. Therefore, this standard is met.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	<p>Location and description of monuments.</p> <p><i>Findings</i>  <i>As shown on Sheet 1, all monuments are noted and described. Therefore, this standard is met.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	<p>Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.</p>

			<i>Findings</i>	<i>Sheet 1 provides property lines and boundary lines for the subject property, adjacent subdivisions, easements, and adjacent streets. As shown, this standard is met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	Names and locations of all adjoining subdivisions.
			<i>Findings</i>	<i>As shown on Sheet 1, the adjacent subdivisions of Bavarian Village Townhomes and West Ketchum Residences are all labeled.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	Name and right of way width of each street and other public rights of way.
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for Rember St and Bird Dr are both named and dimensioned.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	Location, dimension and purpose of all easements, public or private.
			<i>Findings</i>	<i>Sheet 1 outlines all applicable easements on the property, public and private, including easements for utilities and access.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>Findings</i>	<i>This townhouse subdivision is part of an existing subdivision and no additional blocks are being created or numbered.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>Findings</i>	<i>N/A as no dedications have been required or proposed for this townhouse subdivision.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>Findings</i>	<i>This standard has been met. The name of the proposed subdivision is Westcliff Townhomes.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			<i>Findings</i>	<i>As shown on Sheet 1, this standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision
			<i>Findings</i>	<i>As shown on Sheet 1, the right of ways for Rember St and Bird Dr are both named and dimensioned. No new public streets are being proposed or required for the development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.12	A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.
			<i>Findings</i>	<i>Plat note 2 on Sheet 1 includes the required note with a space to put the instrument number for the recorded declarations.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.

			<i>Findings</i>	<i>Sheet 3 includes the required signature block that will be signed prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat.
			<i>Findings</i>	<i>This standard has been met. A title report and warranty deed were submitted with the Final Plat application and both are current.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
			<i>Findings</i>	<i>Sheet 2 includes the required signature block for signature of the applicable property owners.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.
			<i>Findings</i>	<i>Sheet 3 includes the required certificate and signature space for the project Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.
			<i>Findings</i>	<i>Sheet 3 includes the required certificate and signature space for the City Engineer to sign the plat prior to recording of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.
			<i>Findings</i>	<i>Sheet 3 includes the required certificate and signature space for the City Clerk to sign the plat prior to recording of the final plat.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.19	Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.
			<i>Findings</i>	<i>N/A as no restrictions were imposed by the Planning &amp; Zoning Commission or Ketchum City Council during review of the Preliminary Plat application.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.L	Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.
			<i>Findings</i>	<i>The city received the required application materials on February 22, 2023.</i>

### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67, of the Idaho Code the City has passed a subdivision ordinance, Title 16.
4. The City Council has authority to review and approve the applicant's Townhouse Subdivision Final Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.

5. The project does meet the standards of approval under Chapter 16.04 of Subdivision Code Title 16.

### **DECISION**

THEREFORE, the Ketchum City Council approves this Final Plat application this Monday, May 15, 2023 subject to the following conditions of approval.

### **CONDITIONS OF APPROVAL**

1. The Townhouse Declaration shall be simultaneously recorded with the Final Plat. The City will not now, nor in the future, determine the validity of the Townhouse Declaration.
2. The final plat shall be filed with the Blaine County Recorder within one year after final plat approval by the council. Failure to file such final plat within that time shall cause all approvals of such final plat to be null and void.

Findings of Fact adopted this 15<sup>th</sup> day of May 2023.

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Neil Bradshaw  
Mayor  
City of Ketchum

Attest:

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Trent Donat, City Clerk



City of Ketchum

**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date: May 15, 2023 Staff Member/Dept: Paige Nied, Associate Planner  
Planning and Building Department

Agenda Item: Recommendation to Approve the Townhouse Subdivision Preliminary Plat and Adopt the Phased Development Agreement and Findings of Fact, Conclusions of Law, and Decision for the 7<sup>th</sup> Street Townhomes project.

**Recommended Motion:**

I move to approve the Townhouse Subdivision Preliminary Plat for the 7<sup>th</sup> Street Townhomes, as conditioned, and adopt the Findings of Fact, Conclusions of Law, and Decision, and approve the associated Phased Development Agreement 22844.

**Reasons for Recommendation:**

- The Planning & Zoning Commission approved the Design Review application and recommended approval of the Townhouse Subdivision Preliminary Plat application and Phased Development Agreement on April 11<sup>th</sup>, 2023.
- Both applications, as conditioned, meet all applicable standards contained in Ketchum Municipal Code’s Title 16 Subdivision regulations and all Zoning requirements and standards in Title 17.

**Policy Analysis and Background (non-consent items only):**

The applicant is proposing two new 3,713 square foot three-story detached townhomes with attached two-car garages (the “project”), located at Lot 3, Blok 68, Ketchum Townsite (the “subject property”). The subject property is zoned General Residential – Low Density (GR-L) and the lot is currently vacant. Detached townhomes are a permitted use within the GR-L zone district provided that all dimensional standards are met. The project proposes to subdivide the property into two townhouse sublots and construct a new detached dwelling unit on each of the newly created sublots. The Phased Development Agreement allows each townhome unit to be platted individually as each building receives its Certificate of Occupancy. The Phased Development Agreement includes the required construction and completion schedule for the required improvements and designates the owner’s maintenance responsibilities.

The project will construct improvements in the right-of-way per the City of Ketchum improvement standards. The project proposes access to both sublots from the alley off 7th Street. The project proposes paver driveways with no snowmelt for both driveways. All improvements to the right-of-way have been preliminarily reviewed by the Streets Department and the City Engineer. Final review of the proposed improvements will be conducted by the City Engineer and Streets Department prior to issuance of a building permit.

**Sustainability Impact:**

The proposed development does not include any snowmelt within the right-of-way. Additionally, the new detached townhomes are required to meet the standards of the Ketchum Green Building Code.

Financial Impact:

None	There is no financial assistance from the city for this application.
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Attachments:

1. Townhouse Preliminary Plat – Application & Supporting Documents
2. Townhouse Preliminary Plat – Plan Set
3. Draft Findings of Fact, Conclusion of Law, and Decision
4. Phased Development Agreement Application & Supporting Documents
5. Phased Development Agreement #22844



City of Ketchum

Attachment A:  
Townhouse Preliminary  
Plat Application  
Materials & supporting  
documents





**City of Ketchum  
Planning & Building**


<b>OFFICIAL USE ONLY</b>
P21-032
S McCallum
#1050

**Subdivision Application**

Submit completed application and payment to the Planning and Building Department electronically to [planningandzoning@ketchumidaho.org](mailto:planningandzoning@ketchumidaho.org). Once your application has been received, we will review it and contact you with next steps. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: 7TH STREET TOWNHOMES			
Owner of Record: MMDM12 LLC.			
Address of Owner: PO Box 2028, SUN VALLEY, ID 83353			
Representative of Owner: BRUCE SMITH, PLS ALPINE ENTERPRISES INC.			
Legal Description: KETCHUM TOWNSITE, BLOCK 6B, LOT 3			
Street Address: NONE ASSIGNED			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 2 TOWNHOUSE SUBLOTS			
Total Land Area: 8,238 SQ. FT., 0.19 AC.			
Current Zoning District: GR-L, GENERAL RESIDENTIAL LOW-DENSITY			
Proposed Zoning District: GR-L, GENERAL RESIDENTIAL LOW-DENSITY			
Overlay District: NONE			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input checked="" type="checkbox"/>
Adjacent land in same ownership in acres or square feet: NONE			
Easements to be dedicated on the final plat: 10' P.U.E. ALONG W. 7TH ST. ROW, 5' P.U.E. ALONG ALLEY R.O.W., AND MUTUAL RECIPROCAL UTILITY EASEMENTS ON SUBLOTS 1 AND 2 FOR USE, MAINTENANCE, AND REPAIR.			
Briefly describe the improvements to be installed prior to final plat approval:  CONSTRUCT BUILDINGS, INFRASTRUCTURE, AND LANDSCAPING.			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the preliminary plat			
All files should be submitted in an electronic format to <a href="mailto:planningandzoning@ketchumidaho.org">planningandzoning@ketchumidaho.org</a>			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortuous conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

 **ALPINE ENTERPRISES INC.** 11 APR 22  
 Applicant Signature Date  
 REPRESENTATIVE  
 Once your application has been received, we will review it and contact you with next steps. No further action is required at this time.



1 inch = 200 feet

A Vicinity Map Showing  
7th Street Townhomes  
City of Ketchum  
Blaine County, Idaho

ALPINE ENTERPRISES INC.

PO Box 2037  
660 Bell Drive, Unit 1  
Ketchum, Idaho  
208-727-1988

April 2022



## OWNER'S POLICY OF TITLE INSURANCE

Policy Number **OX 13546069**

Issued by Old Republic National Title Insurance Company

**Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.**

### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, a Florida Corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from:
  - (a) A defect in the Title caused by
    - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
    - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
    - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
    - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - (vii) a defective judicial or administrative proceeding.
  - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
  - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (a) the occupancy, use, or enjoyment of the Land;
  - (b) the character, dimensions, or location of any improvement erected on the Land;
  - (c) the subdivision of land; or
  - (d) environmental protectionif a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective
  - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
  - (b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal

bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records  
(i) to be timely, or  
(ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

Issued through the Office of:

First American Title Company

**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

*A Stock Company*

400 Second Avenue South, Minneapolis, Minnesota 55401

(612) 371-1111



\_\_\_\_\_  
Authorized Signature

By



President

Attest



Secretary

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## EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
  - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

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## CONDITIONS AND STIPULATIONS

### 1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section 8(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The Insured named in Schedule A.
  - (i) The term "Insured" also includes
    - (A) successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
    - (B) successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
    - (C) successors to an Insured by its conversion to another kind of Entity;
    - (D) a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title
      - (1) if the stock, shares, memberships, or other equity interests of the grantee are wholly-owned by the named Insured,
      - (2) if the grantee wholly owns the named Insured,
      - (3) if the grantee is wholly-owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly-owned by the same person or Entity, or
      - (4) if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
  - (ii) With regard to (A), (B), (C), and (D) reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor Insured.
- (e) "Insured Claimant": An Insured claiming loss or damage.
- (f) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (g) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (h) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (i) "Public Records": Records established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection liens filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (j) "Title": The estate or interest described in Schedule A.
- (k) "Unmarketable Title": Title affected by an alleged or apparent matter that would permit a prospective purchaser or lessee of the Title or lender on the Title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

### 2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranties in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

### 3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 5(a) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as insured, and that might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

### 4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a

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condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by this policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

#### **5. DEFENSE AND PROSECUTION OF ACTIONS**

- (a) Upon written request by the Insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an Insured in litigation in which any third party asserts a claim covered by this policy adverse to the Insured. This obligation is limited to only those stated causes of action alleging matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the Insured to object for reasonable cause) to represent the Insured as to those stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the Insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to institute and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the Insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable to the Insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.
- (c) Whenever the Company brings an action or asserts a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its sole discretion, to appeal any adverse judgment or order.

#### **6. DUTY OF INSURED CLAIMANT TO COOPERATE**

- (a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

#### **7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY**

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.  
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.  
Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
  - (i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under

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this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

- (ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

#### **8. DETERMINATION AND EXTENT OF LIABILITY**

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

- (a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
  - (i) the Amount of Insurance; or
  - (ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,
  - (i) the Amount of Insurance shall be increased by 10%, and
  - (ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

#### **9. LIMITATION OF LIABILITY**

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

#### **10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY**

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

#### **11. LIABILITY NONCUMULATIVE**

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which exception is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is executed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

#### **12. PAYMENT OF LOSS**

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within 30 days.

#### **13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT**

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the



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exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guaranties, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

#### **14. ARBITRATION**

Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured. All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

#### **15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to this policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authenticated by an authorized person, or expressly incorporated by Schedule A of this policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance.

#### **16. SEVERABILITY**

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

#### **17. CHOICE OF LAW; FORUM**

- (a) Choice of Law: The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located. Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.
- (b) Choice of Forum: Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

#### **18. NOTICES, WHERE SENT**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at 400 Second Avenue South, Minneapolis, Minnesota 55401-2499.

**SCHEDULE A**

**First American Title Company  
120 2nd Avenue Suite 101, PO Box 7999  
Ketchum, ID 83340**

File No.: **912512K**  
Address Reference: **Lot 3 Blk 68 Ketchum Ketchum, ID  
83340**

Policy No.: **OX 13546069**

Amount of Insurance: **\$825,000.00**  
Date of Policy: **January 11, 2021 at 12:42 P.M.**

Premium: **\$2,618.00**

1. Name of Insured:

**MMDM12, LLC, an Idaho limited liability company**

2. The estate or interest in the Land that is insured by this policy is:

**Fee Simple**

3. Title is vested in:

**MMDM12, LLC, an Idaho limited liability company**

4. The Land referred to in this policy is described as follows:

**Lot 3 in Block 68 of the REPLAT OF BLOCK 68, TOWN OF KETCHUM, according to the  
official plat thereof, recorded as Instrument No. 185154, records of Blaine County,  
Idaho.**

**SCHEDULE B**

**Policy No.: OX 13546069**

File No. 912512K

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title including discrepancies, conflicts in boundary lines, shortage in area, or any other facts that would be disclosed by an accurate and complete land survey of the land, and that are not shown in the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
6. Any lien, or rights to a lien, for services, labor or materials theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. 2021 taxes are an accruing lien, not yet payable.
8. Levies and Assessments for service charges of the City of Ketchum Water and Sewer Department.
9. Easement and Notes, as shown on the plat of REPLAT OF BLOCK 68, TOWN OF KETCHUM, recorded as Instrument No. 185154, records of Blaine County, Idaho.
10. Restrictive Covenants, executed by CASA BLANCA COMPANY, recorded 3-29-1979 as Instrument No. 192290, records of Blaine County, Idaho.
11. Underground Power Line Easement, in favor of Idaho Power Company, recorded 11-12-1978, Instrument No. 289842, records of Blaine County, Idaho.
12. Deed of Trust dated January 08, 2021, to secure an original indebtedness of \$552,500.00, and any other amounts and/or obligations secured thereby.  
Recorded: January 11, 2021, as Instrument No. 678102  
Grantor: MMDM12, LLC, an Idaho limited liability company  
Trustee: First American Title Company  
Beneficiary: Mountain West Bank, Division of Glacier Bank



<b>FACTS</b>	<b>WHAT DOES OLD REPUBLIC TITLE DO WITH YOUR PERSONAL INFORMATION?</b>
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: <ul style="list-style-type: none"> <li>• Social Security number and employment information</li> <li>• Mortgage rates and payments and account balances</li> <li>• Checking account information and wire transfer instructions</li> </ul> When you are <b>no longer</b> our customer, we continue to share your information as described in this notice.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

<b>Reasons we can share your personal information</b>	<b>Does Old Republic Title Share?</b>	<b>Can you limit this sharing?</b>
<b>For our everyday business purposes</b> – such as to process your transactions, maintain your accounts(s), or respond to court orders and legal investigations, or report to credit bureaus	<b>Yes</b>	<b>No</b>
<b>For our marketing purposes</b> – to offer our products and services to you	<b>No</b>	<b>We don't share</b>
<b>For joint marketing with other financial companies</b>	<b>No</b>	<b>We don't share</b>
<b>For our affiliates' everyday business purposes</b> – information about your transactions and experiences	<b>Yes</b>	<b>No</b>
<b>For our affiliates' everyday business purposes</b> – information about your creditworthiness	<b>No</b>	<b>We don't share</b>
<b>For our affiliates to market to you</b>	<b>No</b>	<b>We don't share</b>
<b>For non-affiliates to market to you</b>	<b>No</b>	<b>We don't share</b>

<b>Questions</b>	<b>Go to <a href="http://www.oldrepublictitle.com">www.oldrepublictitle.com</a> (Contact Us)</b>
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<b>Who we are</b>	
Who is providing this notice?	Companies with an Old Republic Title names and other affiliates. Please see below for a list of affiliates.
<b>What we do</b>	
<b>How does Old Republic Title protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit <a href="http://www.OldRepublicTitle.com/newnational/Contact/privacy">http://www.OldRepublicTitle.com/newnational/Contact/privacy</a> .
<b>How does Old Republic Title collect my personal information?</b>	We collect your personal information, for example, when you: <ul style="list-style-type: none"> <li>• Give us your contact information or show your driver's license</li> <li>• Show your government-issued ID or provide your mortgage information</li> <li>• Make a wire transfer</li> </ul> We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.

<b>Why can't I limit all sharing?</b>	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes - information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for non-affiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.</p>
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**Definitions**

<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• <i>Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.</i></li> </ul>
<b>Non-affiliates</b>	<p>Companies not related by common ownership or control. They can be financial and non-financial companies.</p> <ul style="list-style-type: none"> <li>• <i>Old Republic Title does not share with non-affiliates so they can market to you</i></li> </ul>
<b>Joint marketing</b>	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>• <i>Old Republic Title doesn't jointly market.</i></li> </ul>

**Affiliates Who May Be Delivering This Notice**

American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				

**RECORDING REQUESTED BY**  
First American Title Company

**AND WHEN RECORDED MAIL TO:**  
First American Title Company  
120 2nd Avenue Suite 101, PO Box 7999  
Ketchum, ID 83340

**Instrument # 678101**

HAILEY, BLAINE, IDAHO  
01-11-2021 12:42:49 PM No. of Pages: 2  
Recorded for: FIRST AMERICAN TITLE - KETCHUM  
JOLYNN DRAGE Fee: \$15.00  
Ex-Officio Recorder Deputy: JB  
Electronically Recorded by Simplifile

Space Above This Line for Recorder's Use Only

**WARRANTY DEED**

File No.: **912512K (smw)**

Date: **January 04, 2021**

For Value Received, **Andrew C. Fehr as his sole and separate property**, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto **MMDM12, LLC, an Idaho limited liability company**, hereinafter called the Grantee, whose current address is **PO Box 2028, Sun Valley, ID 83353**, the following described premises, situated in **Blaine County, Idaho**, to-wit:

**Lot 3 in Block 68 of the REPLAT OF BLOCK 68, TOWN OF KETCHUM, according to the official plat thereof, recorded as Instrument No. 185154, records of Blaine County, Idaho.**

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with its appurtenances, unto the said Grantee, and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.



3 - # 9227

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS that Casa Blanca Company, a general partnership, hereby covenants and agrees with all persons, firms or corporations hereafter acquiring any property or lots described as Lots 1, 2, 3, 4, 5, 6, 7 and 8, Block 68, City of Ketchum, State of Idaho, all of which lots are presently owned by Casa Blanca Company, are hereby subjected to the following restrictions as to the use thereof running with said property by whomsoever owned, to-wit:

1. Each and every owner of the whole or any portion of said lots shall comply with the City of Ketchum Zoning Ordinance together with any and all other governmental regulations regarding said lots.

2. No trailers or temporary residences shall be used for any purpose and no temporary building of any kind shall be used except during the actual course of construction.

3. No trash cans or clothes lines shall be visible but shall be protected by enclosures or fences.

4. No power, utility or television lines shall be above the surface of the ground and no radio or television antennae shall be allowed.

5. Fences four feet high shall be allowed on boundary lines and to within ten feet of the street line; boundary fences may be increased in height to a maximum of six feet if the consent of the adjoining owner is given, and screen fences of six feet may be allowed around patios connected to the residence. (All materials used shall be submitted to the Design Committee for approval.)

6. No exposed cinder-block construction shall be allowed, except as shall be allowed by the Grantor or such committee designated thereby.

7. No single family residence shall be constructed on these premises of less than 1500 square feet of floor space plus a double car garage. No multi-family unit shall be constructed on these premises of less than 1000 square feet per unit plus a double car garage.

8. No trash or weeds shall be allowed to accumulate on the premises, and the full lot shall be landscaped according to the Master Plan developed by Casa Blanca Company.

9. No signs shall be allowed, except a sign indicating the number of the residence, the name of the resident, or such temporary signs as "for sale" signs.

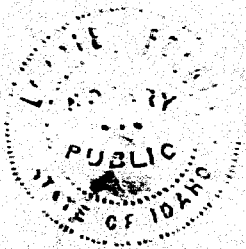
10. All structures shall be stained or painted with natural or earth tone color to be approved by Design Committee, and all roofs shall be wood shingle or shake.



11. Grantors or their designated committee comprised of Lot owners, shall act as a design review board. Each Lot shall be given one vote with five a majority. Each residence shall be located within the building envelope designated by Grantors. All building plans, site plans, landscaping plans and all structures to be placed on said premises shall be specifically approved by said board previous to any construction or development. Approval of said plans shall not be unreasonably withheld.

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 1999, at which time said covenants shall be automatically extended for successive periods to ten years unless by vote of two-thirds of the then-owners of the lots, it is agreed to change said covenants in whole or in part.

Dated this March 23, 1979



By: *Emil J. Capiak*  
EMIL J. CAPIK

By: *Alex Higgins*  
ALEX HIGGINS

STATE OF IDAHO }  
County of Blaine )

On this 28th day of March, 1979 before me, the undersigned Notary Public in and for said State, personally appeared EMIL J. CAPIK and ALEX HIGGINS, known to me to be the Individuals, and acknowledged to me that they executed the within instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

*Louis Lewis*  
NOTARY PUBLIC for IDAHO

Residing at *Ketchum, Idaho*

My commission expires *7/1*

*Sawtooth title Co*  
*3:45*  
*March 29, 1979*

*Misc*  
MARIE ME LUYA  
*Hazel Barber*

*2:45*  
INDEXED  
FILED

No: 198290

# Idaho Power Company UNDERGROUND POWER LINE EASEMENT

Emil J. CAPIK and BARBARA R. CAPIK  
 his wife, Grantor(s) of BLAINE County, State of IDAHO do hereby  
 grant and convey to IDAHO POWER COMPANY, a corporation, with its principal office located at 1220 Idaho Street,  
 Boise, Idaho, its licensees, successors and assigns, Grantee, for One Dollar and other valuable considerations, receipt of  
 which is hereby acknowledged, a permanent and perpetual easement and right of way, sufficient in width to install and  
 maintain an underground electric power line, including the perpetual right to enter upon the real estate hereinafter de-  
 scribed, at all reasonable times, to construct, maintain and repair underground power lines over, through, under and  
 across said lands, together with the right, at the sole expense of Grantee, to excavate and refill ditches and trenches for  
 the location of said power lines, and the further right to remove trees, bushes, sod, flowers and shrubbery and other ob-  
 structions and improvements, interfering with the location, construction and maintenance of said power lines, over, on and  
 across the following premises, belonging to the said Grantor(s) in Blaine County,  
 State of Idaho, in the following location, to-wit:

A parcel of land in the SE1/4 Section 13, T4N, R17E, B.M., Blaine County, Idaho.  
 Said parcel is located in Lot 3, Replat of Block 68, Keckra Townsite as shown  
 on the official plat thereof now on file and of record in the office of the  
 County Recorder of Blaine County, Idaho. More particularly described as  
 follows:

A 10.0 foot strip of land being 5.0 feet on each side of the following described  
 line:  
 Commencing at the Western most corner of said Lot 3 and running thence  
 S 44° 43' E a distance of 5 feet to the REAL POINT OF BEGINNING; thence  
 N 45° 17' E a distance of 75 feet to the point of terminus....

The electrical system generally will consist of buried power wires, transformers, junction boxes and other  
 equipment, part of which may extend above ground, necessary to serve electric power to these premises and adjacent  
 premises.

Executed and delivered this 4 day of MAY, 19 87  
[Signature]  
Barbara R. Capik

STATE OF IDAHO  
 County of BLAINE } ss.

On this 4 day of MAY, 19 87, before me, DAVID D. JOHNSON  
EMIL J. CAPIK  
 a Notary Public, personally appeared AND BARBARA R. CAPIK and  
 instrument and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes  
 therein mentioned.

(Notarial Seal)

David D. Johnson  
 Notary Public, residing at HAILEY  
 Commission expires MARCH 20, 19 92

536-2M-10 77

48-05

PLAINE CO  
 REQUEST  
 1987 MAY 12 AM 11 42  
 DEPUTY  
 289842

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE 7<sup>TH</sup> STREET TOWNHOMES**

THIS DECLARATION is made on the date hereunder set forth by **MMDM12, LLC**, an Idaho limited liability company, hereinafter referred to as "Declarant".

RECITALS

This Declaration is made in contemplation and furtherance of the following facts and purposes:

- A. Declarant is the owner of certain real property located in the City of Ketchum, Blaine County, State of Idaho, more particularly described as follows: Lot 3 in Block 68 of the REPLAT OF BLOCK 68 Town of Ketchum, as shown on the official plat thereof recorded as Instrument No. 185154, records of Blaine County, Idaho (hereinafter sometimes referred to as "Subdivision.
- B. The Lot, and all improvements and structures to be erected and maintained thereon, is a Townhome project developed pursuant to applicable zoning, subdivision and land use ordinances of the City of Ketchum, Idaho.
- C. It is the intent of the Declarant to create a quality residential Townhome project in Ketchum for the enjoyment and convenience of persons living within said project, and to secure said objectives through the covenants, conditions and restrictions hereinafter set forth.

**DECLARATION**

Declarant hereby declares that The 7<sup>th</sup> Street Townhomes, and all real property, parcels, lot, Townhome sub-lots and common area now or hereafter situated within, or otherwise made subject hereto, shall all be held, conveyed, encumbered, leased and used subject to the following covenants, conditions, restrictions and equitable servitudes hereinafter set forth or provided for, which shall run with said land and be binding upon, and benefit, all parties now or hereafter having or acquiring any right, title or interest therein, or to any part thereof.

**ARTICLE I  
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the following meaning:

**Section 1.** "Architectural Design Committee" shall mean the committee created pursuant to Article VII hereof.

**Section 2.** "Articles" shall mean the Articles of Incorporation of the 7<sup>th</sup> Street Townhomes Owners Association, Inc.

**Section 3.** "Assessments" shall mean assessments described in Article VI.

**Section 4.** "Association" shall mean and refer to The 7<sup>th</sup> Street Townhomes Owners Association, Inc., a non-profit corporation organized pursuant to Article V of this Declaration under the laws of the State of Idaho, its successors and assigns.

**Section 5.** "Common Area" means the roadways, driveways and other properties so designated as "common area" on the townhouse unit plat map, a copy of which is attached hereto as Exhibit "A", as well as any other lots or real property purchased by Association.

**Section 6.** "Lot" shall mean and refer to a Townhome Sub-lot as shown on the official plat of the development.

**Section 7.** "7<sup>th</sup> Street Townhomes Owners Association, Inc." shall mean and refer to the association of owners of Townhome Sub-lots within the Subdivision.

**Section 8.** "Member" shall mean a member of the Association, who shall be an Owner and shall qualify for membership in the Association in the manner hereinafter set forth.

**Section 9.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to either Townhome Sub-lot; provided, however, that the term "Owner" shall not include those having only a security interest in either Lot through a lien, encumbrance, deed of trust or mortgage, or other similar security instrument.

**Section 10.** "Property" shall mean and refer to the real property within either Sub-lot.

**Section 11.** "Townhome" shall mean and refer to a Townhome residential unit, as that term is defined in the applicable land use ordinances of the City of Ketchum, Idaho, to be built and maintained on each Sub-lot as depicted on the plat.

## ARTICLE II PROJECT DEVELOPMENT

**Section 1.** Development of Sub-lots. Declarant has or shall construct, or cause to be constructed, pursuant to plans and specifications approved by the City of Ketchum, Idaho, a Townhome on each Sub-lot.

**Section 2.** Common Area. Any Common Area shown on the Plat for the Townhomes shall be deeded by the Declarant to the Association, to be held, improved, maintained, managed and used by the Association for the common benefit, use and enjoyment of the Owners and their respective family members, guests and invitees subject to the provisions of this Declaration. Prior to being deeded to the Association, the Declarant, at its sole cost and expense, shall improve or make appropriate provisions for the improvement of the Common Area in a manner consistent with the official Plat for the Subdivision and specifications approved by the City of Ketchum, Idaho.

### **ARTICLE III TOWNHOME RESTRICTIONS**

**Section 1.** Residential Purposes. Sub-lots shall be restricted exclusively to residential use. No structures of a temporary character, trailer, tent, shack, carport, garage or other similar improvement shall be used as a residence, either temporarily or permanently, on either Sub-lot.

**Section 2.** Exterior Changes and Alterations. No changes or alterations to the exterior of any Townhome or other improvement on either Sub-lot may be made or undertaken without the prior approval of the Architectural Design Committee of the 7<sup>th</sup> Street Townhomes; provided, however, that this provision shall not preclude exterior painting provided there is no change in existing color, or the replacement or repair of broken or damaged exterior windows, siding, roofing, trim, decking, sidewalks, driveways, fences, exposed structural members or foundations, if the same does not alter the size of the Townhome, the configuration of its exterior, or the architectural features of the Townhome, including the size and shape of windows, or the pitch or configuration of roof lines, eaves and exposed gables.

**Section 3.** Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on either Sub-lot, except that not more than a total of two (2) dogs, cats, or other household pets may be kept by Owners, provided they are not kept, bred or maintained for any commercial purpose, do not endanger the health of other residents, are not allowed outside the Townhome except when kenneled in an approved dog run, leashed or otherwise under someone's direct control, and do not unreasonably disturb the occupants of any other Townhome, or the owners, occupants or residents of the 7<sup>th</sup> Street Townhomes. The term "household pets" is defined as dogs and cats.

**Section 4.** Signs and Business Activities. No advertising signs, billboards, or commercial equipment or supplies shall be erected, placed, or permitted to remain on either Sub-lot or Common Area, nor shall any Sub-lot or Common Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner or occupant of either Townhome.

**Section 5.** Service Facilities. No outside clotheslines shall be permitted, and all garbage cans, maintenance tools, and similar items shall be kept screened or enclosed to conceal them from the view of the neighboring Sub-lot.

**Section 6.** Exterior Antennas. No exterior television or radio antennas or similar communication installations shall be placed on any Lot without prior written approval from the Architectural Design Committee of the 7<sup>th</sup> Street Townhomes.

**Section 7.** Nuisances. No rubbish, waste or debris of any kind shall be placed or permitted to accumulate upon any Sub-lot, and no odor shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to the other Sub-lot or to the occupants of either residence within the 7<sup>th</sup> Street Townhomes. No exterior lights or noise, including but not limited to, noise created by people, animals, equipment and/or machinery, shall be permitted to exist, emanate from, or operate upon either Sub-lot or Common Area so as to be offensive or detrimental to the other Sub-lot, or its occupants, or to the occupants of any residence within the 7<sup>th</sup> Street Townhomes.

**Section 8.** Hazardous Activities. No activities shall be conducted, and no improvements shall be constructed on either Sub-lot or Common Area which are or might be unsafe or hazardous to any person or property. Without limiting the foregoing, no firearms shall be discharged upon either Sub-lot or Common Area and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes, or within a safe and well designed interior fireplace or stove.

**Section 9.** Unsightly Articles. No unsightly articles shall be permitted to remain on either Sub-lot so as to be visible from the adjoining Sub-lot, including, without limitation, trailers, campers, motorhomes, boats, tractors, vehicles, inoperable vehicles, snowmobiles, and snow removal, garden, or maintenance equipment.

**Section 10.** Exterior Maintenance. The Association shall at all times keep the exterior of each Townhome and appurtenant exterior decks, fences, sidewalks, porches and patios in good condition and repair, and shall not let the condition thereof deteriorate to the point where it has a negative impact on the value, use or enjoyment of the other Townhome, Common Area, or properties within the 7<sup>th</sup> Street Townhomes. For the common good of the Owners, it is the intent of this provision that both Townhomes and related improvements be maintained in a first class manner. Every Owner, by accepting a deed to a Sub-lot, is deemed to grant unto the Association such easements, rights to access and other authorizations as may be necessary to permit the Association, or their designated agents, to complete the necessary exterior repairs and maintenance, and upon completion, to recover any costs reasonably incurred therefor, through the levy of annual or special assessments as provided for in Article VI hereinafter.

**Section 11.** Townhome Alterations. Notwithstanding anything to the contrary herein contained, no Townhome shall be increased in size, exterior, configuration or square footage through any remodel, addition or replacement, or through the conversion or enclosure of any storage areas, porches, patios, decks or garage space into residential living area.

**Section 12.** Garage Use. Garages are intended and shall be used primarily for the parking and temporary storage of automobiles belonging to the owners of said garages. No garage shall be used for any storage or other purpose which would prevent its use for such automobile parking or temporary storage.

#### **ARTICLE IV COMMON AREA**

**Section 1.** Conveyance to the Association. Prior to the sale of either Sub-lot, the Declarant at its sole cost and expense shall improve or make appropriate provision for the improvement of said Common Area in a manner consistent with the plat and development plans approved by the City of Ketchum, and deed the same to the Association, which the Association shall accept, at no cost to it, free and clear of all liens and encumbrances other than easements of record.

**Section 2.** Snow storage areas have been provided for the project. However, in the event a heavy snowfall necessitates removal of the snow by hauling it away, such expense shall be deemed a common area expense of the Association.

**Section 3.** Enjoyment of Common Area. Subject to the following provisions and limitations, each Owner shall have a non-exclusive right and easement of enjoyment, in common with all other Owners, in and to any Common Area, and such right and easement shall be appurtenant to and pass with the title to each Sub-lot:

- A. The right of Association to assess reasonable fees for operation, repairs and maintenance of the Common Area.
- B. The right of the Association to suspend the voting rights and right to use Common Area by an Owner for any period during which said Owner remains delinquent in the payment of any assessment duly levied against any Sub-lot owned by said Owner.
- C. The right of the Association to promulgate reasonable rules and regulations governing the use and enjoyment of Common Area by Owners, their family members, and guests.
- D. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of further improving Common Area and related facilities; and in aid thereof to place a mortgage, deed of trust or other security instrument upon the Common Area.

**Section 4.** Improvement of Common Area. The Association may, from time-to-time, further modify, improve, or equip the Common Area for the benefit of the Owners, and make such

Assessments or borrow such funds therefor as may be reasonably necessary, subject to the provisions and limitations set forth herein.

**Section 5.** Common Area Obstructions. Notwithstanding anything to the contrary herein contained, the Common Area shall not be used for the storage of equipment, recreational vehicles (including boats, trailers, campers, watercraft, snowmobiles, motorcycles and similar vehicles), inoperable automobiles and trucks, trash, debris, or other items which may impede the use of the paved access of the Common Area for access and temporary vehicular parking.

## ARTICLE V THE ASSOCIATION

**Section 1.** Membership. Each Owner shall be entitled and required to be a Member of the Association. If title to a Lot is held by more than one person or entity, the membership related to that Lot shall be shared by all such persons or entities in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned by that Owner. No person or entity other than an Owner may be a member of the Association.

**Section 2.** Voting Rights. The Declarant shall have two (2) votes for every Sub-lot unit it owns. The total number of votes which may be cast by all Members of the Association shall be the same as the total number of Sub-lots, and each membership shall be entitled to one (1) vote, except as pointed out above.

**Section 3.** Governance. The Association shall be governed by a Board of Directors and officers in accordance with its Articles of Incorporation and Bylaws. The Board of Directors shall be composed of two directors each of whom shall be appointed by each of the Sub-lot owners.

**Section 5.** Management of the Common Area. The Association shall be responsible for exclusive management and control of the Common Area. All driveways, parking areas, landscaping and other improvements situated on or included in Common Area, shall be kept in good condition and repair and all driveways and parking areas belonging to the Association shall be kept reasonably free of debris, obstructions, and snow by the Association. The Association shall keep the Common Area and its improvements fully insured against reasonable risks of casualties, and shall maintain public liability insurance coverage on the Common Area in an amount the Board of Directors deems appropriate.

**Section 6.** Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage the Association's affairs, or any part thereof, to the extent the Association deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of its purposes and obligations, whether such personnel are furnished or employed directly by the Association or any person or entity with whom the Association contracts. The Association may obtain and pay for legal and accounting services



necessary or desirable in connection with the operation of the Property, or the enforcement of this Declaration. The Association may arrange with others to furnish insurance, electricity, water, sewer, snow removal, trash collection, landscaping, or other services for the Common Area or other property owned or managed by the Association pursuant to this Declaration.

**Section 7.** Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Common Area, which rules, and regulations shall be consistent with the rights and duties established in this Declaration. Such rules and regulations may include, without limitation, govern the use of all driveways and parking areas owned or controlled by the Association for the benefit of the Owners. The Association may also take judicial action against any Owner to enforce compliance with any of its rules or regulations, or the other terms or provisions of this Declaration.

**Section 8.** Assessments. The Association shall be empowered to levy, enforce, and collect annual assessments and special assessments, against Townhomes and the Owners thereof in the manner and amounts set forth in Article VI hereinbelow.

**Section 9.** Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE VI ASSESSMENTS**

**Section 1.** Agreement to Pay Assessments. Declarant, for each Sub-lot owned by the Declarant, hereby covenants, and each subsequent Owner of either Sub-lot, by the acceptance of a deed therefor, whether or not it be so expressed in said deed, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association the assessments provided for in this Declaration. In the case of joint or co-ownerships, this liability shall be joint and several. Such assessments shall be levied against Sub-lots and collected from time-to-time in the manner provided in this Article VI.

**Section 2.** Annual Assessments. Annual assessments against the Sub-lots are hereby authorized which shall be based upon advance annual estimates of cash requirements by the Association to provide for the payment of all estimated expenses to be incurred in the ensuing twelve-month period in the conduct of the Association's affairs. Such expenses may include, among other things, those incurred for taxes, fire and casualty insurance, liability insurance, legal and accounting services, road maintenance, snow removal, landscaping installation and maintenance, Common Area utilities, Common Area improvements and equipment, the repair, maintenance and replacement of Common Area improvements and equipment, the repair and maintenance of the exterior components of Townhomes, and the creation of a reasonable contingency reserve, surplus and/or sinking fund for

capital improvements, replacements and repair.

**Section 3.** Special Assessments. In addition to the annual assessments authorized hereinabove, the Association may levy at anytime a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the unanticipated cost of any expenses duly incurred or to be incurred as provided in this Declaration, but not adequately provided for by the annual assessment. This section shall not be construed as independent authority for the Association to incur expenses, but shall be construed to prescribe an alternative manner of assessing for expenses authorized in other sections hereof.

**Section 4.** Apportionment of Assessments. Unless otherwise provided to the contrary herein, annual and special assessments shall be apportioned equally among the Owners and their respective Sub-lots.

**Section 5.** Exemption from Assessment. Notwithstanding anything to the contrary herein contained, no annual or special assessments shall be levied against either Sub-lot owned by the Declarant, nor be payable by, or collected from the Declarant.

**Section 6.** Notice of Assessments and Time for Payment Thereof. The Association shall establish an annual assessment each year, the exact date to be determined by its Board of Directors, and shall further establish and levy special assessments whenever circumstances, in the opinion of the Board of Directors, require it to meet the financial obligations and necessities of the Association. Such assessments shall be payable annually, quarterly, monthly, or in a lump sum, as the Association from time-to-time determines. The Association shall provide each Owner with notice specifying the amount of the assessment levied against its Sub-lot and the date or dates of payment of the same. No payment shall be due less than 15 days after said written notice has been given and each assessment shall bear interest at the rate of 12 percent per annum from and after the date it becomes due and payable if not paid within 30 days after such date. Failure of the Association to give notice of the assessment shall not affect the liability of the Owner for such assessment, but the date when payment shall become due in such a case shall be deferred to a date 15 days after such notice has been given.

**Section 7.** Lien of Assessment. All sums assessed against any Sub-lot shall be secured by a lien on said Sub-lot in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on said Sub-lot, with exception of: (a) valid tax and assessment liens imposed by governmental entities; (b) the lien of prior mortgages, deeds of trust or other security instruments perfected and recorded in Blaine County, Idaho; and (c) valid prior labor and materialman's liens duly perfected and recorded in Blaine County, Idaho.

To create a lien for sums assessed pursuant to this Declaration, the Association may prepare a written notice of said assessments, setting forth the amount thereof, the date due, the unpaid balance, the name of the record Owner of the Sub-lot the legal description of said Sub-lot. Such notice shall

be signed by an officer of the Association and may be recorded in the office of the County Recorder of Blaine County, Idaho. No such notice of assessment shall be recorded until there is a delinquency in the payment of the assessment to which it relates. The priority date of the lien shall be the date of its recordation, and it may be foreclosed and enforced in the manner permitted for consensual liens by the laws of the State of Idaho. In addition to all other sums which may be due and owing for which a lien is recorded, the Owner shall be obligated to pay all costs and expenses incurred by the Association in preparing, filing, foreclosing said lien, or otherwise collecting the assessment to which it is related, including all attorney's fees. All such costs and expenses shall be deemed to be secured by the lien being foreclosed.

Unless sooner satisfied and released, or the enforcement initiated as provided earlier in this section, any lien created pursuant to this section shall expire and be of no further force or effect one year from the date of recordation of said notice of assessment; provided, however, said one year period may be extended by the Association for an additional period not to exceed one year by a written extension signed by an officer of the Association and recorded in the office of County Recorder of Blaine County, Idaho, prior to the expiration of the initial one year period.

**Section 8.** Personal Obligation of Owner. The amount of any assessment against either Sub-lot shall be the personal obligation of the Owner thereof to the Association. A suit to recover a money judgment for such obligation can be maintained by the Association without foreclosure or waiver of the lien securing the same, and no owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the common area, or by the sale or abandonment of the Sub-Lot.

**Section 9.** Personal Liability of Purchasers. Subject to the provisions of Section 7 immediately hereinabove, the purchaser of a Sub-lot shall be jointly and severally liable with the seller for all unpaid assessments appurtenant thereto including any such assessments due and owing prior to said purchaser's acquisition of said Sub-lot.

## **ARTICLE VII REVOCATION OR AMENDMENT**

**Section 1.** Method of Revocation or Amendment. This Declaration may be amended or revoked, in part in whole, by an instrument duly executed by the record Owners of both Sub-lots to the provisions of this Declaration on the effective date of the amendment or revocation, and by all mortgagees and deed of trust beneficiaries under any mortgage or deed of trust encumbering either Sub-lot appearing of record at the time of revocation or amendment. Any such revocation or amendment duly adopted shall be binding upon every Owner and Sub-lot, whether the burdens thereon are increased or decreased by any such amendment or revocation, and whether or not the Owner consents thereto.

## **ARTICLE VIII MISCELLANEOUS**

**Section 1. Compliance.** Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and all rules and regulations duly enacted by the Association. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Association or any Owner.

**Section 2. Mailing Address.** Each Owner shall provide the Association with such Owner's mailing address, which address shall be used for the mailing or other service of any and all notices, assessments or communications from the Association. Any notice referred to in this section shall be deemed given by the Association when it has been deposited in the United States mail, postage prepaid, addressed to the Owner at the given address.

**Section 3. Transfer of Rights.** Any right or interest reserved hereby to the Declarant may be transferred or assigned by the Declarant to any person or entity.

**Section 4. Number and Gender.** Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

**Section 5. Severability.** If any of the provisions of this Declaration, or any clause, paragraph, sentence, phrase or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

**Section 6. Prevailing Law.** The provisions of this Declaration shall be construed and enforced pursuant to the laws of the State of Idaho, and all applicable statutes of the City of Ketchum, Idaho.

**Section 7. Third Party Beneficiaries.** The 7<sup>th</sup> Street Townhomes Homeowners Association, Inc., and each of its Members, are hereby declared to be expressed beneficiaries of this Declaration, and all covenants, conditions and restrictions herein contained, and may enforce the same by injunction or other appropriate equitable or legal action in the event of a default or failure to perform by the 7<sup>th</sup> Street Townhomes Owners Association, Inc., or any Owner. Any and all costs, including attorney fees, incurred by 7<sup>th</sup> Street Townhomes Homeowners Association or any of the members may be recovered from the 7<sup>th</sup> Street Townhomes Owners Association, Inc.

**Section 8. Enforcement.** This Declaration, and each and every covenant, condition and restriction herein contained, may be enforced by all legal and equitable means available by any Owner; by the Association, by and through its Board of Directors; or by the 7<sup>th</sup> Street Townhomes Homeowners Association, Inc., by and through its Board of Directors.

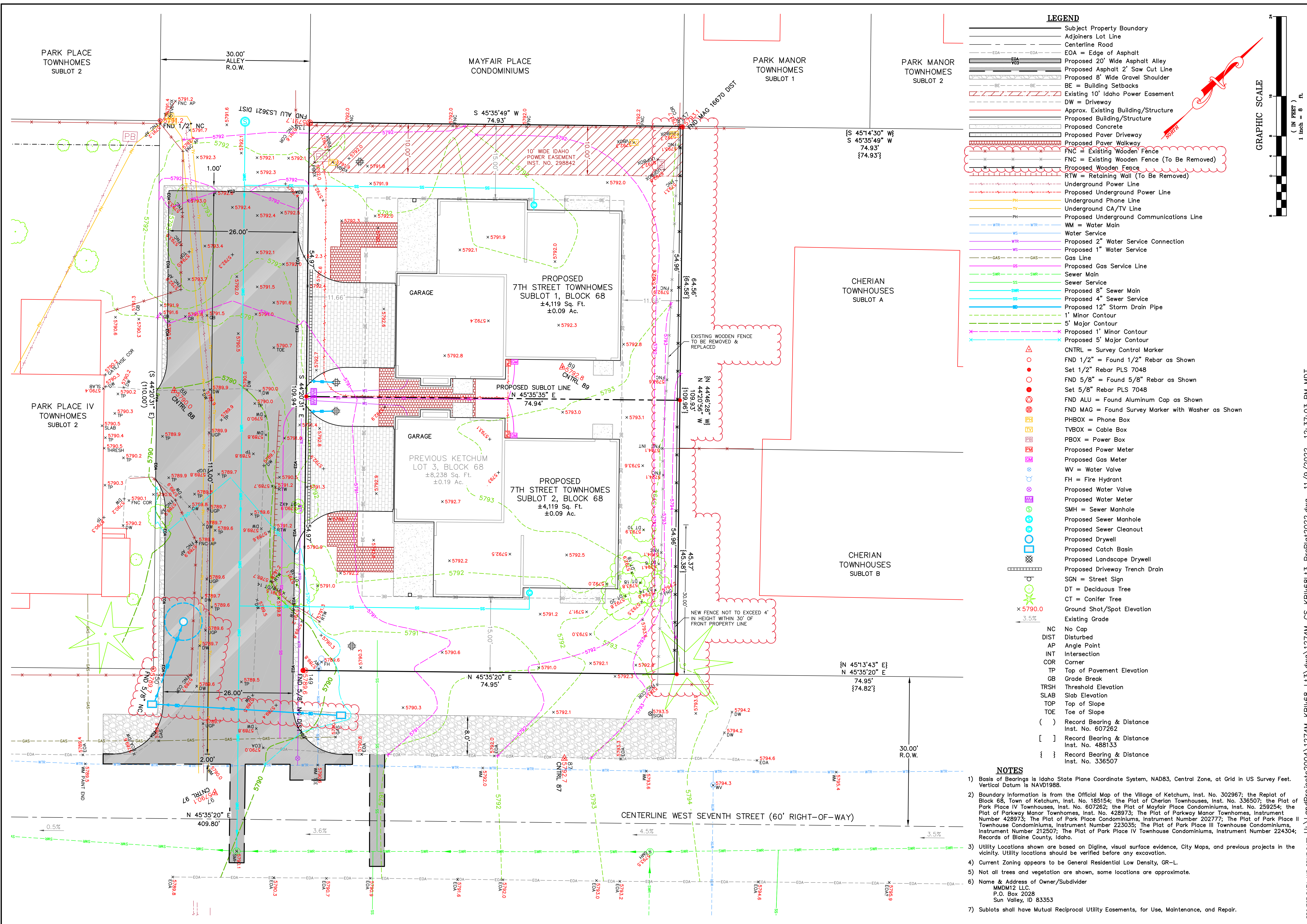
This Declaration is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.





City of Ketchum

# Attachment B: Townhouse Preliminary Plat

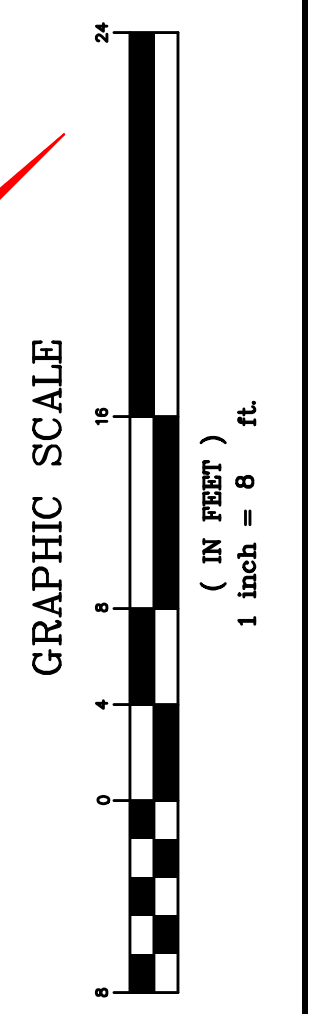


**LEGEND**

- Subject Property Boundary
- Adjoiners Lot Line
- Centerline Road
- EOA = Edge of Asphalt
- Proposed 20' Wide Asphalt Alley
- Proposed Asphalt 2' Saw Cut Line
- Proposed 8' Wide Gravel Shoulder
- BE = Building Setbacks
- Existing 10' Idaho Power Easement
- DW = Driveway
- Approx. Existing Building/Structure
- Proposed Building/Structure
- Proposed Concrete
- Proposed Paver Driveway
- Proposed Paver Walkway
- FNC = Existing Wooden Fence
- FNC = Existing Wooden Fence (To Be Removed)
- Proposed Wooden Fence
- RTW = Retaining Wall (To Be Removed)
- Underground Power Line
- Proposed Underground Power Line
- Underground Phone Line
- Underground CA/TV Line
- Proposed Underground Communications Line
- WM = Water Main
- Water Service
- Proposed 2" Water Service Connection
- Proposed 1" Water Service
- Gas Line
- Proposed Gas Service Line
- Sewer Main
- Sewer Service
- Proposed 8" Sewer Main
- Proposed 4" Sewer Service
- Proposed 12" Storm Drain Pipe
- 1' Minor Contour
- 5' Major Contour
- Proposed 1' Minor Contour
- Proposed 5' Major Contour
- CNTRL = Survey Control Marker
- FND 1/2" = Found 1/2" Rebar as Shown
- Set 1/2" Rebar PLS 7048
- FND 5/8" = Found 5/8" Rebar as Shown
- Set 5/8" Rebar PLS 7048
- FND ALU = Found Aluminum Cap as Shown
- FND MAG = Found Survey Marker with Washer as Shown
- PHBOX = Phone Box
- TVBOX = Cable Box
- PBOX = Power Box
- Proposed Power Meter
- Proposed Gas Meter
- WW = Water Valve
- FH = Fire Hydrant
- Proposed Water Valve
- Proposed Water Meter
- Proposed Sewer Manhole
- Proposed Sewer Manhole
- Proposed Sewer Cleanout
- Proposed Drywell
- Proposed Catch Basin
- Proposed Landscape Drywell
- Proposed Driveway Trench Drain
- SGN = Street Sign
- DT = Deciduous Tree
- CT = Conifer Tree
- Ground Shot/Spot Elevation
- Existing Grade
- NC = No Cap
- DIST = Disturbed
- AP = Angle Point
- INT = Intersection
- COR = Corner
- TP = Top of Pavement Elevation
- GB = Grade Break
- TRSH = Threshold Elevation
- SLAB = Slab Elevation
- TOP = Top of Slope
- TOE = Toe of Slope
- ( ) Record Bearing & Distance  
Inst. No. 607262
- [ ] Record Bearing & Distance  
Inst. No. 488133
- { } Record Bearing & Distance  
Inst. No. 336507

**NOTES**

- 1) Basis of Bearings is Idaho State Plane Coordinate System, NAD83, Central Zone, at Grid in US Survey Feet. Vertical Datum is NAVD1988.
- 2) Boundary information is from the Official Map of the Village of Ketchum, Inst. No. 302967; the Replat of Block 68, Town of Ketchum, Inst. No. 185154; the Plat of Cheriann Townhouses, Inst. No. 336507; the Plat of Park Place IV Townhouses, Inst. No. 607262; the Plat of Mayfair Place Condominiums, Inst. No. 259254; the Plat of Parkway Manor Townhomes, Inst. No. 428973; the Plat of Parkway Manor Townhomes, Instrument Number 428973; the Plat of Park Place Condominiums, Instrument Number 202777; the Plat of Park Place II Townhouse Condominiums, Instrument Number 223035; the Plat of Park Place III Townhouse Condominiums, Instrument Number 212507; the Plat of Park Place IV Townhouse Condominiums, Instrument Number 224304; Records of Blaine County, Idaho.
- 3) Utility Locations shown are based on Digline, visual surface evidence, City Maps, and previous projects in the vicinity. Utility locations should be verified before any excavation.
- 4) Current Zoning appears to be General Residential Low Density, GR-L.
- 5) Not all trees and vegetation are shown, some locations are approximate.
- 6) Name & Address of Owner/Subdivider  
MMDM12 LLC.  
P.O. Box 2028  
Sun Valley, ID 83353
- 7) Sublots shall have Mutual Reciprocal Utility Easements, for Use, Maintenance, and Repair.



PROJECT PATH AND PRINT DATE: U:\LandProjects\2004\1274M\_KBlk68\_L13.dwg\1274M\_CS\_KBlk68L13\_PrefPlat2022.dwg 11/9/2022 12:37:03 PM MDT

A PRELIMINARY PLAT SHOWING  
 7TH STREET TOWNHOMES ON LOT 3, BLK 68, KETCHUM TOWNSITE  
 WITHIN S13, T.4N., R.17E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 PREPARED FOR MMDM12 LLC.

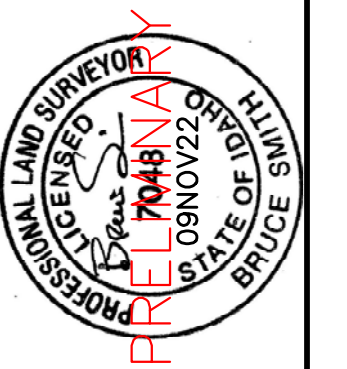
Alpine Enterprises Inc.  
 Surveying, Mapping, Civil Engineering,  
 and Natural Hazards Consulting  
 660 Bell Dr., Unit 1  
 P.O. Box 2037, Ketchum, ID 83340 USA  
 (208) 727-1898  
 email: bamt@alpineenterprisesinc.com

NO	DATE	BY
1	24AUG22	AHN
2	09NOV22	AHN

REVISIONS

REVISED

SHEET 1 OF 1





City of Ketchum

# Attachment C: Draft Findings of Fact, Conclusions of Law, and Decision - Townhouse Preliminary Plat





**City of Ketchum  
Planning & Building**

IN RE:	)	
	)	
7 <sup>th</sup> Street Townhomes	)	KETCHUM CITY COUNCIL
Townhouse Subdivision – Preliminary Plat	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: May 15, 2023	)	DECISION
	)	
File Number: 22-031A	)	

**PROJECT:** 7<sup>th</sup> Street Townhomes

**APPLICATION TYPE:** Townhouse Subdivision Preliminary Plat

**FILE NUMBER:** P22-031A

**ASSOCIATED APPLICATIONS:** Design Review (P22-031)

**REPRESENTATIVE:** Chad Blincoe, Blincoe Architecture (Architect)

**OWNER:** MMDM12, LLC

**LOCATION:** Lot 3, Block 68, Ketchum Townsite

**ZONING:** General Residential Low Density (GR-L)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The Planning and Zoning Commission (the “Commission”) considered the Townhouse Subdivision Preliminary Plat (File No. P22-031A) for the 7<sup>th</sup> Street Townhomes project during their meeting on April 11, 2023. The application was considered concurrently with the Design Review application (File No. P22-031) and the public hearings were combined in accordance with Idaho Code §67-6522. The Commission unanimously approved the Design Review application File No. P22-031 and recommended approval of the Townhouse Subdivision Preliminary Plat File No. P22-031A and the associated Phased Development Agreement #22844 to the Ketchum City Council.

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on March 22, 2023. The public hearing notice was published in the Idaho Mountain Express on March 22, 2023. A notice was published on the project site and on the city website on April 4, 2023. Story poles were documented on the project site as of April 4, 2023.

## FINDINGS OF FACT

The Ketchum City Council, having reviewed the entire project record, provided notice, and conducted the required public hearing, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

### BACKGROUND

The applicant is proposing two new 3,713 square foot three-story detached townhomes with attached two-car garages (the “project”), located at Lot 3, Blok 68, Ketchum Townsite (the “subject property”). The subject property is zoned General Residential – Low Density (GR-L) and the lot is currently vacant. Detached townhomes are a permitted use within the GR-L zone district provided that all dimensional standards are met. The project proposes to subdivide the property into two townhouse sublots and construct a new detached dwelling unit on each of the newly created sublots.

The project will construct improvements in the right-of-way per the City of Ketchum improvement standards. The project proposes access to both sublots from the alley off 7<sup>th</sup> Street. The project proposes paver driveways with no snowmelt for both driveways. All improvements to the right-of-way have been preliminarily reviewed by the Streets Department and the City Engineer. Final review of the proposed improvements will be conducted by the City Engineer and Streets Department prior to issuance of a building permit.

### FINDINGS REGARDING COMPLIANCE WITH TOWNHOUSE SUBDIVISION REQUIREMENTS

Townhouse Plat Requirements				
Compliant			Standards	
Yes	No	N/A	City Code	City Standards
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.080.B	<p><b>Townhouse Owners' Documents:</b> The subdivider of the townhouse project shall submit with the preliminary plat application a copy of the proposed party wall agreement and any proposed document(s) creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, parking and/or open spaces. Prior to final plat approval, the subdivider shall submit to the city a final copy of such documents and shall file such documents prior to recordation of the plat, which shall reflect the recording instrument numbers.</p>
			<i>Findings</i>	<p>The project proposes detached townhouses; therefore, no party wall agreement is required. The applicant has provided draft covenant documents as part of the application materials.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C.1	<p><b>Preliminary Plat Procedure:</b> Townhouse developments shall be administered consistent with the procedures and design and development regulations established in §16.04.030 and §16.04.040 and the standards of this subsection.</p> <p>All townhouse developments shall be platted under the procedures contained in the subdivision ordinance in effect and shall be required to obtain design review approval prior to building permit issuance.</p>

			<i>Findings</i>	The applicant submitted a Design Review application for the project in conjunction with the townhouse subdivision application. Both applications were reviewed and approved by the Planning and Zoning Commission during their April 11, 2023, meeting.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C.2	The subdivider may apply for preliminary plat approval from the commission pursuant to subsection 16.04.030D of this chapter at the time application is made for design review approval pursuant to title 17, chapter 17.96 of this code. The commission may approve, deny or conditionally approve such preliminary plat upon consideration of the action taken on the application for design review of the project.
			<i>Findings</i>	The applicant submitted a Design Review application for the project in conjunction with the townhouse subdivision application. Both applications were reviewed and approved by the Planning and Zoning Commission during their April 11, 2023, meeting.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.C.3	The preliminary plat, other data, and the commission's findings may be transmitted to the council prior to commencement of construction of the project under a valid building permit issued by the City. The council shall act on the preliminary plat pursuant to subsection 16.04.030E and F of this chapter.
			<i>Findings</i>	Following adoption of the Findings of Fact for the Townhouse Subdivision application, staff will transmit the application and findings to the City Council for review and approval prior to issuance of a building permit for the project.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.080.C.4	In the event a phased townhouse development project is proposed, after preliminary plat is granted for the entirety of a project, the final plat procedure for each phase of a phased development project shall follow §16.04.030.G and comply with the additional provisions of §16.04.110 of this code.
			<i>Findings</i>	A phased townhouse development is proposed. The phased development agreement was reviewed and recommended for approval to the City Council as part of the review of this townhouse preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.D	<b>D. Final Plat Procedure:</b> 1. The final plat procedure contained in subsection 16.04.030G of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the townhouse has received either: a. A certificate of occupancy issued by the city of Ketchum for all structures in the townhouse development and completion of all design review elements as approved by the planning and zoning administrator; or b. Signed council approval of a phased development project consistent with §16.04.110 herein. 2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code.
			<i>Findings</i>	Following receipt of a certificate of occupancy, the applicant shall submit an application for final plat following all procedures as outlined in Title 16 of the Ketchum Municipal Code.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E. 1	<p><b>Required Findings:</b> In addition to all Townhouse Developments complying with the applicable provisions of Title 17 and this Subdivision Chapter (§16.04), the Administrator shall find that</p> <p>All Townhouse Developments, including each individual subplot, shall not exceed the maximum building coverage requirements of the zoning district.</p>
			<i>Findings</i>	The maximum building coverage in the GR-L zone district is 35% of the lot. The subject property is 8,238 square feet. The proposed detached townhomes have a building coverage of 2,883 square feet. This results in a total building coverage of 35% of the lot.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E. 2	<p><b>Garage:</b> All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots; provided, that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents, and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.</p>
			<i>Findings</i>	Both sublots include two car garages. Staff recommends condition of approval #3 to include a plat note stating the garages may not be subdivided and sold separately and shall only be used for vehicle parking and household storage.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E. 3	<p><b>General Applicability:</b> All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by townhouse subdivisions. (Ord. 1061 § 3, 2009: Ord. 879 § 4, 2001: Ord. 460 § 2, 1987)</p>
			<i>Findings</i>	During department review of the Design Review application, staff reviewed the project for compliance with the Zoning Regulations, dimensional standards, and development standards for the City of Ketchum. As conditioned, the townhouse subdivision application meets all applicable regulations.

**FINDINGS REGARDING PRELIMINARY PLAT SUBDIVISION REQUIREMENTS**

Preliminary Plat Requirements					
Compliant			City Code	City Standards	
Ye s	No	N/A			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C. 1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.	
			<i>Findings</i>	The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on May 31, 2022.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.	
			<i>Findings</i>	The subdivision application was deemed complete on February 13, 2023.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following:  The scale, north point and date.	
			<i>Findings</i>	This standard is met as shown on the preliminary plat.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.	
			<i>Findings</i>	As shown on the preliminary plat, the subdivision is named "7 <sup>th</sup> Street Townhomes" which is not the same as any other subdivision in Blaine County, Idaho.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.	
			<i>Findings</i>	As shown on the preliminary plat, the owner and subdivider is MMDM12, LLC. The plat was prepared by Bruce Smith of Alpine Enterprises Inc.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .4	Legal description of the area platted.	
			<i>Findings</i>	The legal description of the area platted is not shown on the preliminary plat. Staff recommends condition of approval #4 requiring the final plat to include a Certificate of Ownership.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.	
			<i>Findings</i>	The preliminary plat indicates the boundary lines of the adjoining lots including condominium lots and townhouse lots.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.	

			<i>Findings</i>	The preliminary plat shows the contour lines for the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .7	<b>The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.</b>
			<i>Findings</i>	The preliminary plat shows the location of the proposed units and all adjacent streets and easements.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .8	<b>Boundary description and the area of the tract.</b>
			<i>Findings</i>	The preliminary plat provides the boundary description of the area and includes square footage and acreage of both sublots.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .9	<b>Existing zoning of the tract.</b>
			<i>Findings</i>	Plat note #4 of the preliminary plat lists the existing zoning of the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .10	<b>The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.</b>
			<i>Findings</i>	The preliminary plat shows the locations and lot lines for the proposed townhouse sublots. No new streets or blocks are being proposed with this application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .11	<b>The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.</b>
			<i>Findings</i>	This standard is not applicable as there is no requirement or proposal for land dedicated for public or common use.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .12	<b>The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.</b>
			<i>Findings</i>	As shown on the preliminary plat, each detached townhouse will have separate services for sewer and water from the main lines on 7 <sup>th</sup> Street.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .13	<b>The direction of drainage, flow and approximate grade of all streets.</b>
			<i>Findings</i>	This standard does not apply as no new streets are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .14	<b>The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.</b>
			<i>Findings</i>	This standard does not apply as no new drainage canals or structures are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .21	<b>All percolation tests and/or exploratory pit excavations required by state health authorities.</b>
			<i>Findings</i>	This standard does not apply as no additional tests are required.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .22	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			<i>Findings</i>	A draft for the 7 <sup>th</sup> Street Townhomes Covenants, Conditions and Restrictions is included in the project plans.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .15	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.
			<i>Findings</i>	The project plans include a vicinity map sheet that satisfies this requirement.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .16	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			<i>Findings</i>	The subject property is not within a floodplain, floodway, or avalanche zone district.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J .17	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek, or Warm Springs. The subject property does not contain slopes greater than 25% and is not adjacent to an intersection.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .18	Lot area of each lot.
			<i>Findings</i>	As shown on the preliminary plat, the area of Sublot 1 is 4,119 square feet and the area of Sublot 2 is 4,119 square feet.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .19	Existing mature trees and established shrub masses.
			<i>Findings</i>	As shown on the preliminary plat, there are a variety of trees and shrubs existing on the property and within the right-of-way.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .23	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			<i>Findings</i>	The applicant provided a title report issued by Old Republic National Title Insurance Company dated January 11, 2021, recorded at Instrument Number Ox 13546069 and a warranty deed issued by First American Title Company dated January 4, 2021 recorded at Instrument Number 678101 with the initial application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J .24	A digital copy of the preliminary plat shall be filed with the administrator.
			<i>Findings</i>	The City of Ketchum received a digital copy of the preliminary plat at the time of application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the

				<p>final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.</p>
			<i>Findings</i>	<p>All proposed improvements to the public right-of-way are shown in the project plans. The applicant also submitted a set of preliminary construction design plans for review by the City Engineer. Final review and approval of the right-of-way improvements will be conducted during the building permit review per the conditions of approval. The subject property does not include any watercourses, rock outcroppings, shrub masses or historic areas.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	<p><b>Improvement Plans:</b> Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.</p>
			<i>Findings</i>	<p>This standard does not apply as this is a preliminary plat application, not a final plat application.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	<p><b>Performance Bond:</b> Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</p>
			<i>Findings</i>	<p>This standard does not apply as this is a preliminary plat application, not a final plat application.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	<p><b>As Built Drawing:</b> Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and</p>



				<p>submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.E	<p><b>Monumentation:</b> Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p><b>Lot Requirements:</b></p> <ol style="list-style-type: none"> <li>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</li> <li>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</li> </ol>

				<p>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</p> <p>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</p> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
			<i>Findings</i>	<ol style="list-style-type: none"> <li>1. The proposed townhouse subdivision meets all dimensional standards as outlined in the GR-L zone district for the parent lot. The minimum lot size is 8,000 square feet and the parent lot is 8,238 square feet. The new detached townhouses meet minimum setback requirements in the GR-L for the front, side, and rear. There are no minimum setbacks to the interior lot line of a townhouse lot.</li> <li>2. Building envelopes are not required as the subject property is not within the floodplain/floodway, avalanche zone, does not contain slopes greater than 25%, nor is it located adjacent to an intersection of two streets.</li> <li>3. The subject property is not a corner lot.</li> <li>4. The parent lot of the townhouse subdivision and the newly created subplot lot line is within 20 degrees to a right angle to the street lot line along 7<sup>th</sup> Street.</li> <li>5. The subject property is not a double frontage lot.</li> <li>6. Both Sublots have a minimum of 20 feet of frontage on 7<sup>th</sup> Street.</li> </ol>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p><b>Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</b></p> <ol style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision</li> </ol>

				<p>and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</p> <p>4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</p>
			<i>Findings</i>	This standard does not apply as no new blocks are being created.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.H	<p><b>Street Improvement Requirements:</b></p> <ol style="list-style-type: none"> <li>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</li> <li>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</li> <li>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</li> <li>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</li> <li>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</li> <li>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</li> <li>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</li> <li>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</li> </ol>

			<p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p>
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				23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.
			<i>Findings</i>	This standard does not apply as no new streets are proposed.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.I	Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.
			<i>Findings</i>	A 26-foot alley exists off 7 <sup>th</sup> Street. Access for the detached townhouses is proposed off the alley. The project will improve the alley to meet city standards triggered by the clearing and grubbing of existing vegetation in the alley and the necessity to manage drainage within the right-of-way and alley appropriately.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or</p>

				<p>constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			<i>Findings</i>	<p>As shown on the preliminary plat, an existing 10-foot-wide Idaho Power easement exists along the northern property line. During the Planning and Zoning meeting, staff noted the addition of a 5-foot-wide public utility easement to accommodate the Idaho Power infrastructure required for the project. After a conversation with the applicant, it was confirmed that this additional utility easement is not needed and therefore has been removed. Standards 2-6 do not apply to the project as the property is not adjacent to any of the listed waterways, not adjacent to Warm Springs, does not contain any irrigation infrastructure, and does not include pedestrian or equestrian pathways.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.K	<p><b>Sanitary Sewage Disposal Improvements:</b> Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider.</p> <p>Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>Findings</i>	<p>This standard does not apply as this application does not create a new subdivision. Both sublots are directly connected to the City of Ketchum sewer system main found in 7<sup>th</sup> Street.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.L	<p><b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district</p>

				sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.
			<i>Findings</i>	This standard does not apply as this application does not create a new subdivision. Both sublots are directly connected to the City of Ketchum water system main found in 7 <sup>th</sup> Street.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.
			<i>Findings</i>	This standard does not apply as this application does not create a new subdivision. There are no incompatible uses adjacent to the proposed townhouse sublots.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.N	<p>Cuts, Fills, And Grading Improvements: Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> <li>e. Location of all street and utility improvements including driveways to building envelopes.</li> <li>f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements.</li> </ol> </li> <li>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</li> <li>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</li> <li>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation</li> </ol>

			<p>of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <ul style="list-style-type: none"> <li>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</li> <li>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods).</li> <li>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</li> <li>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</li> <li>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</li> </ul>
			<p><i>Findings</i></p> <p>This standard does not apply as this application is the subdivision of an existing lot. On-site grading for the new detached townhouses meets all grading requirements and all disturbance will be revegetated per the landscape plan included in the project plans.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.O</b></p> <p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>



			<b>Findings</b>	The applicant submitted a site grading and drainage plan with the townhouse subdivision application showing drainage for each subplot. No common drainage courses are utilized or disturbed. The grading and drainage plan meets all requirements and each subplot is managing stormwater runoff independently, not impacting adjacent properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.040.P</b>	<b>Utilities: In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</b>
			<b>Findings</b>	All utilities are proposed underground per the KMC requirements. During the due diligence stages of the project, Idaho Power reviewed the project for electrical service to the project and determined that adequate utilities exist to service the proposed development. The utility easements are shown in the landscape plan, civil plan, and subdivision applications.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.Q</b>	<b>Off Site Improvements: Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.</b>
			<b>Findings</b>	The proposed townhouse development does not create substantial additional traffic; therefore, no improvements are required.

### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Townhouse Preliminary Plat application for the development and use of the project site.
2. The Council has authority to review and recommend approval of the applicant’s Townhouse Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Townhouse Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.

5. The 7<sup>th</sup> Street Townhouse Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

### DECISION

**THEREFORE**, the Ketchum City Council **approves** this Townhouse Preliminary Plat Application File No. P22-031A this Monday, May 15, 2023, subject to the following conditions of approval.

### CONDITIONS OF APPROVAL

1. The preliminary plat is subject to all conditions of approval associated with Design Review approval File No. P22-031.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.
3. The applicant shall add a plat note to the Townhouse Final Plat stating the garage shall not be subdivided and sold separately and shall only be used for parking of vehicles and household storage.
4. The applicant shall add a Certificate of Ownership to the Townhouse Final Plat.

Findings of Fact **adopted** this 15<sup>th</sup> day of May 2023.

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Neil Bradshaw, Mayor  
City of Ketchum



City of Ketchum

# Attachment D: Phased Development Agreement Application Materials & supporting documents



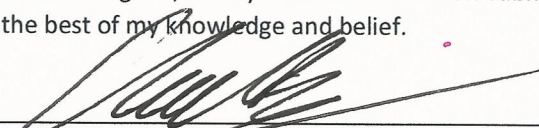
City of Ketchum  
Planning & Building

OFFICIAL USE ONLY
File Number:
Date Received:
By:
Approved Date:
Denied Date:
By:

## Development Agreement Amendment Application

<b>ORIGINAL DEVELOPMENT AGREEMENT</b>	
<b>Project Name:</b> 7Th St Townhomes	
<b>Development Agreement:</b> Phased Development	
<b>Phone:</b> 208-622-5502	<b>Email:</b> info@hscorp.com
<b>Mailing Address:</b> PO Box 2028 Sun Valley, ID 83353	
<b>Representative:</b> Chad Blincoe	
<b>Mailing Address:</b> PO Box 4424 Ketchum ID, 83340	
<b>Phone:</b> 208-720-1325	<b>Email:</b> chad@ba-idaho.com
<b>PROJECT INFORMATION</b>	
<b>Legal Land Description:</b> Lot 3 Blk 68	
<b>Street Address:</b> N/A	
<b>Lot Area:</b> 8,238 sq ft	
<b>Zoning District:</b> GR-L	
<b>Overlay District:</b> <input type="checkbox"/> Flood <input type="checkbox"/> Avalanche <input type="checkbox"/> Mountain	
<b>Anticipated Use:</b> Residential	
<b>SECOND AMENDMENT</b>	
<b>Date of Agreement:</b>	
<b>Parties Named in Original Agreement:</b>	
<b>Summary of Significant Changes:</b>	
<b>THIRD AMENDMENT</b>	
<b>Date of Agreement:</b>	
<b>Parties Named in Original Agreement:</b>	
<b>Summary of Significant Changes:</b>	
<b>OTHER AMENDMENTS</b>	
<b>Date of Agreement:</b>	
<b>Parties Named in Original Agreement:</b>	
<b>Summary of Significant Changes:</b>	

I, the undersigned, certify that all information submitted with and upon this application form is true and accurate to the best of my knowledge and belief.

  
\_\_\_\_\_  
Signature of Owner/Representative

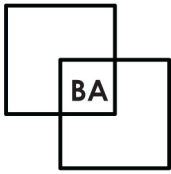
2/3/23  
\_\_\_\_\_  
Date

Once your application has been received, we will review it and contact you with next steps. No further action is required at this time.

**COMMENTS:**

191 5th St. West | P.O. Box 2315 | Ketchum, ID 83340 | main  
208.726.7801 | fax 208.726.7812

Facebook/CityofKetchum | [twitter.com/Ketchum\\_Idaho](https://twitter.com/Ketchum_Idaho) |  
[www.ketchumidaho.org](http://www.ketchumidaho.org)



## 7<sup>th</sup> St Townhomes Phased Development Lot 3 Blk 68

In addition to the application, this letter is to provide an outline for the phased development for 7<sup>th</sup> St Townhomes project located in a property on 7<sup>th</sup> St in Ketchum which legally described as Lot 3 in Block 68 of the Replat of Block 68 within the City of Ketchum.

The owner would like to construct infrastructure improvements to City standards and assume private maintenance of the improved alleyway known as 7<sup>th</sup> Street City Alley accessing Sublots 1A and 1B and water and sewer lines within the preliminary plat.

In line with the aforementioned circumstances, the Owner is applying for a phased development. First phase of the development to start in the beginning of June 2023 will include all the site utility work for both units, alley way and right of way improvements, excavation and foundation work for both Sublots, Unit B Certificate of Occupancy ready structure, and Sublot 1B landscapes and hardscapes to be completed first.

Second Phase of the development will include the completion of Sublot 1A final work, Unit A Certificate of Occupancy ready structure, finish all landscape work and finish all right of way improvements.



City of Ketchum

# Attachment E: Draft Phased Development Agreement

<p><b>RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:</b></p> <p>City Clerk, City of Ketchum  PO Box 2315  Ketchum Idaho, 83340</p>	
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(Space Above Line For Recorder’s Use)

**7<sup>TH</sup> STREET TOWNHOMES  
PHASED TOWNHOUSE SUBDIVISION AGREEMENT #22844**

THIS PHASED TOWNHOUSE SUBDIVISION AGREEMENT (“Agreement”) is made and entered into as of the \_\_ day of \_\_\_\_\_ 2023, by and between the City of Ketchum, an Idaho municipal corporation (“City”) and MMDM12, LLC, an Idaho limited liability company (“Owner”).

**RECITALS**

WHEREAS, Owner owns that certain real property located on 7<sup>th</sup> Street in Ketchum, Idaho, and legally described as Lot 3, Block 68, Ketchum Townsite, according to the official plat recorded under Instrument Number 185154, on file in the office of the County Recorder of Blaine County, Idaho (the “Property”); and

WHEREAS, Owner has submitted a Design Review application for the development of the Property with two detached townhomes (the “Project”) and requests a phased development agreement for the development of the Project under the provisions of Section 16.04.110 – *Phased Development Projects* within Title 16 of the Ketchum Municipal Code.

WHEREAS, Owner has submitted an application for a townhouse preliminary plat to create two townhome sublots referred to as Sublot 1 and Sublot 2 (the “Townhouse Preliminary Plat”), included as Exhibit A.

WHEREAS, Owner proposes to construct all required right-of-way infrastructure improvements including paver driveways with no snowmelt, drainage in the alley, grading along 7<sup>th</sup> Street, and water and sewer utility services to each subplot in one phase. All required improvements will be constructed to City standards and Owner assumes maintenance responsibilities of the paver driveway, grading, drainage, and water and sewer service lines to each subplot, for the full width of the alleyway and for the length of the subject property.

**AGREEMENT**

NOW THEREFORE, in consideration of the above recitals and the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:



1. Maintenance Responsibilities.

A. *Owner.*

- (1) *Water Service Lines Serving Sublots 1 and 2.* Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private water lines serving the Project. The private water line is from the point of the meter on 7<sup>th</sup> Street to each detached townhouse unit.
- (2) *Sewer Service lines Serving Sublots 1 and 2.* Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private sewer lines serving the Project. The private sewer line is from the point of the meter to each detached townhouse unit.
- (3) *Paver Driveway.* Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private driveways serving Sublots 1 and 2.
- (4) *Alley.* Owners and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the alleyway serving both sublots. A separate Alley Maintenance Agreement must be approved by City Council concurrent with the Townhouse Final Plat. The Alley Maintenance Agreement must be recorded prior to or in conjunction with recording of the Townhouse Final Plat and shall be referenced by note on the Townhouse Final Plat.

2. Construction and Completion Schedule.

- A. All townhouse units on Sublots 1 and 2 shall be completed no later than three years from the date of issuance of a building permit for the first townhouse unit, as evidenced by issuance of a Certificate of Occupancy for each townhouse unit.
- B. Prior to issuance of a Certificate of Occupancy for the first detached townhouse unit, each subplot shall be adequately served by both water and sewer services as generally depicted on Exhibit A, as affirmed in writing by the City. The City must approve the timing of water and sewer connections to the existing system.
- C. Prior to obtaining Certificate of Occupancy for the first townhouse unit, the following improvements as generally depicted on Exhibit B shall be completed and/or extended to each Sublot:

- (1) Dry utility services (power, gas, cable, etc); and
- (2) All hardscape pathways and access points for adequate and safe egress from the unit; and
- (3) 7<sup>th</sup> Street right of way improvements consistent with Ketchum Municipal Code, Title 12.04.030.H.1 and current right of way standards completed and installed to the satisfaction of the City Engineer; and
- (4) Alley surfacing and drainage improvements; and
- (5) Water and sewer mains and services serving sublots 1 and 2; and

D. Prior to obtaining a Certificate of Occupancy for the last detached townhouse unit, all landscaping as generally depicted in Exhibits A and B shall be installed.

3. Building Permits for Each Townhouse Unit. Owner shall apply for individual building permits for each townhouse unit to be constructed. Each townhouse unit shall obtain a separate Certificate of Occupancy. The first building permit shall include plans and improvements as identified in Sections 2A and B of this Agreement.
4. Townhouse Sublot Final Plat. The City agrees to accept and process a townhouse final plat application for approval by City Council provided a Certificate of Occupancy has been issued for the first townhouse unit on the Property should Owner comply with all above recitals.
5. Owners' Association Assumption of Responsibilities. Upon the recording of the Townhouse Sublot Final Plat, Owner may assign and transfer its maintenance responsibilities and obligations under this Agreement to the 7<sup>th</sup> Street Townhomes Homeowner's Association.

6. General Provisions.

A. *Recitals and Construction.* The City and Owner incorporate the above recitals into this Agreement and affirm such recitals are true and correct.

B. *Effective Date.* This Agreement is effective as of the date on which the last of the City and Owner execute this Agreement. Neither party shall have any rights with respect to this Agreement until both have executed this Agreement.

C. *Owner Representations.* Owner represents and warrants to City that (a) Owner holds fee simple title to the Property, and (b) no joinder or approval of another person or entity is required with respect to Owner's authority to make and execute this

Amendment.

D. *Neutral Interpretation.* City and Owner acknowledge they and, if they so choose, their respective counsel have reviewed this Agreement and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of the Agreement, or any exhibits, attachments and addenda to the Agreement.

E. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which taken together shall constitute one and the same agreement binding upon the parties. Signatures transmitted by facsimile or via e-mail in a "PDF" format shall have the same force and effect as original signatures on this Amendment. The Original of this Amendment shall be recorded with the Blaine County Recorder.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunder caused this Agreement to be executed, the same being done after public notice and statutory requirements having been fulfilled.

"CITY":

"OWNER":

CITY OF KETCHUM,

MMDM12, LLC

an Idaho municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Neil Bradshaw, Mayor

Print: \_\_\_\_\_

Member

ATTEST:

\_\_\_\_\_  
Trent Donat, City Clerk

***ACKNOWLEDGEMENT FOR CITY***

STATE OF IDAHO            )  
  ) ss.  
COUNTY OF BLAINE        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified by me to be the Mayor of the City of Ketchum, Idaho, and the person who executed the foregoing instrument and acknowledged to me that he executed the same on behalf of such city.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written above.

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

***ACKNOWLEDGEMENT FOR OWNER***

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known to me to be the owner of certain real property at Lot 3, Block 68, Ketchum Townsite, and known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

**Reasons for Recommendation:**

- On Oct. 17, 2022, Council approved a not-to-exceed amount of \$54,000 for the refresh of Little Park
- The approved amount did not include the purchase of ADA playground equipment
- The existing playground equipment is old and unsafe and will be removed

**Policy Analysis and Background (non-consent items only):**

The City would like to be able to meet the needs of all visitors to our parks as we make improvements. To enable equitable access, ADA pathways and picnic benches will be installed as part of this makeover. Because Little Park is popular amongst preschoolers, the city would also like to replace the unsafe and dated equipment with new ADA play equipment. The city’s capital improvement budget has funds allocated to this project. Unfortunately, playground equipment does not fall within the allowable expenditures.

None of the city-owned parks provide play equipment for the mobility impaired. And it is our understanding that only the playground at the Hemingway Steam School offers ADA play equipment for school-aged children. There is clearly an unmet need to address this demographic.

The city is working with The Community Library to create a network between their current location, their new museum location (4<sup>th</sup> & Walnut), Ketchum Town Square, the Ore Wagon Museum, and the Bonning Cabin to tie together elements of Ketchum’s history. We expect this partnership and the addition of the new Bluebird Community Housing project (located across the street from Little Park) to bring even more members of our community and visitors to enjoy what Little Park has to offer.

The total cost of the play equipment, base materials and installation is \$27,600. The City has received a \$10,000 grant from the Rixon + Cronin Charitable Fund and has applied for a \$5,000 grant from the Kiwanis Club and \$2,000 from the Papoose Club. If the City is awarded grants from the Kiwanis and Papoose clubs, the remaining cost of the project will be \$10,600. Without the two additional grants, the remaining cost will be \$17,600. There are adequate funds in the general fund fund balance.

Sustainability Impact:

None OR state impact here: None

Financial Impact:

None OR Adequate funds exist in account: Fund Balance, General Fund

Attachments:

1. Purchase order #23098

2.

3.



**CITY OF KETCHUM**  
 PO BOX 2315 \* 191 5TH ST. \* KETCHUM, ID 83340  
 Administration 208-726-3841 (fax) 208-726-8234

**PURCHASE ORDER**  
 BUDGETED ITEM? \_\_\_ Yes \_\_\_ No

**PURCHASE ORDER - NUMBER: 23098**

<b>To:</b> 6007 INTERMOUNTAIN PLAYGROUND CO 7329 W AIRWAY CT. STE G BOISE ID 83709	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
05/10/2023	kchoma	kchoma		0	

Quantity	Description	Unit Price	Total
1.00	ADA ACCESSIBLE PLAYGROUND 03-4194-7125	27,596.20	27,596.20
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		27,596.20

\_\_\_\_\_  
 Authorized Signature



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

Recommended Motion:

*"I move to approve the street closure for the Lost River Disco: Ranger Street Party"*

Reasons for Recommendation:

- The City of Ketchum supports special events.
- May 16th, 2023; 2pm-11pm; East Ave between Sun Valley Rd and 4<sup>th</sup> St. for the Lost River Disco: Ranger Street Party.
- Non-designated street closures require approval by the City Council.

Policy Analysis and Background (non-consent items only):

N/A

Sustainability Impact:

None

Financial Impact:

None





City of Ketchum

**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date:  Staff Member/Dept:

Agenda Item:

Recommended Motion:

Reasons for Recommendation:

- 
- 
- 

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

Financial Impact:

Attachments:

- 
- 
-



**CITY OF KETCHUM**  
 PO BOX 2315 \* 191 5TH ST. \* KETCHUM, ID 83340  
 Administration 208-726-3841 (fax) 208-726-8234

**PURCHASE ORDER**  
 BUDGETED ITEM? \_\_\_ Yes \_\_\_ No

**PURCHASE ORDER - NUMBER: 23099**

<b>To:</b> 5859 THE AVILA CO LLC 2006 S MANITOU AVE BOISE ID 83706	<b>Ship to:</b> CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
--	---

P. O. Date	Created By	Requested By	Department	Req Number	Terms
05/10/2023	kchoma	kchoma		0	

Quantity	Description	Unit Price	Total
1.00	EMERGENCY VEHICLE WRAP - NEW LOGO 01-4230-6010	12,678.00	12,678.00
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		12,678.00

\_\_\_\_\_  
 Authorized Signature



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Jade Riley - Administration

Agenda Item: Recommendation to approve MOU with Blaine County Recreation District, Blaine County School District, Blaine County, and cities within Blaine County.

Recommended Motion:

"I move to approve memorandum of understanding with Blaine County Recreation District for the completion of a recreational facility needs assessment."

Reasons for Recommendation:

- Staff from respective jurisdictions met recently and there was unanimous support to complete an update to last needs assessment which is very dated.
Growth in the valley has certainly put a strain on the existing limited recreational assets.
Financial participation would be determined once a scope of work and consultant has been retained.

Policy Analysis and Background (non-consent items only):

[Empty box for Policy Analysis and Background]

Sustainability Impact:

Adequate facilities within each community does reduce the likelihood of increased vehicular trips.

Financial Impact:

None OR Adequate funds exist in account: None at this time, staff will return following selection of the consultant. BCRD has initial funds to start the project.

Attachments:

- 1. BCRD MOU

**MEMORANDUM OF UNDERSTANDING 23-014**  
**Between**  
**BLAINE COUNTY RECREATION DISTRICT**  
**And**  
**THE CITIES OF CAREY, BELLEVUE, HAILEY, KETCHUM, SUN VALLEY, BLAINE COUNTY SCHOOL DISTRICT AND BLAINE COUNTY**

**Blaine County Sports and Recreation Infrastructure Feasibility Assessment**

This Memorandum of Understanding (MOU) for mutual participation and funding of a Sports and Recreation Infrastructure Feasibility Assessment (Assessment) is hereby entered into by and between Blaine County Recreation District (BCRD), the City of Carey (Carey), the City of Bellevue (Bellevue), the City of Hailey (Hailey), the City of Ketchum (Ketchum), the City of Sun Valley (Sun Valley), Blaine County School District (BCSD), and Blaine County (County) may hereinafter be collectively referred to as the “Parties.”

**1. Purpose:**

The Parties have agreed to collaborate and coordinate efforts to develop a process and work with a consultant to implement an Assessment of indoor and outdoor recreation infrastructure needs within Blaine County. Once a cost of hiring a consultant is determined the Parties may provide funding as agreed upon and approved by each entities governing body. The Assessment will update previously collected information, assess the status and condition of existing playing fields throughout the County, identify areas that could be improved to accommodate a variety of sports, and where undeveloped sites exist that could be developed to accommodate additional sports and recreation infrastructure.

**2. Process:**

- The Parties will work together to develop and agree upon a Request for Proposals seeking a qualified consultant to provide research, facilitation, and recommendations to implement the Assessment.
- BCRD will contract with the selected consultant to begin implementation of an Assessment.
- The BCRD and selected consultant will convene three working groups in support of completing the Assessment:
  - Group 1, the implementation group, will consist of representatives from the Cities of Carey, Bellevue, Hailey, Ketchum, Sun Valley, Blaine County, BCRD and BCSD.
  - Group 2 will consist of individual user groups such as club teams, community organizations interested in recreation and other recreation providers in the community.
  - Group 3 will consist of overall community engagement and input from the general public.

**3. Responsibilities of the Parties:**

All Parties to this MOU will participate in the development of an Assessment and contribute funding, as approved by each entities governing body, to be agreed upon once a full Scope of Services, Project Schedule, and Cost has been prepared.

**4. Terms and Termination:**

This agreement shall be in full force and effect upon execution and will remain in effect through the end of the Assessment process. This MOU is subject to termination without cause by the Parties with a 30-day written notification. Modifications of this MOU shall be made by mutual consent of the Parties, by written modification, signed and dated by all Parties, prior to any changes being performed.

Approvals: executed and effective by the undersigned parties as of the date signed. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

The Parties Hereto have executed this instrument.

\_\_\_\_\_  
Mayor Sara Mecham  
City of Carey

Date \_\_\_\_\_

\_\_\_\_\_  
Attest:  
City of Carey Clerk

\_\_\_\_\_  
Mayor Kathryn Goldman  
City of Bellevue

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest:  
City of Bellevue Clerk

\_\_\_\_\_  
Mayor Martha Burke  
City of Hailey

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest:  
City of Hailey Clerk

\_\_\_\_\_  
Mayor Neal Bradshaw  
City of Ketchum

Date \_\_\_\_\_

\_\_\_\_\_  
Attest:  
City of Ketchum Clerk

\_\_\_\_\_  
Mayor Peter Hendricks  
City of Sun Valley

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest:  
City of Sun Valley Clerk

\_\_\_\_\_  
Blaine County Commissioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest: Stephen McDougall Graham  
Blaine County Clerk

\_\_\_\_\_  
Mark Davidson, Director  
Blaine County Recreation District

\_\_\_\_\_  
Date

STATE OF IDAHO     )  
                                  ) ss  
County of Blaine     )

On this \_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a notary public for the State of Idaho, personally appeared **Mark Davidson**, known or identified to me to be the Director of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_

(seal)

Notary Public for Idaho  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Jim Foudy, Superintendent  
Blaine County School District

\_\_\_\_\_  
Date

STATE OF IDAHO     )  
                                  ) ss  
County of Blaine    )

On this \_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a notary public for the State of Idaho, personally appeared **Jim Foudy**, known or identified to me to be the Director of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.

(seal)

\_\_\_\_\_  
Notary Public for Idaho  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_





City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Jade Riley/Administration

Agenda Item: Recommendation to not alter the fee methodology for Short-term Rental registration program.

Recommended Motion:

"I move to approve the new STR fee of \$504.00, reduced from the previous \$527.00 based on revised cost recovery."

Reasons for Recommendation:

- On April 17, 2023, the Council received a recap of the first year for the STR registration program.
There were discussions about moving to a dual rate structure (initial application and renewal)
Staff further evaluated the concept, and it is recommending a single rate.

Policy Analysis and Background (non-consent items only):

Upon reviewing the concept of a dual rate, staff is concerned about setting a false sense of expectations regarding cost recovery. Specifically, it is unclear how long it will take to gain compliance with the remaining unregistered units.

On June 1, 2022, all Short-term Rental units were required to register with the city and comply with health and safety regulations. Idaho state law specifically empowers cities to regulate:

- 63-1802. LEGISLATIVE INTENT. 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.

The following elements contained in the ordinance:

- All STRs required to register with City
Permit requirements focused on life safety, including:
Operable bedroom windows
Monitored smoke alarms and carbon monoxide detectors, fire extinguishers, and fire/life safety plan
Adequate parking and safe site access
Quiet hours
Local representative listed
20+ occupants = CUP
Not allowed in Light Industrial; not allowed in avalanche zones during winter months (Nov 15 – April 15)

Sustainability Impact:

No direct impact.

Financial Impact:

None OR Adequate funds exist in account:

The attached exhibit illustrates cost recovery methodology.

Attachments:

1. Cost recovery methodology



Short-Term Rentals  
**Fee Methodology**

	Year 1	Year 2
Program Costs	\$273,815	\$204,691
Registered Units	402	406
Actual Registration Fee	\$527	
Proposed Registration Fee		\$504
Net Cost of Program	\$61,961	
Cost Recovery Rate	77.4%	100%
Break-Even Fee Amount	\$681/unit	\$504/unit
Break-Even Fee Amount		\$202/room*

\*based on 1,105 bedrooms



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

Recommended Motion:

Motion 1: I move to approve Permits Conditions Acceptance Development Agreement 22847 (subject to any proposed modifications) and direct staff to return with findings of fact and conclusions of law.  
Motion 2: I move to approve the first amendment to PUD/CUP P19-063 and direct staff to return with findings of fact and conclusions of law.

Reasons for Recommendation:

- The final action for the project is City Council approval of the Permits Conditions Acceptance Agreement.
- The proposed Permits Conditions Acceptance Agreement triggers an amendment to the Council approved PUD/CUP 19-063 and the amendment is before the Council for consideration.
- The Planning and Zoning Commission reviewed and recommended Council approval of the Agreement and amendment to PUD/CUP P19-063

Policy Analysis and Background (non-consent items only):

A history of the project and approvals up to March 28, 2023 is contained in Attachment A, the March 28, Planning and Zoning Commission staff report.

Two items are before the City Council for action:

- Review and approval of the Permits Conditions Acceptance Agreement
- Review and approval of the first amendment to PUD/CUP P19-063 approved by the City Council in February 2021.

Permits Conditions Acceptance Development Agreement

Attachment B is the proposed Permit Conditions Acceptance Development Agreement.

The Permit Conditions Acceptance Development Agreement sets forth the development conditions related to the project. The Agreement identifies all the permits that have been approved, or that need to be approved, before the project begins construction. The Agreement also sets forth the conditions required before a certificate of occupancy is issued. Key elements of the Agreement are requirements to provide assurances of the financial commitments to complete the project, and an irrevocable completion site

restoration guaranty. The details of the proposed agreement is outlined in Attachment A, the March 28, 2023 Planning and Zoning Commission report.

The Planning and Zoning Commission reviewed the Agreement and recommended the City Council approve the Agreement with three amendments as reflected in the April 11, 2023 Findings of Fact, Conclusions of Law, and Recommendation to the City Council (Attachment C). The proposed revisions consist of:

- Revise the definition of “Institutional Lender” in Section 1.31
- Allow a two-month extension to obtain the building permit in Section 13.1.2.1
- Clarify that the owner must complete all required improvements related to a certificate of occupancy in a timely manner in Section 13.3.1.

All the recommended Planning and Zoning Commission revisions are reflected in the Agreement presented for Council approval.

#### First Amendment to PUD/CUP P19-063

Attachment D provides the proposed amendment to PUD/CUP P19-063. The amendment is on Page 29, Condition No. 5, 1.5.3 of the Attachment. The City Council approved PUD/CUP P19-063 on February 16, 2021. Section IV of the Order of Decision sets forth specific conditions of approval for the project. Order 1.5, Condition No. 5 sets forth time limits for the project. Paragraph 1.5.3 requires the certificate of occupancy be issued for the project no later than 18 months after issuance of the building permit.

The applicant requested a change to the 18-month timeframe. Instead of 18 months, the applicant is requesting a certificate of occupancy be issued within 30 months after the building permit is issued. This is reflected in Section 13, 13.3 of the Agreement. To align the Agreement with the PUD/CUP P19-063, it is necessary to amend Condition No. 5 of the PUD/CUP. The Planning and Zoning Commission reviewed and recommended approval of the amendment as reflected in Attachment E, Findings of Fact, Conclusions of Law, and Recommendation to the City Council on Amendment to PUD/CUP P19-063.

After City Council action on the two items, staff will return to the Council for adoption of Findings of Fact, Conclusions of Law reflecting the decision of the City Council. In addition, staff will return for Council adoption of the Project Record, and document reflecting all the actions taken to date on the project.

#### Sustainability Impact:

Per Section 11.14 and 14.1.3 of the proposed Agreement, and Condition No.6 of PUD/CUP P19-063, all occupancies of the project shall meet LEED Silver or equivalent standards as verified by a third party.

#### Financial Impact:

None OR Adequate funds exist in account:

There is no financial impact resulting from, approval of the Agreement and PUD/CUP Amendment. The project, once completed, will contribute LOT funds to the City.

#### Attachments:

A. March 28, 2023 Planning and Zoning Commission Staff Report

B. Proposed Permit Conditions Acceptance Development Agreement 22847

C. April 11, 2023 Planning and Zoning Commission Findings and Recommendation on Permit Conditions Acceptance Agreement 22847

D. Proposed First Amendment to PUD/CUP P19-063

E. April 11, 2023 Planning and Zoning Commission Findings and Recommendation on First Amendment to PUD/CUP P19-063

## Attachment A



City of Ketchum  
Planning & Building

**STAFF REPORT KETCHUM PLANNING AND ZONING COMMISSION MEETING  
OF MARCH 28, 2023**

- PROJECT:** PEG Ketchum Hotel, LLC or Ketchum Tribute Hotel or Ketchum Gateway Hotel
- APPLICATION TYPE:** Adoption of Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028  
Review and recommendation on Permits Conditions Acceptance Development Agreement  
Review and recommendation on amendment to PUD/CUP P19-063
- REPRESENTATIVE:** Matt Hansen, PEG Companies, Justin Heppler, AJC Architects
- OWNER:** PEG Ketchum Hotel, LLC
- REQUEST:** Adoption of Findings of Fact, Conclusions of Law, and Conditions of Approval for Design Review Permit P22-028  
Review and recommendation on Permits Conditions Acceptance Development Agreement  
Review and recommendation on amendment to PUD/CUP P19-063
- LOCATION:** 251 S. Main Street – Ketchum Townsite Lots 3, 21, FR 22 Blk 82 N 10' x 110' of alleyS 20' x 230' of alley, 260 E. River Street – Ketchum Townsite Lot 2 Block 82 10' x 110' of alley, and 280 E. River Street – Ketchum Townsite Lot 1 Block 82 (Gateway site)
- ZONING:** Tourist (T) Zoning District
- OVERLAY:** Floodplain & Waterways Design Review Subdistricts
- NOTICE:** Notice was published March 8, 2023, for the March 28, 2023 public hearing in the *Idaho Mountain Express*, the official newspaper, On March 8, 2023. Notice of the hearing was mailed to the property owners within 300 feet of the subject real property and affected agencies.



## **RECOMMENDATION**

Staff recommends the Planning and Zoning Commission take three actions on the PEG Ketchum Hotel:

1. Review and approve the Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028. The Design Review approval occurred June 14, 2022.
2. Review and make a recommendation to the City Council on the proposed Permits Conditions Acceptance Development Agreement.
3. Review and make a recommendation to the City Council on the amendment to PUD/CUP P19-063 to align the PUD/CUP to the Permits, Conditions Acceptance Development Agreement.

Once the Commission has acted, the Permit Conditions Acceptance Development Agreement and PUD/CUP amendment will be scheduled for public hearing before the City Council for review and action.

## **RECOMMENDED MOTIONS**

1. Review and approve the Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028. Staff recommends the Commission approve Attachment A with the following motion:  
“I move to approve the Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028.”
2. Review and recommendation to the City Council on the proposed Permits Conditions Acceptance Development Agreement. The Commission recommendation will be forwarded to the City Council for consideration during their review and action on the Agreement. Staff recommends the following motion:  
“I move to recommend the City Council approve the Agreement, or amend the Agreement according to the changes identified by the Commission.”
3. Review and make a recommendation to the City Council on the amendment to PUD/CUP P19-063 to align the PUD/CUP to the Permits, Conditions Acceptance Development Agreement. Staff recommends the following motion:  
“I move to approve the amendment or modify the proposed amendment to PUD/CUP P19-063 and forward the recommendation to the City Council.”

## **BACKGROUND**

A history of the project and approvals up to June 14, 2022 is contained in Attachment A, the June 14, 2022 staff report for Design Review Permit P22-028.

On June 14, 2022 the Planning and Zoning Commission conducted a public hearing on Design Review Permit P22-028. The Commission approved the design review permit and continued the public hearing to July 6, 2022 for the Commission to approve the Findings of Fact for the design review and consider the proposed Permit Conditions Acceptance Development Agreement.

After Commission approval of the design review permit on June 14, 2022 and before the findings returned at a subsequent public hearing for approval, the applicant informed staff that elements of the previously agreed upon Permits Conditions Acceptance Development Agreement were problematic and significant revisions were necessary. Specifically, PEG objected to the financial performance guarantees for the project, completion milestones and the format of the Agreement. Staff and the City Attorney

met with PEG representatives numerous times between July 2022 and February 2023 to resolve all the outstanding issues. The city’s legal team engaged the services of a financial consultant to ensure the financial performance guarantees were feasible for both the city and PEG. The revised Agreement was accepted by PEG February 27<sup>th</sup>. A public hearing was scheduled for March 28, 2023 for action on all the remaining Planning and Zoning Commission decisions.

**PLANNING AND ZONING COMMISSION ACTIONS**

The following describes the actions before the Commission at this time.

Adoption of Findings of Fact, Conclusions of Law, and Conditions of Approval for Design Review Permit P22-028.

Attachment B reflects the June 14, 2022 action taken by the Planning and Zoning Commission for the approval of Design Review Permit P22-028. The design review permit is not officially approved until the adoption of the Findings of Fact, Conclusions of Law and Conditions of Approval. No changes have been made to the project design since the June 14, 2022 Commission hearing. Once the Commission acts on the findings, the design review approval is final.

Review and recommendation on Permits Conditions Acceptance Development Agreement

Attachment C is the proposed Permit Conditions Acceptance Development Agreement.

The Permit Conditions Acceptance Development Agreement sets forth the development conditions related to the project. The Agreement identifies all the permits that have been approved, or that need to be approved, before the project begins construction. The Agreement also sets forth the conditions required before a certificate of occupancy is issued. Key elements of the Agreement are requirements to provide assurances of the financial commitments to complete the project, and an irrevocable completion site restoration guaranty. The Agreement is before the Commission for review and recommendation to the City Council on any proposed changes. The following outlines the contents of the Agreement. Details on these requirements are contained within the Agreement.

- Section 1: Definitions used in the Agreement.
- Section 2: Recitals outlining the facts about the approval process.
- Section 3: Lot Line Shift Permit Conditions. This section identifies the permit granted for Lot Line Shift P19-064.
- Section 4: Floodplain Development Permit Conditions. This section identifies the permit granted for Floodplain Development Permit P19-062.
- Section 5: Planned Unit Development and Conditional Use Permit Conditions. This section identifies the permit granted for PUD/CUP P19-063.
- Section 6: Design Review Permit Conditions. This section identifies the permit granted for Design Review Permit P22-028.
- Section 7: Street and Alley Dig Permit. This section requires the project to submit for a Street and Alley Dig Permit for the project.
- Section 8: This Section requires a letter of credit for right of way improvements. The letter of credit ensures the right of way improvements will be complete. If the applicant does not complete the improvements, the city may draw on the letter of credit to complete the improvements.
- Section 9: Parking and Traffic Letter of Credit. To assure that the Developer/Owner and/or Hotel Operator provides guest shuttle, employee shuttle, car share program, transit passes, carpool program, and alternative transportation (such as bike

	storage for employees), the Developer/Owner and/or Hotel Operator shall include a Parking and Traffic Irrevocable Letter of Credit to secure these conditions to lower parking demand and traffic impacts in accordance with the Agreement in the amount of fifty thousand dollars (\$50,000)
Section 10:	Water, Sewer, and Utility Conditions. This section outlines the requirements for connections and improvements to public utilities.
Section 11:	Conditions Precedent to the Issuance of a Building Permit. Prior to issuance of a building permit, multiple requirements must be met including financial assurances from the developer that project financing commitments have been obtained.
Section 12:	Project Development Plan Modifications Subsequent to Building Permit Issuance. If there are changes to the project plans, that are not deemed to be minor, this section outlines the process for project modifications.
Section 13:	Permit Time Limits. This section sets forth the time periods for obtaining a building permit and a certificate of occupancy for the project. The section also sets forth what occurs if the project does not meet the time limits and the process for changing the time limits.
Section 14:	Conditions Precedent to Issuance of an Occupancy Permit. Prior to issuance of the Certificate of Occupancy, several conditions must be met such as approval of the parking plan, completion of all right of way improvements and the completion of the employee housing.
Section 15:	Project Operations Conditions. The project that has been approved is a four-star hotel with employee housing units. This section ensures the projects continues to operate in the manner approved by the city and as represented by the owner/developer.
Section 16:	Default. This section defines a default and the process for curing a default.
Section 17:	Shared Legal Defense of This Agreement. In the event any legal or equitable action or other proceeding is instituted by a third-party challenging the validity of any provision of the Agreement, the Parties will cooperate in defense of such action or proceeding.
Section 18:	Notices and Filings. This identifies the parties and addresses for notices.
Section 19:	Developer/Owner Assignment of Agreement Rights. The assignment of any of the Developer/Owner's rights and obligations of the Agreement shall be in accordance with the following: Assignment must obtain written consent of the city council which approval cannot be unreasonably withheld, conditioned or delayed subject to conditions: <ul style="list-style-type: none"> <li>• Assignee must provide written acceptance of all the permits, conditions, and approvals for the project.</li> <li>• If the project is assigned to another entity, the financial obligations for constructing and completing the project continue by the Guarantor's Guaranty.</li> </ul> The Developer/Owner may assign all or part of the Developer's or Owner's rights and duties under the Agreement as collateral to any financial institution from which the Developer/Owner has borrowed funds for use in Development of the Project. Such an assignment shall not relieve the Developer/Owner from any subsequent obligations of the Agreement.
Section 20:	Miscellaneous. This section contains a variety of legal and procedural requirements that apply to each party of the Agreement.

The Commission action is to review the Agreement, suggest any revisions and provide a recommendation to the City Council. The City Council will make the final decision on the Agreement.

Review and recommendation on amendment to PUD/CUP P19-063

Attachment D provides the proposed amendment to PUD/CUP 19-063. The amendment is on Page 29, Condition No. 5, 1.5.3 of the Attachment. The City Council approved PUD/CUP P19-063 on February 16, 2021. Section IV of the Order of Decision sets forth specific conditions of approval for the project. Order 1.5, Condition No. 5 sets forth time limits for the project. Paragraph 1.5.3 requires the certificate of occupancy be issued for the project no later than 18 months after issuance of the building permit.

The applicant requested a change to the 18-month timeframe. Instead of 18 months, the applicant is requesting a certificate of occupancy be issued within 30 months after the building permit is issued. This is reflected in Section 13, 13.3 of the Agreement. To align the Agreement with the PUD/CUP P19-063, it is necessary to amend Condition No. 5 of the PUD/CUP. The Commission review and recommendation on the amendment is required.

**NEXT STEPS**

Three items are before the Commission for action. The following outlines the process related to each action item.

1. Review and approve the Findings of Fact, Conclusions of Law, and Conditions of Approval for Design Review Permit P22-028. The Commission action will be final, no City Council approval is required.
2. Review and make a recommendation to the City Council on the proposed Permits Conditions Acceptance Development Agreement. The Commission recommendation will be forwarded to the City Council for consideration during their review and action on the Agreement.
3. Review and make a recommendation to the City Council on the amendment to PUD/CUP P19-063 to align the PUD/CUP to the Permits, Conditions Acceptance Development Agreement. The Commission recommendation will be forwarded to the City Council for consideration as part of their review and action on the Agreement.

Staff will return to the Commission with findings reflecting the Commission’s action on items 2 and 3. After approval of those findings, the Commission recommendations will be scheduled for a City Council public hearing.

Attachments:

- |               |  |
|---------------|--|
| Attachment A: | June 14, 2022 staff report for Design Review Permit P22-028.   |
| Attachment B: | Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028 approved June 14, 2022. |
| Attachment C: | 3-2-23 Permit Conditions Acceptance Development Agreement.   |
| Attachment D: | Proposed amendment to PUD/CUP P19-63.  |



City of Ketchum  
Planning & Building

**STAFF REPORT KETCHUM PLANNING AND ZONING COMMISSION MEETING OF  
JUNE 14, 2022**

**PROJECT:** PEG Ketchum Hotel, LLC or Ketchum Tribute Hotel or Ketchum Gateway Hotel

**FILE NUMBER:** P22-028 Design Review Permit

**APPLICATION TYPE:** Design Review Permit and Permit Conditions Acceptance Development Agreement

**REPRESENTATIVE:** Nick Blayton, PEG Companies, Justin Heppler, AJC Architects

**OWNER:** PEG Ketchum Hotel, LLC

**REQUEST:** Design Review and Permit Conditions Acceptance Development Agreement

**LOCATION:** 251 S. Main Street – Ketchum Townsite Lots 3, 21, FR 22 Blk 82 N 10' x 110' of alley S 20' x 230' of alley, 260 E. River Street – Ketchum Townsite Lot 2 Block 82 10' x 110' of alley, and 280 E. River Street – Ketchum Townsite Lot 1 Block 82 (Gateway site)

**ZONING:** Tourist (T) Zoning District

**OVERLAY:** Floodplain & Waterways Design Review Subdistricts

**NOTICE:** Notice was published for the June 14, 2022, public hearing in the *Idaho Mountain Express*, the official newspaper, on Wednesday May 25, 2022. On May 25, 2022, notice of the hearing was mailed to the property owners within 300 feet of the subject real property and affected agencies.

## RECOMMENDATION

The Permit Conditions Acceptance Development Agreement is still undergoing review and discussions between the city and applicant. Therefore, staff is recommending the Planning and Zoning Commission conduct a public hearing on the design review application, identify any revisions or conditions of approval related to the design review permit, and if the Commission is ready to approve the project, continue the hearing to a date certain with direction to return with the Findings of Fact, Conclusions of law and Decision of the Planning and Zoning Commission and the proposed Permit Conditions Acceptance Development Agreement. The recommended motion would be:

“I move to approve Design Review Application P22-028 with the recommended conditions of approval and continue the public hearing to (identify a date) for approval of the Findings of Fact, Conclusions of law and Decision of the Planning and Zoning Commission and review and recommendations of the Permit Conditions Acceptance Development Agreement.”

## BACKGROUND

### Background Information Summary

As a result of a noticing error, on April 6, 2020, the City Council vacated the Findings of Fact, Conclusions of law, and Decision of the Planning and Zoning Commission and City Council for the following applications:

- Application for Floodplain Development Permit File No. P19-062
- Application for Lot Line Adjustment File No. P19-064
- Application for Planned Unit Development Conditional Use Permit File No. P19-063
- Design Review File No. P20-019

The Council adopted Orders remanding the applications to the Planning and Zoning Commission for further proceedings and hearings.

In Compliance with the Orders, the Planning and Zoning Commission conducted public hearings on September 28, 2020, and October 23, 2020, recessed the proceedings to December 15, 2020, and again tabled and continued the proceeding to December 22, 2020, and adopted Joint Hearings Record of Proceedings Findings of Fact together with the Findings of Fact, Conclusions of Law and Order of Recommendation to the City Council for each of the following applications:

- Application for Floodplain Development Permit File No. P19-062
- Application for Lot Line Adjustment File No. P19-064
- Application for Planned Unit Development Conditional Use Permit File No. P19-063
- Application for Waiver File No. P20-069

City Council conducted a joint public hearing on February 1, 2021 and adopted the Joint Hearings Record of Proceedings Findings of Fact together with the Findings of Fact, Conclusions of Law and Order of for the applications listed above on February 16, 2021.

On November 30, 2021, the Planning and Zoning Commission reviewed Pre-Application Design Review Permit 20-019 approving the project to advance to Design Review. Since that time, the applicant has secured ITD approval of the proposed SR 75 right of way improvements along with revisions to the project to address the Planning and Zoning Commission recommendations. In addition, the applicant and staff have concluded revisions to the Permit Conditions Acceptance Development Agreement.

Three actions remain before the project is approved. The first is Planning and Zoning Commission review and recommendation to approve Design Review Permit P22-028, Planning and Zoning Commission recommendations on the proposed Permit Conditions Acceptance Development Agreement, and City Council review and approval of the Permit Conditions Acceptance Agreement.

The matter before the Planning and Zoning Commission at this June 14, 2022, meeting is review of the Design Review Permit.

Actions Prior to December 2020 and February 2021

On July 29<sup>th</sup>, 2019, the Ketchum Planning and Zoning Commission held its first public hearings regarding the concurrent land use applications for a new Marriott hotel, proposed by PEG Ketchum Hotel, LLC, for a 1.08-acre site, consisting of three parcels, located at the southwest corner of State Highway 75 and River Street (260/280 E. River and 251 S. Main Street). The Commission held a second hearing July 30<sup>th</sup>, 2019.

The Commission recommended approval of the Lot Line Shift, Floodplain Development/Waterways Design Review, PUD-CUP applications during the July 30<sup>th</sup> meeting and motioned to advance the Pre-Application Design Review application to full Design Review. The Commission continued the hearing on the proposed Development Agreement to their August 12<sup>th</sup>, 2019, meeting and recommended approval to Council during that meeting.

After taking public comment on the proposal on September 16<sup>th</sup>, 2019 (but not reviewing or deliberating on the project) Ketchum City Council held its first public hearings on the concurrent applications on October 7<sup>th</sup>, 2019, and held subsequent hearings on December 2<sup>nd</sup>, 2019, and January 21<sup>st</sup>, 2020. Council took action to adopt Findings of Fact, Conclusions of Law, and Decisions related to the PUD-CUP, Lot Line Shift, and Floodplain Development application on February 3<sup>rd</sup>, 2020. The Council then rescinded (vacated) these Findings on April 6<sup>th</sup>, 2020 and entered the Orders remanding all applications except for File No. P20-069 back to the Planning and Zoning Commission. Application for Waiver File No. P20-069 was filed by the Applicant subsequent to the entry of the Orders and consists of waiver for:

- Minimum lot size for PUDs from 3 acres to approximately 1.05 acres.
- Side yard setbacks from 32 feet to 18 feet 5 inches on the highway/east side, and from 24 feet to 11 feet 8 inches on the interior/west side.
- Floor area ratio (FAR) from 0.5 to 1.57.
- Building height from 35 feet to 72 feet (72 feet is the maximum height from finished grade if measured from the lower sloped portion of the site; 48 feet is the height from grade at River Street).
- Number of floors from 4 floors to 6 floors (6 floors is number of floors if counted from the lower sloped portion of the site; 4 floors is the number of floors above grade at River Street).

The applicant team responded to Council and community input during the Proceedings and revised the physical form of the building (square footage, location on site, bulk, scale, mass, and so forth) over the course of these meetings. These changes to the form of the building and its relation to the site impacted the waiver requests associated with the PUD-CUP application.

Approved Project

<b>Project Characteristic</b>	<b>February 16, 2021, Approvals</b>
Total gross square feet	128,436 gross square feet
Floor Area Ratio	1.57 exclusive of basement areas and underground parking
Open site area	21,362 square feet
Building height, total	72'
Building height, measured from River St.	48'
Building height measured from Trail Creek	28'
Rear (South/Trail Creek) Setback, Minimum	25' + 10' (sewer easement)
Front (North/River Street), Minimum	15'
Side-East (Highway), Minimum	20' with an average side setback along the highway of 31.3
Side-West (Interior lot line), Minimum	16'
Employee housing beds on site	23 beds one (1) 4BR unit w/ 7 beds two (2) 2BR units 12 studios
Number of hotel rooms	92

The project includes 84 underground parking spaces (53 spaces are dedicated to hotel operations, 18 spaces are dedicated to employee housing, and 13 spaces are devoted to public use), as set forth in Project the Permit Conditions Acceptance Development Agreement.

As approved by Council, direct project ingress/egress to State Highway 75 (SH75) for anything other than fire emergency staging is not allowed. Conditions of approval require installation of north bound left turn lane at River Street and SR 75 to be constructed by the applicant as a condition of certificate of occupancy for the project.

Analysis

The applicant proposed minimal changes to the project previously approved by the Planning and Zoning Commission and City Council on January 21, 2020. Some changes did occur based on Planning and Zoning Commission and City Council direction. The changes that occurred between January 21, 2020, and February 16, 2021 consist of:

- The project setbacks have been modified to reflect requested increase to 16 feet along the west property line, and a minimum of 20 feet along the east property line with an average setback of no more than 31 feet from edge of SH75 ROW.
- Revisions have been made to the River Street encroachment design. The curb bulb out into River Street has been revised to conform to City standards.
- Exterior patios and terrace walls have been slightly modified to fit built structures within the updated setbacks along SH75. These walls were revised to minimize concentration of height in any one location.
- To address the concerns related to mechanical equipment and utilities located on the west side of the project, the following changes have been made:
  - The west setback increased to 17 feet at ground level, and 16 feet on upper levels.



- The Emergency power / back-up generator has been relocated inside the parking garage on level -01.
- Visual impact of Idaho Power electrical equipment will be minimized by screening with a slatted wooden fence
- Vents that are planned to occur along the west property line include the commercial dryer ventilation. The commercial dryer ventilation system proposed will feature a series of filters and lint traps that effectively catch lint adjacent to the dryers. In addition to the filters, the vents will be 17 feet from adjacent property line, and the ducting will be designed with velocity that will not cross the property line.

Pre-Application Design Review.

On November 20, 2021, the Planning and Zoning Commission was presented with the revised plans for pre-application design review. The Planning and Zoning Commission approved the project to move forward to design review with the following revisions:

- Provide details on the wall/building design along SR 75: Show how the walls/building will look when there is no tree foliage. Provide material details and design details.
- Address the treatment at the corner of River and SR 75: Redesign the corner treatment so that space can be used by the general public year-round and not used by just hotel guests. Look at eliminating the fire pit.
- Identify the mix of employees and managers that would be employed.
- Look at River Street side to address pedestrian safety in light of all the activities that are proposed on that frontage (deliveries, trash, drop-off, and pickup).
- Provide details on mechanical screening for all the equipment.
- Address the design of creek access trail from the highway – look at the materials, make more natural and inviting.
- Address the SR 75 elevation in the middle of the project: is there some way to break up the mass with a change in materials or step backs.

In response to the Commission’s comments that applicant has responded as outlined in Attachment A. The plans dated May 27, 2022, Attachment B address each of the issues noted by the Commission.

**DESIGN REVIEW ANALYSIS**

Attachment C is a copy of the Council adopted Planned Unit Development CUP Findings for the project.

Pursuant to KMC §17.96.020, the purpose of Design Review is to maintain and enhance the appearance, character, beauty, and function of the city, to ensure that new development is complementary to the design of existing City neighborhoods, and to protect and enhance the economic base of the City of Ketchum.

As further identified in the 2014 Ketchum Comprehensive Plan, Design Review criteria and standards are intended to encourage new development to align with the community’s vision for Ketchum as an authentic mountain community with a world-class character, yet small town feel (p. 7).

Staff analysis of the application consistent with the aforementioned purpose and intent follows in Table 1 and Table 2. Specifically, staff comments and recommended findings are organized within two tables. Table 1 analyzes how the March 27, 2022, plans (Attachment B) complies with the City's Design Review Improvements and Standards Analysis and Considerations. Table 2 analyzes how the May 27, 2022, plans comply with the City's PUD Project Waiver Consideration and Analysis / Tourist Zoning District Dimensional Standards.

**PUBLIC COMMENT**

Two written comments were received prior to the distribution of the Planning and Zoning Commission packet. Those comments are provided in Attachment D.

**Table 1: Design Review Improvements and Standards Analysis and Considerations**

Design Review Improvements and Standards Analysis and Considerations KMC § 16.08.080 G 1 IMPROVEMENTS AND STANDARDS: 17.96.060				
Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.050.A.1 Criteria	<b>The project does not jeopardize the health, safety or welfare of the public.</b>
			Staff Comment / Draft Finding	<i>As conditioned through the PUD/CUP and Design Review Permit, controls on design, inclusion of employee housing, pedestrian circulation and improvements within public rights-of-way, among other provisions set forth in the PUD/CUP Findings adopted by Council, the Commission finds the project will not jeopardize the health, safety of welfare of the public.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 G 1 & 17.96.050.A.2, Criteria	<b>The plan is in conformance with and promotes the purposes and goals of the comprehensive plan, zoning ordinance, and other applicable ordinances of the city, and not in conflict with the public interest:</b>  <b>Pursuant to subsection 16.08.070D of this chapter, all of the design review standards in chapter 17.96 of this code shall be carefully analyzed and considered. This includes detailed analysis of building bulk, undulation and other design elements. The site plan should be sensitive to the architecture and scale of the surrounding neighborhood.</b>  <b>The project conforms to all applicable standards and criteria as set forth in this chapter, this title, and any other standards as adopted or amended by the City of Ketchum from time to time.</b>
			Staff Comment / Draft Finding	<i>The Commission carefully analyzed and considered the standards of these sections and finds the project plans to be sensitive to the architecture and scale of the surrounding neighborhood and is in harmony with the surrounding area. The Commission also finds that the Project conforms with applicable standards and criteria as set forth in KMC Chapter 96 and Title 17, and the CUP/PUD standards and waivers and not in conflict with the provisions of KMC Chapter 08 of Title 16 [the Planned Unit Development Ordinance].</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(1) Streets	<b>The applicant shall be responsible for all costs associated with providing a connection from an existing city street to their development.</b>
			Staff Comment / Draft Finding	<i>The property is located at 260-280 E. River Street with approximately 334 linear feet (LF) of frontage along State Highway 75 (SH75) and approximately 170 feet of linear frontage adjacent along River Street. As stipulated by the Ketchum City Council approval of the associated Planned Unit Development application for the property, the project will not have direct access onto SH75 for anything other than emergency access staging. The applicant is responsible for all costs associated with connecting the project to River Street, including access to the parking garage, pick-up/drop-off, hybrid delivery/public parking, and various sidewalk and plaza improvement. The project is designed consistent with the recommendation of the city's 3<sup>rd</sup> party traffic consultant (AECOM) and subject to an encroachment permit by the city. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(2) Streets	<b>All street designs shall be approved by the City Engineer.</b>
			Staff Comment / Draft Finding	<i>The final street design, including snowmelt, delivery parking, pick-up/drop off areas, plaza amenities, sidewalk width/locations, ADA ramps, and bulb out are subject to city engineer approval, as well as an encroachment permit by Council. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(B)(1)	<b>All projects under 17.96.010(A) that qualify as a “Substantial Improvement” shall install sidewalks as required by the Public Works Department.</b>
			Staff Comment / Draft Finding	<i>The project qualifies as a substantial improvement and 8’ sidewalks along River Street and SH75 are required, totaling approximately 504 LF. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(2)c	<b>Sidewalk width shall conform to the City’s right-of-way standards; however the City Engineer may reduce or increase the sidewalk width and design standard requirements at their discretion.</b>
			Staff Comment / Draft Finding	<i>The project qualifies as a substantial improvement and 8’ sidewalks along River Street and SH75 are required. The city ROW standards also require on-street parking, which is being mitigated with 13 public parking spaces within the Applicant’s parking garage. As conditioned, the Project complies with this standard.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(3)	<b>Sidewalks may be waived if one of the following criteria is met:</b>
				<ul style="list-style-type: none"> <li>a. <b>The project comprises an addition of less than 250 square feet of conditioned space.</b></li> <li>b. <b>The City Engineer finds that sidewalks are not necessary because of existing geographic limitations, pedestrian traffic on the street does not warrant a sidewalk, or if a sidewalk would not be beneficial to the general welfare and safety of the public.</b></li> </ul>
			Staff Comment / Draft Finding	<i>N/A</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(4)	<b>The length of sidewalk improvements constructed shall be equal to the length of the subject property line(s) adjacent to any public street or private street.</b>
			Staff Comment / Draft Finding	<i>The applicant proposes to install a new 8' wide sidewalk along the north and east perimeter of the property. The new sidewalk will be approximately 504 total linear feet (LF) as follows: 170 LF along River Street and 334 LF along SH75. The River Street sidewalk will be snow melted by the applicant. The exact location of the sidewalk will be noted within the ITD and River Street Encroachment Permits. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(4)	<b>The length of sidewalk improvements constructed shall be equal to the length of the subject property line(s) adjacent to any public street or private street.</b>
			Staff Comment / Draft Finding	<i>The applicant proposes to install a new 8' wide sidewalk along the north and east perimeter of the property. The new sidewalk will be approximately 504 total linear feet (LF) as follows: 170 LF along River Street and 334 LF along SH75. The River Street sidewalk will be snow melted by the applicant. The exact location of the sidewalk will be noted within the ITD and River Street Encroachment Permits. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(5)	<b>New sidewalks shall be planned to provide pedestrian connections to any existing or future sidewalks adjacent to the site. In addition, sidewalks shall be constructed to provide safe pedestrian access to and around a building.</b>
			Staff Comment / Draft Finding	<i>The new sidewalk along the applicant's property connects to existing and future city sidewalk infrastructure. As conditioned, the Project complies with this standard.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060 (B)(6)	<b>The City may approve and accept voluntary cash contributions in-lieu of the above described improvements, which contributions must be segregated by the City and not used for any purpose other than the provision of these improvements. The contribution amount shall be one hundred ten percent (110%) of the estimated costs of concrete sidewalk and drainage improvements provided by a qualified contractor, plus associated engineering costs, as approved by the City Engineer. Any approved in-lieu contribution shall be paid before the City issues a certificate of occupancy.</b>
			Staff Comment / Draft Finding	<i>N/A. The project does not propose making a voluntary cash contribution in-lieu of improvements for this project.</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(1)	<b>All storm water shall be retained on site.</b>
			Staff Comment / Draft Finding	<i>All storm water shall be retained on site including water from roof drains. The applicant has submitted Storm Water Pollution Plan (Civil Drawing Sheet C2.0 from Galena Engineering), as well as a preliminary utility plan with drainage details on Civil Drawing Sheet C4.0 of the Design Review submittal. The proposed drainage plan includes a system of drywells. Prior to issuance of a Building Permit for the project, the applicant shall submit a final drainage plan indicating grading, catch basins, piping, and drywells (KMC §17.96.040.C.2b &amp; KMC §17.96.060.C.1-4) prepared by a civil engineer licensed in the state to be submitted for review and approval by the City Engineer and Streets Department. See Attachment for City Department comments including City Engineer and Streets Department conditions. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(2)	<b>Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.</b>
			Staff Comment / Draft Finding	<i>See above Staff Comment / Draft Finding for Ketchum Municipal Code §17.96.060(C)(1). All drainage improvements are required to meet City standards. All drainage improvements shall be indicated on civil plans stamped and Idaho licensed engineer and require review approval from the City Engineer &amp; Streets Department prior to issuance of a Building Permit for the project. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(3)	<b>The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.</b>
			Staff Comment / Draft Finding	<i>A final drainage plan prepared by a civil engineer licensed in the state of Idaho shall be submitted with the Building Permit application to be reviewed and approved by the City Engineer. The City Engineer may require additional drainage improvements as necessary. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(4)	<b>Drainage facilities shall be constructed per City standards.</b>
			Staff Comment / Draft Finding	<i>All drainage facilities on both private property and the City owned right-of-way shall meet City standards. Final drainage specifications shall be included with the civil drawings submitted with the Building Permit application to be reviewed and approved by the City Engineer &amp; Streets Department. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(1)	<b>All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.</b>
			Staff Comment / Draft Finding	<i>The applicant is aware of this requirement and the preliminary plans indicated in the Galena Engineering set of Civil Drawings show utility connections and locations. Also, will serve letters have been received from all the major utility service providers for the project, including IMG, Idaho Power, City Water and Sewer, Cox, and Clear Creek. See Attached Public Works Department comments and other will serve letters. As conditioned, the Project complies with this standard.</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(2)	<b>Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.</b>
			Staff Comment / Draft Finding	<i>All utilities within the development site shall be underground and concealed from public view. The transformer for the Project is proposed in the Northwest Portion of the site with landscape screening. See above Staff Comment / Draft Findings for Ketchum Municipal Code §17.96.060(D)(1). The plans show the transformer will be screened and as proposed, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(3)	<b>When extension of utilities is necessary all developers will be required to pay for and install two (2”) inch SDR11 fiber optical conduit. The placement and construction of the fiber optical conduit shall be done in accordance with city of Ketchum standards and at the discretion of the City Engineer.</b>
			Staff Comment / Draft Finding	<i>The applicant is aware of this requirement and will comply with these standards. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(1)	<b>The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.</b>
			Staff Comment / Draft Finding	<p><i>The Applicant notes the following about how the materials and colors selected for the project complement Ketchum’s townscape, surrounding neighborhood, and adjoining structures:</i></p> <p><i><b>STONE</b> – Located primarily along the base volume of the restaurant and lobby along River Street. Our stone selection is a dry-stack stone with natural buff / light gray tones and horizontal directionality. Natural stone tones intended to reflect the prevalent stone formations around Wood River Valley, and rustic residential architecture of the area.</i></p> <p><i><b>BOARD FORMED CONCRETE</b> – The grounding base element of this building, as the site drops, the board formed concrete foundation walls and site terraces with the landscape. Horizontal board formed texture gives a more natural textured finish vs. a traditional smooth face concrete. This material is seen throughout the valley on residential and commercial projects.</i></p> <p><i><b>STOREFRONT GLAZING</b> – All windows, doors, and storefront glazing will be a simple dark bronze / black frame with high performance clear glazing. Dark frames tend to visually disappear from the architecture as other textures pop. Dark frames historically relate to old steel framed windows found though-out Western vernacular architecture and are seen on most commercial and residential buildings in Ketchum.</i></p>

				<p><b>CHARWOOD VERTICAL SIDING</b> – This highly sustainable material is a low maintenance, fire resistant, textured gray wood to contrast / compliment the clear cedar siding throughout the project. Historically grey wood is achieved through staining or natural aging (see adjacent Korb property) but requires regular maintenance and sealing. Charred wood produces a natural gray wood aesthetic that doesn't require future staining or sealing. Gray finished wood is seen throughout Wood River Valley on historic structures, commercial structures, and all grades of residential projects.</p> <p><b>STEEL GUARDRAIL / STEEL PLATE FASCIA</b> – Similar to the dark bronze storefront, clean horizontal steel railings and perimeter roof detailing provides a subtle contemporary touch that ideally disappears from the overall project to let other elements pop. The black flat bar railings are visually lighter than a heavy wood railing or panel railing and require less maintenance / upkeep than a clear glass railing would. Exposed steel details are common on much of the local architecture and relates back to historic mining and ski tower structure.</p> <p><b>CEDAR WOOD HORIZONTAL SIDING</b> – Wood siding is probably the most commonly seen exterior material in the Wood River Valley and Ketchum. Its natural texture provides visual connection to surroundings as opposed to more commercial materials like flat metal panel or stucco. 'Clear' wood defines the grade of wood to have minimal knots or variation in the grain, so just denotes a higher finish grade of wood. This material will be sealed to maintain a more consistent finish, but color will change over time with exposure to the elements.</p> <p><b>VERTICAL WOOD SLAT W/ METAL PANEL BEHIND</b> – The wood slat siding will use the same clear cedar material as the building siding, but in a lighter slatted application to provide a more vertical structural appearance on a few select locations of the building. The intent of this material is to act as a lighter accent to the mass of the building itself. Dark bronze or black metal panel behind will contrast the clear cedar and make the wood stand out from its background. Again, wood is one of the most common building materials in the area, and this is a creative use of a common material.</p> <p><i>Furthermore, the applicant has provided details of materials to be used on each elevation of the building.</i></p>
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				<p>The site is eligible for 56 square feet of wall signage on River Street and 60 square feet along its SH75 frontage. The applicant will be required to submit and obtain a sign permit for Project signage prior to installation.</p> <p>As conditioned, the Project complies with this standard. The project materials, colors are found to be complementary with the townscape, surrounding neighborhoods and adjoining structures.</p>
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Ketchum Municipal Code §</b>	<b>City Standards and Staff Comment / Draft Findings</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(E)(2)	<p><b>Preservation of significant landmarks shall be encouraged and protected, where applicable. A significant landmark is one which gives historical and/or cultural importance to the neighborhood and/or community.</b></p> <p><i>Staff Comment / Draft Finding</i> N/A. There are no identified landmarks on the property.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(E)(3)	<p><b>Additions to existing buildings, built prior to 1940, shall be complementary in design and use similar material and finishes of the building being added to.</b></p> <p><i>Staff Comment / Draft Finding</i> N/A as the existing buildings on site will be demolished and the project will be new construction.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(1)	<p><b>Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.</b></p> <p><i>Staff Comment / Draft Finding</i> The proposed sidewalks will connect as required. The subject property is a corner lot with street frontage along River Street and State Highway 75/Main Street. As a substantial improvement, the hotel project is required to install sidewalks equal to the length of the subject property lines adjacent to River and Main Streets. All sidewalks shall be constructed to City standards contained in KMC §12.04.030.M as well as all applicable City right-of-way standards. The main entryway to the hotel lobby is from River Street. The pedestrian ways along River Street will include a snowmelt system, which serves to further activate the corner of River and Main Streets by enhancing the pedestrian streetscape. The proposed front façade has been designed with ground floor windows and glass doors, which invites the public and hotel guests into the hotel. As conditioned, the Project complies with this standard.</p>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(2)	<b>The building character shall be clearly defined by use of architectural features.</b>
			Staff Comment / Draft Finding	<p><i>Congruous with the natural topography of the development parcel, the mass of the building steps up the sloping grade from the south corner of the parcel adjacent to Trail Creek to the front property line at River Street. The vertical mass at the east elevation fronting Main Street is broken up by variation in roof heights, material differentiation, and a combination of horizontal and vertical elements. Projecting balconies and canopy elements serve to articulate breaks within the vertical plane. The circulation corridor design at the center of building serves as a prominent architectural feature anchoring the hotel to the site. Characterized with window openings at the east elevation fronting Main Street, the fenestration proposed with the circulation corridor serves as a visual invitation welcoming the public inside the hotel in order to enjoy the rooftop bar, restaurant, and lounge. The rooftop bar overhang element echoes the overhangs proposed at the entry and the corner of Main &amp; River Streets linking the public amenities proposed with the project including the restaurant, dining area, and lounge.</i></p> <p><i>Public space adjoins the hotel entry as well as a canopy covered bar patio on Level 01 that is retained by a board formed concrete adjacent a new 8' wide sidewalk along SH75 and landscape screened from SH75 (toward southeast). The architecture in this corner is tiered from the SH75 street level by a retaining wall, the top of first floor plate level roof overhang canopy above the public outdoor dining, and then three floors of patios that provide terraced outdoor living areas for certain suites.</i></p> <p><i>Fixtures shielded underneath canopies must be flush mounted or side shielded. KMC §9.08.040.8 enumerates standards for noise levels permitted in the nighttime, daytime, and evening.</i></p> <p><i>The building character is clearly defined by the combined use of vertical elements, such as char wood vertical siding and wood slats with sheet metal behind panels, and horizontal elements, such as cedar wood horizontal siding. Also characterizing the building is its transparency, including thermally broken windows and accessible balconies with steel guardrails for the hotel rooms, as well as canopies and steel plate knife edge fascia to offset architectural elements.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(3)	<b>There shall be continuity of materials, colors and signing within the project.</b>
			Staff Comment / Draft Finding	<i>Applicant has provided a materials board consisting of Clear Cedar Screen, Clear Cedar T&amp;G, Shou-sugi Ban Wood, Board-formed Concrete, Dry-stacked Stone, Black Steel Trim, Sand-Blasted Concrete and Flat-Bar Railing. Subject material board is characterized by natural materials including stone, steel, and wood with fenestration to celebrate the outside environment within interior common areas and living space. Notably, each of the 92 hotel rooms has access to outdoors with either a Juliet or full walk-out balcony. The materials are carried around the periphery of the building to create design continuity. Additionally, a sign master plan has been submitted by the applicant and will be subject to future administrative approval. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(4)	<b>Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.</b>
			Staff Comment / Draft Finding	<i>The applicant has proposed a landscape buffer southward of the front plaza bar patio characterized by a mix of landscaping, planter beds, and board-formed concrete and/or stone retaining walls. These improvements create a tiered, low to high, stepped back design complementary of the principal building. The Applicant has provided a more detailed landscape plan that softens the building façade, mitigates SH75 noise, and gives vitality to the 45% project open space. As conditioned, the Project complies with this standard.</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(5)	<b>Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.</b>
Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(6)	<b>Building(s) shall orient towards their primary street frontage.</b>
			Staff Comment / Draft Finding	<i>River Street has been analyzed by the design team, AECOM, city staff and the Council and determined to be the preferred solution for project access in terms of level of service, traffic flow, circulation, deliveries, parking, snow removal, and pedestrian access. Additionally, as determined by Council, direct access to the project from SH75 shall be limited to fire emergency staging only. The hotel is oriented towards River Street as the primary street frontage. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(7)	<b>Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.</b>
			Staff Comment / Draft Finding	<i>The project has no access to any public alleyway and, as such, this portion of the DR standard (F)(7) is not applicable. However, garbage storage for the project will be screened from public view. As set forth on the Level 01 Floor Plan, a trash / loading area is located just inside the parking garage off the garage vestibule. The applicant has obtained a will serve letter from Clear Creek Disposal for the project. Furthermore, any satellite receivers for the project or on the property shall be screened from public view. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(8)	<b>Building design shall include weather protection which prevents water to drip or snow to slide on areas where pedestrians gather and circulate or onto adjacent properties.</b>
			Staff Comment / Draft Finding	<i>The building design includes at the entrance to the hotel lobby a cantilevered canopy that terminates at the applicant's property line along River Street. The restaurant bar patio also is covered. Both features will prevent water from dripping or snow from sliding on areas where pedestrians gather and circulate. Furthermore, the applicant proposes to snow melt the front drop off, plaza, public sidewalk areas as part of its River Street Encroachment Permit with the City. As conditioned, the Project complies with this standard.</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(1)	<b>Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.</b>
			Staff Comment / Draft Finding	<i>Approximately 500 linear feet of new sidewalk will be built within the River Street and SH75 public ROW abutting the property. The sidewalks will be 8' in width to comply with city standards. The sidewalk along the north-side of the hotel is proposed to be snow melted. Additional pathways are proposed on the applicant's property that wrap the southwest, southern and southeast parts of the building. These are internal walkways that connect to hotel ingress/egress points, various public entries, the dedicated fisherman's easement noted on the subdivision plat for Trail Creek, required hotel emergency evacuation routes, and the aforementioned public ROW sidewalks. Bike racks are also proposed consistent with hotel requirements. As conditioned, the Project complies with this standard.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(G)(2)	<b>Awnings extending over public sidewalks shall extend five (5') feet or more across the public sidewalk but shall not extend within two (2') feet of parking or travel lanes within the right of way.</b>
			Staff Comment / Draft Finding	<i>N/A as the applicant has not proposed any awnings that project over a public sidewalk. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(1)	<b>Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.</b>
			Staff Comment / Draft Finding	<i>Approximately 500 linear feet of new sidewalk will be built within the River Street and SH75 public ROW abutting the property. The sidewalks will be 8' in width to comply with city standards. The sidewalk along the north-side of the hotel is proposed to be snow melted. Additional pathways are proposed on the applicant's property that wrap the southwest, southern and southeast parts of the building. These are internal walkways that connect to hotel ingress/egress points, various public entries, the dedicated fisherman's easement noted on the subdivision plat for Trail Creek, required hotel emergency evacuation routes, and the aforementioned public ROW sidewalks. Bike racks are also proposed consistent with hotel requirements. As conditioned, the Project complies with this standard.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(G)(2)	<b>Awnings extending over public sidewalks shall extend five (5') feet or more across the public sidewalk but shall not extend within two (2') feet of parking or travel lanes within the right of way.</b>
			Staff Comment / Draft Finding	<i>N/A as the applicant has not proposed any awnings that project over a public sidewalk. As conditioned, the Project complies with this standard.</i>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
☒	☐	☐	17.96.060(G)(3)	<p><b>Traffic shall flow safely within the project and onto adjacent streets. Traffic includes vehicle, bicycle, pedestrian and equestrian use. Consideration shall be given to adequate sight distances and proper signage.</b></p>
			Staff Comment / Draft Finding	<p><i>As noted in the February 16, 2021 City Council-adopted PUD Findings including in part §17.116.030(C), the City finds the Project will be adequately served by necessary vehicular and nonmotorized transportation systems. This finding was made after reviewing the detailed traffic impact study (TIS) prepared by Hales Engineering, which AECOM (on behalf of the city) provided a peer analysis. As conditioned herein, the Commission finds that traffic shall flow safely within the project and onto adjacent streets. Traffic includes vehicle, bicycle, pedestrian and equestrian use. In making this finding, consideration was given to assuring adequate sight distances and proper signage.</i></p>
☒	☐	☐	17.96.060(G)(4)	<p><b>Curb cuts and driveway entrances shall be no closer than twenty (20') feet to the nearest intersection of two or more streets, as measured along the property line adjacent to the right of way. Due to site conditions or current/projected traffic levels or speed, the City Engineer may increase the minimum distance requirements.</b></p>
			Staff Comment / Draft Finding	<p><i>No curb cuts or driveway entrances are proposed that are closer than twenty (20') feet to an intersection of two or more streets, as measured along the property line adjacent to the right of way. Improvements to River Street are subject to a city encroachment permit. As conditioned, the Project complies with this standard.</i></p>
☒	☐	☐	17.96.060(G)(5)	<p><b>Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.</b></p>
			Staff Comment / Draft Finding	<p><i>Significant attention has been given to the project by the city engineer, fire, streets and planning departments to assure that unobstructed emergency access, snow plowing needs, and other city design considerations are properly addressed with the project. Furthermore, the applicant has received a will serve letter from Clear Creek Disposal for the project. As conditioned, the Project complies with this standard.</i></p>

Yes	No	N/A	Ketchum Municipal Code §	City Standards and Staff Comment / Draft Findings
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(1)	<b>Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.</b>
			Staff Comment / Draft Finding	<i>This standard applies to on-site parking and circulation areas, not pedestrian and parking circulation areas within the public right-of-way. All on-site parking is located within the parking garage and the entrance to the parking garage is within the boundary the applicant plans to snowmelt. An extensive sidewalk network is proposed on-site for the public and guests. Portions of this sidewalk network need to remain free of snow for hotel evacuation purposes. As a result, the applicant walkways along the southwest and south portions of the project that are associated with hotel ingress/egress points will be snow melted. With 45% open space on-site and a network of snowmelt sidewalks, the applicant's pedestrian circulation area is greater than 30%. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(2)	<b>Snow storage areas shall be provided on-site.</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Staff Comment / Draft Finding	<i>See above Staff comment for Ketchum City Code §17.96.060(H)(1).</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(3)	<b>A designated snow storage area shall not have any dimension less than five (5') feet and shall be a minimum of twenty five (25) square feet.</b>
			Staff Comment / Draft Finding	<i>See above Staff comment for Ketchum City Code §17.96.060(H)(1).</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(4)	<b>In lieu of providing snow storage areas, snow melt and hauling of snow may be allowed.</b>
			Staff Comment / Draft Finding	<i>The applicant proposes a snowmelt system for the project. As conditioned, the Project complies with this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(1)	<b>Landscaping is required for all projects.</b>
			Staff Comment / Draft Finding	<i>Pursuant to KMC §17.96.060.I, landscaping shall serve to enhance and complement the neighborhood and townscape as well as provide a buffer between land uses. The landscape plan incorporates a landscape buffer separating the hotel from Main Street. The landscape plan is comprised of a mixtures of trees, bushes, grasses and flowers appropriate to the environment. Street trees are proposed to be incorporated into the streetscape design adjacent to River Street. All proposed street trees will require electrical outlets and irrigation and must maintain a minimum of 6 ft of clearance within the public sidewalk. Materials and vegetation types are required to be readily adaptable to the site's microclimate, soil conditions, and orientation. All trees, grasses, and perennials must be drought tolerant and native species are recommended.</i>  <i>Due to the requested waiver to reduce the west side setback, the Commission requested the applicant enhance the landscape design in order to provide a buffer between the hotel and the adjacent office buildings located at 220 E River Streets. A 16' building setback and landscape buffer have been provided.</i>  <i>The Commission called for the proposed landscape design to include a comprehensive strategy for the riparian area including a point of access for the public to access Trail Creek. This has been provided, inclusive of public access.</i>

				<p><i>A landscape plan is included in the Design Review submittal. The landscape plan includes Aspen Trees, understory shrubs and wildflowers, native trees, shrubs, and grasses, as well as planters comprised of ornamental grasses and perennial flowers.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>
<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Ketchum Municipal Code §</b>	<b>City Standards and Staff Comment / Draft Findings</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(2)	<p><b>Landscape materials and vegetation types specified shall be readily adaptable to a site's microclimate, soil conditions, orientation and aspect, and shall serve to enhance and complement the neighborhood and townscape.</b></p> <p><i>The landscape materials and vegetation types shall be readily adaptable to the site's microclimate, soil conditions, orientation, and aspect. The proposed landscaping will soften the mass of the building and complement the neighborhood and entry into town. The planters integrated within the front façade enhance the building design and facilitate the creation of inviting outdoor gathering areas.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>
			Staff Comment / Draft Finding	<p><i>The landscaping plan indicates native trees, shrubs, and grasses to conserve water will be installed.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(3)	<p><b>All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.</b></p> <p><i>The landscaping plan indicates native trees, shrubs, and grasses to conserve water will be installed.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>
			Staff Comment / Draft Finding	<p><i>The proposed landscaping will provide a buffer between office building to the west and SH75 to the east. The natural riparian landscaping along Trail Creek is retained. As conditioned, the Project complies with this standard.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(4)	<p><b>Landscaping shall provide a substantial buffer between land uses, including, but not limited to, structures, streets and parking lots. The development of landscaped public courtyards, including trees and shrubs where appropriate, shall be encouraged.</b></p> <p><i>The proposed landscaping will provide a buffer between office building to the west and SH75 to the east. The natural riparian landscaping along Trail Creek is retained. As conditioned, the Project complies with this standard.</i></p>
			Staff Comment / Draft Finding	<p><i>The proposed landscaping will provide a buffer between office building to the west and SH75 to the east. The natural riparian landscaping along Trail Creek is retained. As conditioned, the Project complies with this standard.</i></p>



Yes	No	N/A	Ketchum Municipal Code §	City Standards and <i>Staff Comment / Draft Findings</i>
☒	☐	☐	17.96.060(J)(1)	<p><b>Where sidewalks are required, pedestrian amenities shall be installed. Amenities may include, but are not limited to, benches and other seating, kiosks, bus shelters, trash receptacles, restrooms, fountains, art, etc. All public amenities shall receive approval from the Public Works Department prior to design review approval from the Commission.</b></p>
			<p><b>Staff Comment / Draft Finding</b></p>	<p><i>Public amenities are required to be provided wherever sidewalks are installed. Amenities may include, but are not limited to, benches and other seating, kiosks, bus shelters, trash receptacles, or art. The applicant proposes these amenities along River Street. All public amenities proposed to be installed shall meet all applicable City right-of-way standards and receive approval from the City Engineer and Streets Department.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>

**Table 2: PUD Project Waiver Consideration and Analysis/ Tourist Zoning District Dimensional Standards.**

For purposes of consistency Staff has reviewed the standards set forth in Table 2 (herein below), as well as the February 16, 2021 PUD/CUP Findings and finds the Project in compliance with the Tourist Zoning District findings as follows.

Tourist Zoning Standards					
Compliant			City Standard & Staff Comment / Draft Staff Comment / Draft Findings		
Yes	No	N/A	KMC Section	City Standard & Staff Comment / Draft Findings	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.12.030</b>	<b>Minimum Lot Area: 9,000 square feet minimum.</b>	
			<i>Staff Comment / Draft Finding</i>	<i>The property is 47,249 square feet in size and has a lot width with the one-lot subdivision application that exceeds the minimum lot size and widths required in the Tourist Zone. The City finds that this standard has been met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.12.030</b>	<b>Building Coverage</b>	
			<i>Staff Finding</i>	<i>Approximately 21,362 square feet of the property will remain open space, which is approximately 45% of the 47,249 square foot site. The Project has greater than the required thirty-five percent (35%) minimum open space set forth in the KMC for the Tourist Zoning District. The City finds that this standard has been met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.124.040</b>	<b>Setbacks</b> Front: 15' Riparian: 25' SH75: 25' / 32' Side: the greater of 1' for every 3' in building height, or 5'	
			<i>Staff Comment / Draft Finding</i>	<i>Front &amp; Riparian Setbacks: The project as set forth in the attached Design Review Drawings complies with the city's 25' riparian and 15' front setback requirements. In accordance with KMC 17.88.050.E.3 the proposed pathway through the riparian zone and providing access to Trail Creek is approvable. Side Yard Setbacks: The Design Review drawings comply with the waivers approved as part of the PUD process by the City. Notably, the DR drawings show that the average setback of the proposed hotel along SH75 is an average of 31'.3" The project drawings also show that the building sixteen (16') from the west side property line consistent with KCC approval of the PUD. The City finds that this standard has been met.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.124.040</b>	<b>Permitted Gross Floor Area Ratio: 0.5 or greater for hotels</b>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.12.040</b>	<b>Building Height</b> <b>Maximum Permitted: 35' or greater for hotels</b>	
			<i>Staff Comment</i>	<i>Street. The hotel is proposed as a four-story structure on River Street, and step / terrace down to three and then two stories nearest Trail Creek. (B) The KMC does not specify the maximum height of a four-story building. Historic references in the KMC, as well as the top floor plate of the adjoining Limelight Hotel show the hotel fourth floor to equal approximately forty-eight feet (48') while the top of the Limelight hotel penthouse parapet is 73.5' (C) Maximum height of the building shall not exceed 48' when the building is measured from the highest elevation of the property (along River Street) or 72' when building height is measured from the lowest elevation of the property (along Trail Creek). (D) During the transition where the four-story building along River Street steps down approximately thirty feet (30') toward Trail Creek, the forty-</i>	

			<p><i>eight foot (48') high 4-story building reads like 6-stories at seventy-two feet (72') high. This is permissible consistent with KMC §16.08.020.B and desirable as follows: first, the height of the building at subject central location is below the forty-eight (48') 4-story horizontal plane established by precedent and with the top of the fourth floor at the adjacent Limelight; second, the City recognizes that in this central location of the structure, that the 4-stories of hotel use are sandwiched between two public amenities (employee housing and a roof top bar for the public). The unique characteristics of the site at this location, where the existing grade drops quickly in the center of the site, result in a portion of the building having a taller element of seventy-two feet (72') as measured from existing grade. The City finds this consistent with KMC §16.08.020.B, "[i]n the event of conflict between this PUD chapter and any other ordinance of the city, this PUD chapter shall control." (E) In comparison to both the Limelight and approved Bariteau hotels on opposing corners, the height of the proposed Hotel is lower and more closely aligned to the fourth floor of each building. (F) The Gateway Study and Subarea Analysis indicate that the proposed hotel is both by design and use consistent with envisioned plans for the corner of SH75 and River Street. and, (G) Further, the proposed hotel project is consistent with current Tourist Zoning District zoning allowances for hotels. Each of the attendant uses, including restaurant/bar, meeting rooms, and employee housing are also permitted in the Tourist Zoning District.</i></p> <p><i>As conditioned, the Project complies with this standard.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>17.125.030.H</b> <b>Curb Cut Permitted:</b> <i>A total of 35% of the linear footage of any street frontage can be devoted to access off street parking.</i></p> <p><b>Staff Comment / Draft Finding</b> <i>There are no curb cuts proposed along State Highway 75. The new configuration results in less than thirty-five percent (&lt; 35%) of the linear footage of street frontage devoted to access the off street parking within the parking garage. The City finds that this standard has been met.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>17.125.020.A.2 &amp; 17.125.050</b> <b>Parking Spaces</b> <i>Off-street parking standards of this chapter apply to any new development and to any new established uses.</i></p> <p><b>Staff Comment / Draft Finding</b> <i>As analyzed by staff and consistent with KMC §17.125, the Project has adequate parking for the proposed uses on the property. The project is parked with 84 on-site garage parking spaces. Of the 84 spaces provided for the Project not less than 13 spaces are reserved for public use, 18 spaces are reserved for employee housing use, and the remaining 53 spaces are needed for hotel operations. As conditioned, the Project complies with this standard.</i></p>

**RECOMMENDED CONDITIONS**

1. This Design Review approval is subject to the PUD Findings adopted by the KCC on 2/16/21 for the PEG Ketchum.
2. This Design Review approval is subject to the conditions as set forth in Tables 1 and 2.
3. The applicant shall submit final civil drawings prepared by an engineer registered in the State of Idaho including the utilities and drainage plans to be reviewed and approved by the City Engineer, Streets, and Utilities departments prior to issuance of a Building Permit for the project.
4. This Design Review approval is based on the May 27, 2022 plans and information presented and approved at the meeting on the date noted herein. Building Permit plans for all on-site improvements must conform to the approved Design Review plans unless otherwise approved in writing by the Planning and Zoning Commission or Administrator. Any building or site discrepancies which do not conform to the approved plans will be subject to removal.
5. All governing ordinances, requirements, and regulations of the Fire Department (2018 International Fire Code), Building Department (2018 International Building Code, the 2018 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer shall be met prior to issuance of Building Permit and Certificate of Occupancy.
6. The term of Design Review approval shall be twelve (12) months from the date that the Findings of Fact, Conclusions of Law, and Decision are adopted by the Commission or upon appeal, the date the approval is granted by the Council (KMC §17.96.090).
7. All Design Review elements shall be completed prior to issuance of a Certificate of Occupancy for the building.
8. All exterior lighting on the property shall be in compliance with Ketchum Municipal Code, Chapter 17.132, Dark Skies, and shall be inspected by Planning Staff and approved prior the issuance of a Certificate of Occupancy for the building.
9. Any satellite receivers located on the hotel property shall be subject to a separate review and permit approval.
10. The hotel project is required to install 8’ wide sidewalks equal to the length of the subject property lines adjacent to River and Main Streets or 504 linear feet, whichever is greatest. All sidewalks shall be constructed to City standards
11. Lighting and noise related to the rooftop bar shall be in compliance with the following city code requirements: KMC §17.132 requires all exterior lighting be full cutoff fixtures with the light source fully shielded. Fixtures shielded underneath canopies must be flush mounted or side shielded. KMC §9.08.040.8 enumerates standards for noise levels permitted in the nighttime, daytime, and evening.
12. Any modification to the existing Floodplain Waterways Design Review permit is subject to review and approval.
13. Prior to installation of signage, a sign permit shall be submitted and approved.
14. Sidewalks that are required for the hotel evacuation plan shall be part of the hotel snowmelt system and kept free of snow. A snow melt diagram shall be incorporated into the drawing set approved at the time of building permit issuance to assure areas proposed for snowmelt are constructed as such and found operational as a condition of certificate of occupancy.

**ATTACHMENTS**

- Attachment A:** May 5, 2022 Memo Outlining Design Changes in Response to November 20, 2021 Pre-Application Design Review Meeting
- Attachment B:** May 27, 2022 Design Review Plans
- Attachment C:** February 16, 2021 PUD/CUP Findings of Fact and Conditions of Approval
- Attachment D:** Public Comments

## Attachment B

**Recording Requested by and  
When Recorded Return to:**

City of Ketchum  
Attn: City Clerk  
P.O. Box 2315  
Ketchum, Idaho 83340

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**SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY**

**City of Ketchum / PEG Ketchum Hotel, LLC**

**Permits Conditions Acceptance Development Agreement 22847**

**Parties to the Agreement:**

City of Ketchum	<b>“City”</b>	City Hall P.O. Box 2315 480 East Ave. N. Ketchum, Idaho 83340
PEG Ketchum Hotel, LLC	<b>“Developer/Owner”</b>	Attn: Cameron Gunter 145 West 200 North Provo, Utah 84601

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## Permits Conditions Acceptance Development Agreement

### City of Ketchum/PEG Ketchum Hotel, LLC

THIS Permits Conditions Acceptance Development Agreement (this “**Agreement**”) is entered into by and between the City of Ketchum, a municipal corporation organized and existing under the laws of the state of Idaho, and PEG Ketchum Hotel, LLC, a Delaware limited liability company authorized to do business in the state of Idaho as a foreign limited liability company (“**Developer/Owner**”).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and in consideration of the premises and the mutual representations, covenants and agreements hereinafter contained, City and Developer/Owner represent, covenant and agree as follows:

#### SECTION 1 DEFINITIONS

For all purposes of this Agreement, the following words in **bold** print that appear in this Section have the definitions as herein provided in this Section unless the context of the term clearly requires otherwise and/or is not capitalized:

- 1.1 **Act:** Means and refers to the Local Land Use Planning Act as codified in Chapter 65 of Title 67, Idaho Code.
- 1.2 **Administrator:** Means and refers to the person appointed by the Mayor and City Council to interpret and administer Title 17 of the KMC also designated as the Director of Planning and Building.
- 1.3 **Agreement:** Means and refers to this “*Permits Conditions Acceptance Development Agreement.*”
- 1.4 **Applications:** Means and refers collectively to all of Owner’s applications to the City regarding the Development of the Subject Real Property in accordance with the Project Development Plan inclusive of: Pre-Application Design Review, Demolition Permit Application [pending], Building Permit Application (Pending) Lot Line Shift Application, Floodplain Development Application, Planned Unit Development/Conditional Use Application, Design Review Application and Right of Way Encroachment Permit [pending].
- 1.5 **Building Official:** Means and refers to the City Building Official.
- 1.6 **Building Permit:** Means and refers to the Building Permit/s issued by the Building Official for the construction of the Developed Project of the Project Development Plan pursuant to the standards, and codes in effect at the time the Building Permit Application is filed with the City.

- 1.7 City:** Means and refers to the City of Ketchum, an Idaho Municipal Corporation and Party to this Agreement.
- 1.8 City Administrative Review Fees:** Means and refers to the Administrative Review Fee, inclusive of use of outside consultants for plan checking, 3<sup>rd</sup> party verifications, and/or inspections for the City Services provided to the Developer/Owner for the City's administration of the Developer/Owner's Permits compliance as conditioned herein.
- 1.9 City Council:** Means and refers to the City Council of the City.
- 1.10 Completion-Site Restoration Guaranty:** Means and refers to that certain Completion-Site Restoration Guaranty, issued by the Guarantor, the terms and conditions of which are in compliance with and in the form attached hereto as **Exhibit B**
- 1.11 Construction Plans:** Means and refers to the approved Building Permit plans for the construction of the Developed Project as approved by the Building Official.
- 1.12 Default Cure Remedy:** Means and refers to any Default remedy inclusive of any of the following as is relevant to the Default:
- **Specific Performance:** specific performance of the full completion of the construction of the Project; or
  - **Permits termination, Site Restoration:** In the event of a Default, prior to completion of the Project foundation, Site Restoration, permit revocation and subsequent termination of this Agreement; or
  - **Draw on Letter of Credit:** Draw upon either letter of credit.
- 1.13 Demolition Permit:** Means and refers to that certain approved Permit issued to Developer/Owner by the Building Official subject to conditions pursuant to the Demolition Application.
- 1.14 Demolition Permit Application:** Means and refers to the Developer/Owner's application to the City for a demolition permit for buildings upon the Subject Real Property.
- 1.15 Design Review Application:** Means and refers to the Developer/Owner's application to the City for design review approval of the proposed construction and Development by the Developer/Owner on the Subject Real Property.
- 1.16 Design Review Permit P22-028:** Means and refers to that certain approved Permit issued to Developer by the City Planning and Zoning Commission subject to conditions pursuant to the City approved Design Review Application.
- 1.17 Developed Project:** Means and refers to the completion of the construction of the Project in accordance with the Permits, and in accordance with the provisions of this Agreement.

- 1.18 Developer/Owner:** Means and refers to PEG Ketchum Hotel LLC, a Delaware limited liability company, authorized to do business in the state of Idaho as a foreign limited liability company, who is developing the Project, is the Project Owner, the owner of the Subject Real Property, and Party to this Agreement. After the Effective Date of this Agreement the Developer/Owner shall refer to the owner or owners of the Subject Real Property. The words “Owner” and “Developer”, as they appear individually in this Agreement, have the same definition as “Developer/Owner”.
- 1.19 Developer/Owner’s Representative:** Means and refers to the representatives for the Developer/Owner, which are Cameron Gunter and PEG Development, and is inclusive of any designee appointed by Developer as provided herein.
- 1.20 Developer’s Financial Assurances:** Means and refers to the Developer’s, Project Financing Commitments, the Developer’s readily available funds as a condition of the Developer’s Financial Assurances, and the Guarantor’s Completion- Site Restoration Guaranty.
- 1.21 Development Process:** Means and refers to the process of the performance by the Parties of the terms and conditions of this Agreement.
- 1.22 Effective Date:** Means and refers to the \_\_\_\_\_ day of \_\_\_\_\_, 2023.
- 1.23 Encroachment Permit City:** Means and refers to encroachment permit issued by the City Council for improvements in the City Right of Way.
- 1.24 Encroachment Permit ITD:** Means and refers to encroachment permit issued by the ITD for improvements in ITD Right of Way.
- 1.25 FCO:** Means and refers to Permit Findings of Fact, Conclusions of Law, and Order of Decision.
- 1.26 Four-Star Hotel Operations Standard:** Means and refers to the operation of the Developed Project as an upscale hotel providing guests with a luxury experience in a distinctive setting, including expanded amenities and exceptional service which includes the following characteristics:
- An impressive, well integrated and excellent architectural design; and
  - A lobby area located away from main traffic areas with multiple conversation groupings and recognizable guest services; and
  - A full-service restaurant, separate lounge and bar area; and
  - An onsite fitness center and hot tubs; and
  - Conference rooms; and
  - Onsite housing for 23 employees; and
  - Turn down service, valet parking, baggage service, laundry service, newspaper service, room service, computer access, fitness center service, ice service, and concierge service; and

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- Staff preparation and training to ensure integrated services from initial reservation call to departure.
- 1.27 Floodplain Development/Waterways Design Review Permit No. P19-062:** Means and refers to that certain City approved Permit and conditions issued to Developer/Owner approved February 16, 2021.
- 1.28 Guarantor:** Means and refers to the issuer of the Completion-Site Restoration Guaranty.
- 1.29 Hotel Operations:** Means and refers to the occupation and use of the Developed Project in compliance with a Four-Star Hotel Operations Standard.
- 1.30 Hotel Operator:** Means and refers to the person and or entity that is in possession of the Developed Project and using and occupying the same as a Four-Star Hotel Operations Standard.
- 1.31 Institutional Lender:** Means and refers to a national bank, savings association, state-chartered commercial and savings bank which is in good standing, and meets or exceeds all capital and liquidity requirements of the governing financial regulatory body, including passage of its most recent Stress Test, if applicable.
- 1.32 International Codes:** Means and refers to any Building, Residential, Energy, Mechanical, Rules of Building Safety, Plumbing Code, National Electrical Code, Fire Code or other codes and amendments to those codes adopted by the City of Ketchum and the International Fire Code as adopted by the State Fire Marshal and enforced by the City Fire Department Fire Marshal which govern the Development.
- 1.33 ITD:** Means and refers to the Idaho Transportation Department, an administrative department of the state of Idaho.
- 1.34 KMC:** Means and refers to the Ketchum Municipal Code, which is the codified ordinances of the City.
- 1.35 Level of Service:** Means and refers to an identified standard by which service is provided in the context of the term's appearance in this Agreement.
- 1.36 Lot Line Shift Permit No. P19-064:** Means and refers to that certain Lot Line Shift, subject to the conditions of approval granted to Developer by the City Council.
- 1.37 Master Plan:** Means and refers to the Master Plan filed by the Developer/Owner in support of their Project Development Plan, including the Planned Unit Development/Conditional Use Permit Application which depicts the Project proposed for construction.
- 1.38 Party or Parties:** Means and refers to the City and/or the Developer/Owner, as the Parties to this Agreement, depending upon the context of the term as used in this Agreement.

- 1.39 Peak Travel Season:** Means and refers to that period in each calendar year that commences on June 15<sup>th</sup> and continues to September 15<sup>th</sup> and then resumes on December 15<sup>th</sup> and ends on the following President’s Day holiday.
- 1.40 Permits:** Means and collectively refers to the following permits approved and issued by the City [inclusive of ITD issued encroachment permit] to the Developer/Owner for the Development of the Project as part and parcel of the Project Development Plan are inclusive of the following:<sup>1</sup>
- River Street ROW Encroachment Permit City \_\_\_\_; and (pending)
  - State Highway 75 ROW Encroachment Permit ITD; and (pending)
  - Temporary Use of Right-of-Way Permit.(pending)
  - Demolition Permit No. \_\_\_\_; and (pending)
  - Dig Permit (pending)
  - Lot Line Shift Permit No. P19-064; and
  - Floodplain Development/Waterways Design Review Permit No. P19-062; and
  - Planned Unit Development/Conditional Use Permit No. P19-063; and
  - Design Review Permit No. P22-028; and (pending)
  - Waiver Applications granted by the City in conjunction with the above stated Permits; and
  - Building Permit(s). [pending]
- 1.41 Planned Unit Development/Conditional Use Permit No. P19-063:** Means and refers to that certain Planned Unit Development/Conditional Use Permit issued to Developer/Owner approved by the City Council subject to conditions pursuant to the Planned Unit Development/Conditional Use Permit Development Application.
- 1.42 Project:** Means and refers to the intended development of the Subject Real Property in accordance with the Project Development Plan and subsequent occupation and use conduction Hotel Operations in accordance with a Four-Star Hotel Operations Standard and as governed by this Agreement.
- 1.43 Project Construction Cost Estimate:** Means and refers to the Developer/Owner’s engineer’s and/or architect’s and/or contractor’s cost estimate of the timely completion of construction of the Developed Project in accordance with the approved Construction Plans based upon completion occurring within the maximum time allowed by this Agreement.
- 1.44 Project Development Plan:** Means and refers to and is all-inclusive of all City approved Developer/Owner Permits and the terms of Permits Conditions and Acceptance Development Agreement for the Developed Project.

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<sup>1</sup> Those [pending] permit items listed below are issued subsequent to the effective date of this Agreement pursuant to the terms and conditions of this Agreement.

- 1.45 Project Financing Commitments:** Means and refers to the financial lending commitments of the Developer’s Institutional Lender to enable the Developer to timely complete construction of the Developed Project.
- 1.46 ROW:** Means and refers to public right-of-way for streets and utilities either owned by the City or ITD.
- 1.47 ROW Improvements:** Means and refers to ROW improvements as required by Encroachment Permit City and Encroachment Permit ITD and by this Agreement.
- 1.48 SH75:** Means and refers to State Highway 75 as it lies within the City under the ownership and jurisdiction of ITD.
- 1.49 Site Restoration:** Means and refers to the restoration of the Subject Real Property including the disassembly and removal of the Project foundation, leveling the Subject Real Property to its natural contours, and planted with ground cover which is in compliance with the KMC.
- 1.50 Subject Real Property:** Means and refers to 1.048 acres more or less located within the City and Blaine County, Idaho, legally described and depicted in *Exhibit A*.
- This definition is inclusive of the real property described in the Preliminary Plat prepared by Galena Engineering for the purpose of removing the lot line that bisects the Subject Real Property and will revise pursuant to this Agreement the legal description of record in Blaine County.
- 1.51 Term:** Means and refers to the duration of this Agreement which is perpetual as is set forth herein unless the word ‘term’ is not capitalized.
- 1.52 Waiver Applications:** Means and refers to four (4) waiver Developer/Owner’s applications to the City for approval of the following requirements:
- Floor Area Ratio; and
  - Height/Stories; and
  - Minimum Lot Size; and
  - Setback

## SECTION 2 RECITALS

The Parties recite and declare:

- 2.1** The Developer/Owner is the owner of the Subject Real Property which is within the City limits of the City; and

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- 2.2 The Developer/Owner intends to develop its Project upon the Subject Real Property in accordance with the Applications and Permits and thereafter occupy and possess the same in the conduct of Hotel Operations. In order to accomplish its intentions, the Developer/Owner must obtain the City's approval of the Permits which include terms and conditions of compliance by the Developer/Owner; and
- 2.3 The City is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the Ordinances and regulations which govern the Developer/Owner's intentions for the Developed Project and use of the Subject Real Property; and
- 2.4 In the event of Developer/Owner permit default prior to the timely completion of construction of the Developed Project; given the Project's location, type, and size: it is necessary to protect the community health, enjoyment of life and property and prevent offense to the senses and to minimize adverse impact upon neighboring existing development, it is necessary that this Agreement include conditions that assure the Developed Project is either timely constructed or there is Site Restoration of the unfinished Project construction . KMC § § 17.04.010 , 17.116.050 A and I.C. § 50-334; and
- 2.5 A special consideration for the City to issue the Permits to the Developer/Owner for the Project Development Plan is, the Developer Owner's assurance of financial performance of the timely completion of the Developed Project in accordance with the terms and conditions of this Agreement; and
- 2.6 KMC section 16.08.120 C provides that prior to final approval of a PUD conditional use permit, the City Council may require a written agreement executed by the Developer/Owner to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to Development and may also require recordation of documents establishing and guaranteeing the operation and maintenance of the Project; and
- 2.7 The City's approval of the Permits and granting to the Developer/Owner's Development Rights is conditioned upon and is in consideration of the Developer/Owner's acceptance of the terms and conditions of the Permits and this Agreement.

### SECTION 3 LOT LINE SHIFT PERMIT CONDITIONS

- 3.1 **Lot Line Shift Permit Conditions:** The Lot Line Shift No. P19-064 was approved February 16, 2021 by the City Council. Prior to recording the Final Plat, the Developer/Owner shall comply with the conditions identified in FCO Lot Line Adjust Permit P19-064.

**SECTION 4  
FLOODPLAIN DEVELOPMENT PERMIT CONDITIONS**

- 4.1 Floodplain.** The Developer/Owner shall adhere to all conditions and staff comments contained in the FCO Floodplain Development/Waterways Design Review Permit No. P19-062 . Any amendments or modifications of any of the above referenced permits shall be in accordance with the relevant permit provisions of KMC.

**SECTION 5  
PLANNED UNIT DEVELOPMENT AND  
CONDITIONAL USE PERMIT CONDITIONS**

- 5.1: Planned Unit Development and CUP:** The Developer/Owner shall adhere to all conditions and staff comments identified in the FCO of Planned Unit Development and Conditional Use Permit P19-063. Any amendments or modifications of any section of this permit shall be in accordance with the relevant permit provisions of KMC.

**SECTION 6  
DESIGN REVIEW PERMIT CONDITIONS**

- 6.1: Design Review Permit:** The Developer/Owner shall adhere to all conditions and staff comments identified in the FCO of Design Review Permit P22-028. Any amendments or modifications of any terms of this permit shall be in accordance with the relevant permit provisions of KMC.

**SECTION 7  
STREET AND ALLEY DIG PERMIT**

- 7.1 Street and Alley DIG Permit:** The Developer/Owner shall submit a Street and Alley Digging, Excavation, and Trenching (“DIG”) Permit application with an associated traffic control plan for all construction work within the City ROW to be reviewed and approved by the City Engineer.

**SECTION 8  
PUBLIC ROW CONDITIONS AND LETTER OF CREDIT**

- 8.1 ROW Improvements Letter of Credit:** Prior to the issuance of the Building Permit, the Developer must cause an irrevocable standby letter of credit, in a form acceptable to the Administrator, to be issued from a bank to City (the “**ROW Improvements LOC**”). The ROW Improvements LOC must (a) designate City as the beneficiary thereof; (b) be in an amount not less than 150% of the ROW Improvements Cost Estimate; and (c) have an expiration that is not less than one (1) year from the date of issuance. Developer must renew the letter of credit prior to expiration thereof, unless the letter of credit is released by City as provided herein, and City may draw on the entire letter of credit prior to the expiration thereof if not timely renewed.

- 8.1.1 Release of ROW Improvements LOC:** Developer may request that City release the ROW Improvements LOC after (a) City approval of the River Street ROW



Improvements; (b) completion and approval of the SH-75 ROW Improvements adjacent to the Property; and (c) installation of the northbound left hand turn lane at River Street and SH-75. Upon receipt of Developer's request for a release of the ROW Improvements LOC, the Administrator will then have ten (10) business days to review and conduct a reasonable inspection and provide a written report to Developer either approving or denying the request for release. The approval or denial will be based upon whether or not Developer has satisfied the conditions of a release.

## SECTION 9 PARKING AND TRAFFIC LETTER OF CREDIT

**9.1 Parking and Traffic Letter of Credit:** To assure that the Developer/Owner and/or Hotel Operator provides guest shuttle, employee shuttle, car share program, transit passes, carpool program, and alternative transportation (such as bike storage for employees), the Developer/Owner and/or Hotel Operator shall include a Parking and Traffic Irrevocable Letter of Credit to secure these conditions to lower parking demand and traffic impacts in accordance with Sub-Section 9.1.1 of this Agreement in the amount of fifty thousand dollars (\$50,000)

**9.1.1 Issuance and Amount:** Prior to the issuance of a Building Permit, the Developer must cause an irrevocable standby letter of credit, in a form acceptable to the City, to be issued from a bank to City (the "**Parking and Traffic LOC**"). The Parking and Traffic LOC must (a) designate City as the beneficiary thereof; (b) be in an amount of Fifty Thousand Dollars (\$50,000); and (c) have an expiration that is not less than one (1) year from the date of issuance. Developer must renew the letter of credit prior to expiration thereof, unless the letter of credit is released by City as provided herein, and City may draw on the entire letter of credit prior to the expiration thereof if not timely renewed.

**9.1.2 Release of Parking and Traffic LOC:** The Developer may request that the City release the Parking and Traffic LOC if Developer complies the conditions in section 1.6.6 of the FCO Planned Unit Development/Conditional Use Permit No. P19-063 for a period of one (1) year after the Commencement Date thereof (as defined therein). Upon receipt of Developer's request for a release of the Parking and Traffic LOC, the Administrator will then have ten (10) business days to review and conduct a reasonable investigation and provide a written report to Developer either approving or denying the request for the release. The approval or denial will be based upon whether or not Developer has satisfied the conditions of a release.

**9.1.3 Draws on Parking and Traffic LOC.** If Developer breaches its obligations under the Parking and Traffic Covenants, then City may draw on the Parking and Traffic LOC in accordance with the terms thereof; provided, however, prior to drawing on the Parking and Traffic LOC, the City Council must find that the Developer is in material default of its obligations with respect to the Parking and Traffic Covenants, and the City Council must direct the Administrator to draw a specific amount on the Parking and Traffic LOC to fund reasonable measures to be undertaken by City

to cure Developer's default. In the event City draws on the letter of credit, the funds drawn must be deposited in City's custodial holding fund for expenditure in accordance with City Council's directives to undertake reasonable measures to cure Developer's default. Any funds remaining after completion of the curative measures must be returned to Developer with reasonable promptness.

## **SECTION 10 WATER, SEWER AND UTILITY CONDITIONS**

**10.1 Water & Sewer:** Developer/Owner shall engineer, construct and extend, at its sole expense, the City water and sewer system improvements throughout the Project.

**10.1.1 Connection Fee Credit.** Owner requests water and sewer service from the City to the Subject Real Property and the City agrees to provide such water and sewer service at the same fees as charged to equivalent users of City's water and sewer systems in accordance with the fee methodology in effect at the issuance of the Building Permit. Final fee calculations shall credit, as applicable, services abandoned with the demolition of the previous mixed-use buildings on Subject Real Property.

**10.1.2 Improvements.** All such improvements shall be designed and constructed in accordance with the standards of, and Construction Plans and specifications approved by, the State of Idaho, Department of Health and Welfare, Division of Environmental Quality, and City.

**10.1.3 As-built Drawings.** All Construction Plans shall be approved by the City and as-built drawings provided to the City upon acceptance of the Project improvements by the City.

**10.1.4 Compliance Water & Sewer Department Conditions:** The Project shall comply with all the terms and conditions set forth in the Utilities / Water & Sewer Department Conditions set forth in the Design Review Findings of Fact, Conclusions of Law, Order of Decision.

**10.2 Utilities and Warranty.** All Project Development Plan utilities, including water, sewer, gas, cable, phone and electric shall be installed underground within the street rights-of-way. This includes on-site and off-site utilities: no above-ground utility lines are permitted on the Subject Real Property. Detailed engineered construction drawings and specifications for construction of such improvements shall be prepared by Developer/Owner and approved by the City prior to construction. Prior to acceptance of any such improvements to be dedicated to City, the City shall inspect and approve the same, and Developer/Owner shall provide the City with "as built" drawings thereof. The Developer/Owner warrants to the best of its knowledge the "as built drawings" are substantially correct and Developer/Owner shall, for a period of one (1) year from the date of the City's receipt of said drawings, be liable and hold the City harmless for any damage proximately caused by reason of a material error in said drawings.

**10.2.1 Transfer of Warranties.** Developer/Owner agrees to assign any warranties accruing to it and arising out of construction of the improvements described in this Section remaining in effect at the time such improvements are transferred and/or dedicated to and accepted by the City.

**SECTION 11  
CONDITIONS PRECEDENT TO THE  
ISSUANCE OF A BUILDING PERMIT**

- 11.1 Conditions Precedent to Issuance of a Building Permit.** In addition to the conditions of FCO approvals for PUD/CUP P19-063, Floodplain Development/Waterways Design Review P19-062, Lot Line Adjustments P19-064 and Design Review Permit P22-028 this section sets forth the conditions precedent to the issuance of the Building Permit for the construction of the Developed Project:
- 11.2 Demolition Permit:** The Developer/Owner right to proceed to demolish all or any portion of the existing structures on the Subject Real Property pursuant to the Demolition Permit and shall comply with all codes, standards and ordinances that are in effect at the time the Demolition Permit application is filed.
- 11.3 Center Turn Lane for SH 75/River Street Intersection:** The City has determined that a center turn lane with adequate queuing of approximately fifty to one hundred feet (50’ – 100’) is necessary for the SH75/River Street intersection to retain its current Level of Service (“LOS”) for vehicular car movement. Prior to approval of the Building Permit, the Developer/Owner shall obtain written verification that ITD intends to incorporate the center turn lane into the SH75 improvements to be implemented by ITD. The Developer/Owner shall pay for engineering, traffic control and construction costs for subject SH75 improvements adjacent the Project.
- 11.4 Temporary Use of Right-of-Way Permit:** The use of City right-of-way for Project Development Plan construction, which includes the closure of adjacent streets or sidewalks, requires a Temporary Use of Right-of-Way Permit (“TURP”). The TURP shall be obtained prior to issuance of a Building Permit.
- 11.5 Evacuation Route/Snowmelt Plan.** Sidewalks, that are required for the hotel evacuation plan, shall be part of the hotel snowmelt system and kept free of snow. Prior to issuance of a Building Permit a snow melt diagram shall be approved to assure areas proposed for snowmelt are constructed as such and found operational as a condition of certificate of occupancy.
- 11.6 Public ROW Encroachments Permits.** Abutting the Subject Real Property are two public rights of way (“ROW”). To the east is State Highway 75 (“SH75”), which is owned and maintained by the Idaho Transportation Department (“ITD”). To the north is River Street, which is owned and maintained by the City. This Project qualifies as a substantial improvement; therefore, the Project Development Plan must include the installation of sidewalks equal to the length of the subject Real Property boundary line adjacent to any public street (KMC §17.96.060). Prior to issuance of a Building Permit, the

Developer/Owner shall obtain approval of all ROW encroachments within the ROW pursuant to a separate ROW encroachment agreement approved by the City Council.

- 11.7 SH75 Encroachment Permits.** Prior to issuance of a Building Permit, Developer/Owner shall obtain an Encroachment Permit from ITD to install a six (6) foot sidewalk along the eastern edge of the property adjacent to the SR 75. Sidewalk shall be installed prior to issuance of a Certificate of Occupancy for the Project.
- 11.8 Encroachment Permits:** An encroachment permit from ITD and an encroachment permit from the City will be required for all improvements to public right of ways which are within their respective highway jurisdictions.
- 11.9 Signage & Striping:** To avoid excessive delays for east bound traffic on River Street, subject to review and approval by ITD and the City, the Developer/Owner shall fund and install appropriate signage and improvements to allow only a right turn onto southbound SH75 at the intersection of SH75 and River Street. ITD approvals of such signage shall be provided to the City prior to issuance of a Building Permit.
- 11.10 Drawing Approvals:** Subject construction drawings shall be consistent in concept with approved Design Review approval, Encroachment Permit, and related drawings.
- 11.11 Project Development Plan Approval.** The Project Development Plan, including Final Design Review approval and the recordation of this Agreement, shall have been approved by the City.
- 11.12 Permits:** The Permits shall have been issued and the final Project Construction plans and specifications comply with the terms and conditions of the Permits.
- 11.13 Idaho Power Will Serve Letter:** The Developer/Owner has secured a will serve letter from Idaho Power for the Project and the project generator and other equipment shall be located consistent with the City Design Review approval.
- 11.14 Project Sustainability:** Prior to issuance of a Building Permit for the Project, a third party (qualified to do LEED accreditation) shall provide the City with verification the Project meets or exceeds LEED Silver standards.
- 11.15 Developer's Financial Assurances:** Prior to issuance of a Building Permit, the Developer/Owner shall submit, and the City Council must approve, the Developer's Financial Assurances. The Developer shall provide to the Administrator the Developer's Financial Assurances of Project Financing Commitments which shall include and comply with the following:
- 11.15.1 Construction Loan:** The construction loan commitment from an Institutional Lender which includes the following information and conditions:

- The name and branch of the Institutional Lender with loan officer contact information; and
- A copy of the Institutional Lender's construction loan commitment with conditions of approval; and the Institutional Lender's Construction contract conditions requirements; and
  - If those requirements include a performance bond, the city shall be included as an additional obligee.
- A copy of the developer's construction budget; and
- Confirmation of the Institutional Lender's, Construction Plan review; and
- Project Construction costs estimates Institutional Lender and Guarantor relied upon; and
- A copy of the approved contractor Project construction budget; and
- Copy of the Project constructions contract between the Developer/Owner and the contractor; and
- Conditions and process for controlling construction cost disbursements and title endorsement for loan draws; and
- Description of the process the Institutional Lender will use for Project construction inspections, monitor the Project's budget, schedule, and quality of construction; and
- The financial contingencies both included with the loan and those outside of the loan; and
- Whether the Developer will be going to the market at stabilization, or if there is a long-term take-out loan included as part of the preliminary construction loan commitment, and if so a copy of the take-out loan component conditions.

**11.15.2 Guarantor:** The name of the Guarantor together with the Guarantor's current financial statement showing proof of the Guarantor's capital adequacy to honor the Completion-Site Restoration Guaranty.

**11.15.3 Developer's Readily Available Funds:** The amount of the developer/owner's readily available funds to cover cost overruns and contingencies ensuring timely Project Completion.

**11.15.4 Additional Information Requests and Compliance:** Developer shall, upon the Administrator's advanced written request:

**11.15.4.1** Provide to the Administrator and the Administrator's designee with any additional supporting Developer's Financial Assurances Financial documents and information as reasonably requested by the Administrator.

**11.15.4.1.1** The Administrator's designee will be an expert in commercial construction loans for developments that are of a similar level or standard as the Project.

**11.15.4.2** Allow the Administrator and the Administrator’s designee to confer with the Developer’s Institutional Lender to clarify and confirm the construction loan commitment:

- The processes for controlling disbursements, title endorsements for each loan draw; and the Institutional Lender’s frequency of project inspections; and
- The process for Project construction inspections; and
- The financial contingencies both included with the loan and those outside of the loan.

**11.15.5 Confidential Financial Information:** The documents and information supplied to the Administrator, regarding the Developer’s Financial Assurances, may be designated by Developer as trade secrets or confidential business or personal information included in any report or other writing delivered to the Administrator pursuant to or in connection with this Section by any method intended to clearly set apart the specific material that Developer claims to be either its trade secrets or confidential business or personal information that, if released, would give an advantage to competitors or result in unfair competitive injury to Developer or is otherwise confidential financial information of the Developer or the Guarantor.

**11.16 Administrator and City Council Review:** The Administrator will review and report to the City Council for the City Council’s consideration of approval of the Developer’s Financial Assurances. The standards for the City Council’s approval include:

- 11.16.1** The Project Construction Cost Estimate adequately defines the time, resources and costs required for the Developer to timely and successfully construct the Developed Project; and
- 11.16.2** The ordinary adequacy of the Project Financing Commitments for the timely completion of the construction of the Developed Project based upon the Project Construction Cost Estimate (but subject to customary conditions and limitations consistent with good underwriting practices); and
- 11.16.3** The reasonable adequacy of the amount of the Developer’s readily available funds component of the Developer’s Financial Assurances; and
- 11.16.4** The adequacy of the Guarantor’s capital adequacy to honor the Completion-Site Restoration Guaranty.
- 11.16.5** If the City Council conditionally approves or denies, any of the Developer’s Financial Assurances, the City Council will identify any additional Project Financing Assurances that are required for their unconditional approval.

- 11.17 Process Following City Approval of Developer’s Financial Assurances:** When the Developer’s Financial Assurances have all been unconditionally approved by the City Council, the Administrator shall notify the Developer. The Developer shall then provide to the Administrator proof that the approved Project Financing is in effect, the original Completion-Site Restoration Guaranty signed by the Guarantor, the ROW Improvements LOC and the Parking and Traffic LOC. The Administrator will then notify the Building Official that Developer’s Financial Assurances have been approved and completed.
- 11.18 No Material Amendments to Approved Developer’s Financial Assurances:** Developer agrees that it will not amend any of the terms of the approved Developer’s Financial Assurances, or any loan amendments unless the amendment has been previously reviewed by the Administrator and approved by the City Council.

**SECTION 12  
PROJECT DEVELOPMENT PLAN MODIFICATIONS  
SUBSEQUENT TO BUILDING PERMIT ISSUANCE**

- 12.1** The construction of the Project pursuant to the Building Permit issued shall comply with the Construction Plans, Project Development Plan and comply with any other applicable KMC and approved plan submittals required and relied upon for the issuance of the Building Permit.
- 12.2** The Administrator is authorized to approve minor modifications, as defined by KMC §17.08.020, to the Project Development Plan.
- 12.3** Any material changes to the Project Development Plan, after the Building Permit has been issued, must be applied to the Developer/Owner in accordance with the following process and authorization:
- 12.3.1** The proposed change shall be submitted in writing as a modification request to the Planning & Building Department for review by the Administrator; and
- 12.3.2** A written description shall be included which identifies all proposed modifications and all changes which are clearly indicated on the associated drawings; and
- 12.4** Administrator shall review the proposed change and determine if the requested modification is a minor modification. If determined to be a minor modification, the Administrator shall issue a written determination on the proposed modification. If the Administrator determines the change is not a minor modification, the modification request shall be processed as an amendment to the applicable Project Permit and/or this Agreement.

**SECTION 13  
PERMIT TIME LIMITS**

- 13.1 Construction and Occupancy Time Limits:** The following are the time limits that govern construction and occupancy of this Project:

**13.1.1 Design Review Permit:** The Design Review Permit is valid for twelve (12) months from the date the design review Findings of Fact, Conclusions of Law, and Decision. are adopted by the Planning and Zoning Commission or upon appeal. Any extension shall be filed pursuant to KMC 17.96.090 B.

**13.1.2 Building Permit:** The Developer/Owner must apply for a Building Permit within twelve (12) months from the date the design review approval of Findings of Fact, Conclusions of Law and Decision are adopted by the Planning and Zoning Commission or upon appeal. Any extension shall be filed pursuant to KMC 17.96.090 B.

**13.1.2.1** A Building Permit shall be obtained by the Developer/Owner within four (4) months of the date the Building Permit Application is filed with the City. The Building Official may administratively grant a two (2) month extension if the Building Official determines additional time is required to complete the Building Permit review.

**13.1.2.2** Construction on the project shall commence and the first inspection must occur within six (6) months of the Building Official's issuance of the Building Permit.

**13.1.2.3** Time Limits: A certificate of occupancy shall be obtained from the Building Official by the Developer/Owner for the constructed Developed Project no later than thirty (30) months after the Building Permit is issued, unless the time for completion is extended by the City Council prior to the thirty (30) months has elapsed.

**13.2 Agreement Termination:** In the event the Developer/Owner fails to apply for a Building Permit and perform in accordance with Section 13.1.2 of this Agreement, the Developer/Owner is in Default of this Agreement and the City Council may terminate the Project Development Plan approvals and Permits and this Agreement shall then immediately terminate and be null and void.

**13.3 Certificate of Occupancy Time Limits:** A certificate of occupancy shall be obtained from the Building Official by the Developer/Owner for the constructed Developed Project no later than thirty (30) months after the Building Permit is issued, unless the time for completion is extended by the City Council prior to the thirty (30) months has elapsed.

**13.3.1** Owner shall complete all requirements in Section 14 and submit timely requests for inspections and verification of compliance in sufficient time to obtain the certificate of occupancy no later than thirty (30) months after the building permit is issued.

**13.3.2**In the event the Developer/Owner fails to perform in accordance with Section 13.3 of this Agreement, the Permit and Project Development Plan approvals and Permits



shall terminate and be null and void and prior to building occupancy, Developer/Owner shall obtain all necessary new Project approvals and permits.

**13.4 Process Required to Change Time Limits:** In the event the Developer/Owner, for some unforeseen reason not within their reasonable control, will not be able to comply with a Permit time limit; the Developer/Owner, before the time limit expires, must apply for the relevant permit's time extension amendments, which time extensions periods must be within the time limits of the then current relevant KMC provisions, or for new permits and an amendment of this Agreement.

13.4.1 Time extension applications shall be processed in accordance with applicable City ordinance.

13.4.2 The granting of time extension applications will not be unreasonably withheld, when the Developer/Owner has timely filed time extension application/s supported by substantial and competent proof of the reason for the application/s in compliance with section 13.4 of this Agreement, and the requested time extension period is in compliance with the then current relevant KMC provisions.

## SECTION 14

### CONDITIONS PRECEDENT TO ISSUANCE OF AN OCCUPANCY PERMIT

**14.1 Certificate of Occupancy:** No Certificate of Occupancy shall be issued for the use and occupancy of this Project until the Developer/Owner has complied with all applicable Permit conditions and the following items are complete:

**14.1.1** Prior to Certificate of Occupancy, a Parking Plan verifying free public use, the thirteen (13) displaced public parking spaces, and other details at the discretion of the City, shall be provided and approved by Ketchum City Council for the Developed Project Parking Garage.

**14.1.2** All Design Review elements, consistent with the Approved Permits, are complete to the satisfaction of the Planning & Building Department, including in part, (A) Lighting and noise related to the rooftop bar shall be in compliance with the following city code requirements: KMC §17.132 requires all exterior lighting be full cutoff fixtures with the light source fully shielded. Fixtures shielded underneath canopies must be flush mounted or side shielded. KMC §9.08.040.8 enumerates standards for noise levels permitted in the nighttime, daytime, and evening. (B) Any satellite receivers located on the hotel property shall comply with KMC Chapter 17.140 and be screened from public view. (C) A sign permit shall be obtained and approved by the Planning and Building Department. (D) Compliance with the PUD Findings and Conditions. (E) All Design Review elements shall be completed prior to issuance of a Certificate of Occupancy for the building. (F) Any modification to the existing Floodplain Waterways Design Review Permit for purposes of public access, as set forth in the Design Review Approvals or otherwise, is subject to

review and approval of the Zoning Administrator or Planning and Zoning Commission.

- 14.1.3 All occupancies in the Project (residential, commercial, etc.) shall meet the Leadership in Energy and Environmental Design's (LEED) Silver rating standards. Prior to issuance of a Certificate of Occupancy for the Project, a third party (qualified to do LEED accreditation) shall provide the City with verification the Project meets or exceeds LEED Silver standards.
- 14.1.4 All River Street and SH75 ROW Improvements, including the dedicated turn lane on SH75, shall be completed in accordance with approved encroachment permit approvals to the satisfaction of the City Engineer and the ITD Engineer, respectively.
- 14.1.5 Sidewalk and Lighting: Sidewalk and street lighting improvements, in compliance with city standards, shall be installed prior to issuance of a Certificate of Occupancy for the Project.
- 14.1.6 Public Parking Access. Prior to issuance of a Certificate of Occupancy, a Parking and Access Plan shall be submitted to the City and approved by the City Council that implements free public parking use and access to (13) public parking spaces in the Project Parking Garage and other details at the discretion of the City.
- 14.1.7 Employee Housing: Prior to issuance of a certificate of occupancy, the Administrator shall verify the applicant is in conformance with the employee housing conditions of approval as contained in FCO PUD/CUP P19-063.

## SECTION 15 PROJECT OPERATIONS CONDITIONS

- 15.1 **Hotel Operations.** The core intended feature of the Developed Project is a hotel building being used for Hotel Operations at an industry acknowledged Four-Star Hotel Operations Standard. Adherence to a Four-Star Hotel Operations Standard, particularly during Peak Travel Season, affects the sufficiency of on-site parking and traffic circulation in the immediate vicinity of the Project and is a requirement of the Hotel Operator's occupancy and use of the Developed Project.
  - 15.1.1 The "Peak Travel Seasons" means the period in each calendar year that commences on June 15<sup>th</sup> and continues to September 15<sup>th</sup> and then resumes on December 15<sup>th</sup> and ends on the following President's Day holiday.
  - 15.1.2 The "Four-Star Hotel Operations Standard" means operation of an upscale hotel that generally provides guests with a luxury experience, a distinctive setting, expanded amenities and exceptional service, all relative to the experience, setting, amenities and service available at three-star hotels. City acknowledges that the Four-Star Hotel Operations Standard is a dynamic standard that changes over time, and the Four-Star Hotel Operations Standard will automatically adjust to reflect

then prevailing standards for hotel operations receiving a “Four-Star” rating from nationally recognized rating services. Not all features, amenities and services will be available at all times or in all seasons. Some features and amenities may be temporarily unavailable during periods of maintenance, repair or refresh thereof, and some features and amenities may be replaced with equivalent (or better) features or amenities then consistent with the operations of other Four-Star Hotels. The Level of Service (and the number of hotel staff providing services) will increase and decrease with seasons, events and other customary factors. As of the Effective Date, Developer and City agree that the Four-Star Hotel Operations Standard generally includes the following characteristics:

- 15.1.2.1 A hotel building of Four-Star architectural design (which the City agrees that the Design Review Permit requirements meet); and
- 15.1.2.2 A lobby area of Four-Star architecture that is architecturally sheltered from outside traffic areas (other than Hotel Operations use) and has multiple conversation groupings and recognizable guest services (which characteristic City agrees that the Project meets); and
- 15.1.2.3 A full-service restaurant, with an architecturally (but not operationally) separate lounge and bar area; and
- 15.1.2.4 An on-site fitness center; and
- 15.1.2.5 At least one hot tub available for common guest use; and
- 15.1.2.6 At least one conference room (that may be divisible into smaller rooms); and
- 15.1.2.7 Seasonal valet parking and
- 15.1.2.8 Customary Four-Star guest services, such as baggage service, laundry service, room service, concierge service and other similar services; provided, however, the exact nature and availability of the services will vary by season, guest and other factors customary to the Four-Star hotel industry.

**15.2 Suspension or Modification of Hotel Operations:** In the event the Developer/Owner intends to suspend and/or modify Hotel Operations for any period (not involving Developed Project maintenance, repair and/or renovation), the Developer/Owner shall first apply for an amendment and/or a new permit and an amendment of this Agreement.

**15.3 Employee Housing Units.** The Developer/Owner shall use and maintain the Subject Real Property for Hotel Operations and shall either maintain or enter into a master lease with the Hotel Operator for employee housing units within the Developed Project containing twenty-three (23) beds, as set forth in the employee housing plan design update approved by KCC with the PUD, and thereby fulfill and satisfy the employee housing obligation of this Project consistent with KMC §17.124.050.

**15.3.1** Notwithstanding, consistent with the recommendations of the Blaine County Housing Authority (BCHA) and the Planning and Zoning Commission, the Applicant may, as part of the Design Review process, seek to amend the employee housing plan configurations to have fewer shared bedroom configurations,

improved bathroom to bed ratio, and more individual or couple employee housing suites; and

- 15.3.2** All employee housing units must be subleased, assigned, or otherwise occupied by employees of the Hotel Operator on terms and conditions that emphasize the retention of a local workforce consistent with BCHA community housing guidelines, and providing employee housing at a price point that is commensurate with its employees' ability to pay. The Applicant may enter into a master lease with the Hotel Operator for employee housing units containing twenty-three (23) beds and thereby fulfill and satisfy the employee housing obligation of this Conditionally Granted Project consistent with KMC §17.124.050.
- 15.3.3** All leased employee housing units must be subleased, assigned or otherwise occupied by employees of the Hotel Operator on terms and conditions determined by it, and in the exercise of its discretion, consistent with the goals of retaining a local workforce and adhering to the BCHA community housing guidelines.
- 15.3.4** Employee Housing Units. Leases are subject to annual recertification audits by the City and / or its designee. A fee established by resolution of the City may be charged for this service and associated compliance and monitoring activities.
- 15.4 Local Option Tax.** Hotel Operations shall be subject to and comply with the local option tax conditions and staff comments identified in the FCO of Planned Unit Development and Conditional Use Permit P19-063.

## SECTION 16 DEFAULT

- 16.1 Enforcement of Terms and Conditions of the Agreement.** The enforcement of the terms and conditions of this Agreement and the Permits and approvals issued by the City, excepting any terms and conditions which are based upon International Codes under the jurisdiction of the Building Official or the Fire Marshall, are as follows:
- 16.1.1 International Code Defaults:** The failure of the Developer/Owner, or the failure of the City to comply or perform, in accordance with the terms and conditions of this Agreement which involve conditions of Permits governed under International Codes shall be prosecuted and processed by the Building Official or the Fire Marshall in accordance with the provisions of the applicable International Code involved.
- 16.1.2 All Other Defaults:** Otherwise, the failure of the Developer/Owner, or the failure of the City to comply or perform, in accordance with the terms and conditions of this Agreement or the terms and conditions of any Permit or approvals which are the subject of this Agreement, shall be a Default of this Agreement ("Default") and processed as follows:

**16.1.2.1 City Default Claims.** A claim of a Developer/Owner Default may be made by the Administrator.

**16.1.2.2 Developer, Owner Default Claims:** A claim of a City Default may be made by the Developer/Owner’s Representative.

**16.1.3 Claimant and Accused.** For purposes of this Section of the Agreement, a claim of Default is made by a (“**Claimant**”) against an (“**Accused**”).

**16.1.4 Written Default Notice of Intent.** The Claimant shall serve the Accused with a Written Default Notice of Intent (“**Notice of Intent**”). If the Accused is the Developer/Owner, then the Written Default Notice of Intent shall also be sent to the Institutional Lender and the Guarantor.

**16.1.4.1** The Notice of Intent shall state the factual and legal basis for the claim of Default, the actions required to be taken by the Accused to cure the claim of Default and shall state the specific performance of the Development Process or Default Cure Remedy that will be sought if the Default is not cured and a demand that the Accused responds in writing, within a reasonable stated time, as to whether or not the Accused consents to comply with the Notice of Intent or denies the claim of Default. The reasonable time frame shall depend upon the exigencies surrounding the matters and facts set forth in said Notice of Intent.

**16.1.4.2** The Accused shall have a minimum of fourteen (14) days to remedy the Notice of Intent.

**16.1.4.3** The Notice of Intent shall be served as follows upon:

- **Developer:** by U.S. Mail or electronic mail to the address herein designated by Developer to the attention of the Developer/Owner’s Representative; and
- **Owner:** by U.S. Mail or electronic mail to the address of its registered agent; and
- **City:** by U.S. Mail or electronic mail to the address herein designated by the City to the attention of the Administrator.

**16.1.5 Notice to Show Cause.** In the event the Accused fails to correct and remedy a Notice of Intent, within the reasonable time designated in the Notice of Intent, to the satisfaction of the Claimant, the Claimant shall then request the City Council to proceed to set a hearing and provide written notice of the hearing to show cause to the Accused why the Claimant’s Default Cure Remedy to cure the claim of Default as identified in the Notice of Intent should not be ordered.

- 16.1.5.1** The written notice of the hearing to show cause shall be served upon the Claimant and the Accused at least fifteen (15) days in advance of the hearing.
- 16.1.5.2** At the hearing to show cause, the Accused may present evidence as to why they are or they are not in Default.
- 16.1.5.3** Following any presentation of evidence by the Accused and any rebuttal by the Claimant and any other interested persons, the City Council shall determine the matter and issue Findings of Fact, Conclusions of Law and an Order of Decision in accordance with the evidence presented at the Show Cause hearing.
- 16.1.5.4** The Findings of Fact, Conclusions of Law and Order of Decision issued by the City Council shall be the final administrative remedy of any claim of Default under this Agreement and the Parties may thereafter seek legal action in a court of competent jurisdiction for any legal or equitable remedy, including, without limitation, declaratory relief and/or specific performance of the Development Process which includes Site Restoration or completion of the construction of the Developed Project and/or termination of this Agreement as the case may be, and may include an extension of time limits as are applicable to the claimed default. The Parties shall not be entitled to consequential damages in any such action.
- 16.1.6 Prevailing Party.** In the event any Party shall file suit or action at law or equity to interpret or enforce this Agreement, the provisions of Idaho Code Section 12-117, or any subsequent amendment or recodification of the same, shall apply to the determination of the prevailing Party and the award of reasonable attorney's fees, witness fees and other reasonable expenses.

## **SECTION 17 SHARED LEGAL DEFENSE OF THIS AGREEMENT**

- 17.1 Shared Agreement Legal Defense Costs.** In the event that any legal or equitable action or other proceeding is instituted by a third-party challenging the validity of any provision of this Agreement, the Parties will cooperate in defense of such action or proceeding. The City and the Developer may agree to select mutually agreeable legal counsel to defend such action or proceeding with the Parties sharing equally in the cost of such joint legal counsel, or each Party may select its own legal counsel at each Party's expense. All other costs of such defense(s) shall be shared equally by the Parties. Each Party retains the right to pursue its own independent legal defense.

## **SECTION 18 NOTICES AND FILINGS**

**18.1 Manner of Serving.** All notices, filings, consents, approvals and other communications provided for herein or delivered in connection herewith shall be validly delivered, filed, made, or served if in writing and delivered personally or delivered by a nationally recognized overnight courier or sent by certified United States Mail, postage prepaid, return receipt requested, to:

**City:**

Planning and Building Director  
P.O. Box 2315  
480 East Ave. N.  
Ketchum, Idaho 83340

**Developer:**

PEG Ketchum Hotel, LLC  
Attn: Cameron Gunter  
180 N. University Avenue, No. 200  
Provo, Utah 84601

***With a copy to:***

Matthew Johnson  
WHITE PETERSON  
5700 E. Franklin Rd., Suite 200  
Nampa, ID 83687

**Owner:**

PEG Ketchum Hotel, LLC  
Attn: Cameron Gunter  
145 West 200 North  
Provo, Utah 84601

or to such other addresses as either Party hereto may from time to time designate in writing and delivery in a like manner.

**18.2 Mailing Effective.** Notices, filings, consents, approvals and communication given by mail shall be deemed delivered immediately if personally delivered, 24 hours following deposit with a nationally recognized courier, or 72 hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.

**SECTION 19  
DEVELOPER/OWNER ASSIGNMENT OF AGREEMENT RIGHTS**

**19.1 Developer/Owner Assignment:** The assignment of any of the Developer/Owner's rights and obligations of this Agreement shall be in accordance with the following:

**19.1.1 Complete Assignment of Developer/Owner's rights.** Other than an assignment by operation of law, the Developer/Owner may assign the Developer/Owner's rights and obligations under this Agreement subject to written consent of the City Council which shall not be unreasonably withheld, conditioned or delayed subject only to the following conditions:

**19.1.1.1** The total assignment by the Developer/Owner shall be by a written instrument including the acceptance of the assignee to the terms and conditions of this Agreement, and the City Council's written consent shall then be recorded in the official records of Blaine County, Idaho, expressly assigning such rights and obligations.

**19.1.1.2** In the event of such total assignment of the Developer's Owner's rights and obligations hereunder, the Developer/Owner's liability under this Agreement shall then terminate, but the Guarantor's Guaranty shall remain in full force and effect.

**19.1.2 Successors and Assigns.** Notwithstanding any other provisions of this Agreement, the Developer/Owner may assign all or part of the Developer's or Owner's rights and duties under this Agreement as collateral to any financial institution from which the Developer/Owner has borrowed funds for use in Development of the Project. Such an assignment shall not relieve the Developer/Owner from any subsequent obligations of this Agreement.

## **SECTION 20 MISCELLANEOUS**

**20.1 Agreement Runs with the Subject Real Property.** The burdens of this Agreement for the Term of this Agreement are binding upon, and the benefits inure to, all successors in interest of the Parties to this Agreement and constitute covenants that run with the Subject Real Property. Each commitment and restriction of this Agreement on the Subject Real Property shall be a burden on the Subject Real Property and shall be appurtenant to and for the benefit of the Subject Real Property and shall run with the land.

**20.1.1** This Agreement shall be binding on the Developer and the Owner, and their respective heirs, administrators, executors, agents, legal representatives, successors, and assigns.

**20.2 Agreement Amendment.** This Agreement may only be amended in accordance with the following process:

**20.2.1** An amendment may be proposed by a Party; and

**20.2.2** A proposed amendment must be in writing and include this entire Agreement as then existing and shall therein include a strikethrough of any language to be deleted and underline of any new language of the proposed amendment; and

**20.2.3** A proposed Amendment shall contain Statement of Purpose (which shall include a statement of how the Parties will be affected by the amendment); the Party to contact for information; the amended Agreement text; and

**20.2.4** City approval of a proposed Amendment must be processed in the same manner as the affected provision(s) of the Agreement that was/were originally approved subject to final approval of the City Council.

**20.3 Choice of Law.** This Agreement shall be construed in accordance with the laws of the state of Idaho in effect on the Effective Date. Any action brought in connection with this



Agreement shall be brought in a court of competent jurisdiction located in Blaine County, Idaho.

- 20.4 Construction.** All Parties hereto have either been represented by separate legal counsel or have had the opportunity to be so represented. Thus, in all cases, the language herein shall be constructed simply in accord with its fair meaning and not strictly for or against a Party, regardless of whether such Party prepared or caused the preparation of this Agreement.
- 20.5 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single document so that the signatures of all Parties may be physically attached to a single document.
- 20.6 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties, except for the Permits and or approvals issued pursuant to this Agreement, pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein. No modification or amendment to this Agreement of any kind whatsoever shall be made or claimed by Developer/Owner or City and shall have any force or effect whatsoever unless the same shall be endorsed in writing and signed by the Party against which the enforcement of such modification or amendment is sought, and then only to the extent set forth in such instrument. Such approved amendment shall be recorded in the Official Records of Blaine County, Idaho.
- 20.7 Exhibits and Recitals.** Any exhibit attached hereto shall be deemed to have been incorporated herein with the same force and effect as if fully set forth in the body hereof. The Recitals set forth at the beginning of this Agreement are hereby acknowledged and incorporated herein and the Parties hereby confirm the accuracy thereof. The Definitions set forth prior to the Recitals are hereby acknowledged and incorporated herein.
- 20.8 Further Acts.** Each of the Parties shall promptly execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.
- 20.9 Good Standing; Authority.** Each of the Parties represents to the other as follows:
- 20.9.1 Developer/Owner.** Developer/Owner represents that it is a Delaware limited liability company duly qualified to do business in Idaho; and
- 20.9.2 City.** City represents that it is an Idaho municipal corporation in the state of Idaho; and
- 20.9.3 Authority.** Each Party represents to the other that the individual(s) executing this Agreement on behalf of the Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

- 20.10 Headings.** This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. Table of Contents, titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.
- 20.11 Names and Plans.** Developer/Owner shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature at any time developed, formulated or prepared by or at the request of the Developer/Owner in connection with the Project Development Plan and the Project; provided, however, that in connection with any conveyance of portions of the Subject Real Property to the City, such rights pertaining to the portions of the Subject Real Property so conveyed shall be assigned to the City to the extent that such rights are assignable.
- 20.12 No Partnership; Third-Parties.** It is hereby specifically understood, acknowledged and agreed that neither the City nor the Developer/Owner shall be deemed to be an agent of the other for any purpose whatsoever. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Developer/Owner and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any third-party, person, firm, organization or legal entity not a Party hereto, and no such other third-party, person, firm, organization or legal entity shall have any right to cause of action hereunder.
- 20.13 Obligation to Complete Development.** The obligation of the Developer/Owner to complete any part or all of the Development of the Project within a specific timeline, phasing schedule or other schedules and plans, are provided in this Agreement as required as a condition of the Permits.
- 20.14 City Administrative Review Fees:** The Developer/Owner shall be charged and shall pay the City Administrative Review Fees for the administration of the Developer/Owner's and the City's performance of this Agreement.
- 20.15 Parties' Intent.** It is the Parties' express intention that the terms and conditions be construed and applied as provided herein, to the fullest extent possible. It is the Parties' further intention that, to the extent any such term or condition is found to constitute an impermissible restriction of the police power of the City, such term or condition shall be construed and applied in such lesser fashion as may be necessary to not restrict the police power of the City.
- 20.16 Recordation.** After its execution, this Agreement shall be recorded in the real property records of Blaine County, Idaho by the City.
- 20.17 Severability.** If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

**20.18 Time of Essence.** Time is of the essence in implementing the terms of this Agreement.

**20.19 Waiver.** No delay in exercising any right or remedy shall constitute a waiver by either Party thereof, and no waiver by the City or the Developer of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

**20.20 Agreement Term.** The Term of this Agreement is effective upon the Effective Date and is thereafter perpetual unless terminated pursuant to provisions of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto, having been duly authorized, have executed this Development Agreement to be effective on the Effective Date.

**CITY:**

CITY OF KETCHUM, Idaho, a municipal corporation organized and existing under the laws of the state of Idaho

By: \_\_\_\_\_  
Neil Bradshaw, Mayor

Attest:

By: \_\_\_\_\_  
Trent Donat, City Clerk

**CITY ATTORNEY APPROVAL AS TO FORM AND AUTHORITY:**

The foregoing Agreement has been received by the undersigned attorney, who has opined that it is in proper form and within the power and authority granted under the laws of the state of Idaho to the City of Ketchum

\_\_\_\_\_  
Wm. F. Gigray, III, City Attorney

**DEVELOPER:**

PEG Ketchum Hotel, LLC

By: The PEG Ketchum Hotel, L.L.C., a Delaware limited liability company,

PEG Capital Partners I GP, LLC  
its Manager

PEG Capital Partners, LLC  
its Manager

By: \_\_\_\_\_  
Cameron Gunter, Manager

**OWNER:**

PEG Ketchum Hotel, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Cameron Gunter, Manager

3-28-23 P&Z Recommendations

STATE OF IDAHO )  
 ) ss.  
COUNTY OF BLAINE )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared **Neil Bradshaw**, known or identified to me to be the Mayor of the City of Ketchum, the municipal corporation that executed the instrument or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[seal]

\_\_\_\_\_  
Notary Public for Idaho  
My Commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared **Cameron Gunter**, Manager of PEG Capital Partners, LLC, which in turn manages PEG Capital Partners I GP, LLC, the manager of PEG Ketchum Hotel, LLC., a Delaware limited liability company, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[seal]

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**EXHIBIT A**  
**Subject Real Property Legal Description**

251 S. Main Street – Ketchum Townsite Lots 3, 21, FR 22 Blk 82 N 10' x 110' of alley S 20' x 230' of alley, 260 E. River Street--Ketchum Townsite Lot 2 Block 82 10' x 110' of alley, and 280 E. River Street – Ketchum Townsite Lot 1 Block 82.

The Property is inclusive of the real property described in the Preliminary Plat prepared by Galena Engineering for the purpose of removing the lot line that bisects the Property, which plat will revise the legal description in the real property records of Blaine County, Idaho.

**EXHIBIT B**  
**FORM OF IRREVOCABLE COMPLETION-SITE RESTORATION GUARANTY**  
**AGREEMENT**

This Irrevocable Completion-Site Restoration Guaranty Agreement (this “**Agreement**”) is made as of \_\_\_\_\_, 2023, by [Guarantor], a Utah limited liability company (“**Guarantor**”), to and for the benefit of City of Ketchum, an Idaho municipal corporation (“**City**”)

**RECITALS**

PEG Ketchum Hotel, LLC, a Delaware limited liability company (“**Developer**”) is the owner of certain real property with improvements existing and/or to be built thereon, located in Ketchum, Idaho (the “**Property**”).

City and Developer entered into the Permits Conditions Acceptance Development Agreement (the “**Development Agreement**”) for the development of the Project (as defined in the Development Agreement) on the Property;

As the date hereof, City is issuing a Building Permit (as defined in the Development Agreement) for the Project in accordance with the **Development Agreement**;

As a condition to issuing the Permits, City requires Guarantor to execute and deliver this Agreement to protect City against certain events relating to the construction of the Project.

Guarantor is an Affiliate of Developer, and will derive a substantial financial benefit from the Project.

NOW, THEREFORE, in consideration of the foregoing recitals, which recitals are incorporated herein and made a part hereof, and City’s agreement to issue permits for the construction of the Project, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

**Guaranteed Obligations.** The following are the Guarantor’s irrevocable guaranteed obligations:

1. **The Completion Guaranty:** Guarantor hereby, jointly and severally with Developer pursuant to the terms of the Development Agreement, unconditionally guarantees the prompt commencement and diligent, continuous and full completion of the construction of the Project in conformance with the Construction Schedule, so that Substantial Completion will occur on or before the Completion Date in accordance with the terms of the Development Agreement. The construction of the Project in substantial conformance and compliance with all permit approved Plans and Specifications and the Laws governing the construction of the Project. Guarantor hereby, jointly and severally with Developer pursuant to the terms of the Development Agreement, unconditionally guarantees the punctual observance, performance and satisfaction of all of the obligations, duties, covenants and agreements of Developer under the Development Agreement and the other Loan Documents with respect to the construction of the Project.
  
2. **The Site Restoration Guaranty:** Guarantor hereby, jointly and severally with Developer pursuant to the terms of the Development Agreement, unconditionally guarantees the prompt commencement and diligent, continuous and full completion of the Site Restoration of the Project in event of a default of the Development Agreement wherein the City Council’s Findings of Fact,

Conclusions of Law and Order of Decision imposes the same as the Default Cure Remedy.

**Net Worth; Financial Statements.** At all times while this Agreement remains in effect, Guarantor will maintain an aggregate minimum net worth of \_\_\_\_\_ Million Dollars (\$\_\_0,000,000) with liquid assets of not less than \_\_\_\_\_ Million Dollars (\$\_\_,000,000). Guarantor will annually (commencing on the effective date of this Guaranty) provide to the City the Guarantor's current financial statement.

**Costs; Expenses.** If this Agreement is placed in the hands of attorneys for collection or enforcement or is otherwise collected or enforced through any legal proceeding, then, Guarantor will pay to City upon demand all reasonable attorneys' fees, out-of-pocket costs and expenses, including, without limitation, court costs, filing fees and all other costs and expenses incurred in connection therewith in addition to all other amounts due hereunder.

**Survival.** This Agreement will be continuing, irrevocable and binding upon Guarantor and its successors and assigns, and will survive, notwithstanding any other Person's acquisition of any interest in the Property, whether as successor-in-interest to Developer by virtue of foreclosure or sale or acceptance of a deed in lieu of foreclosure, but will terminate and be of no further force and effect upon the Substantial Completion of the Project.

**Waivers.** Guarantor waives:

All statutes of limitations as a defense to any action or proceeding brought against Guarantor by City under this Agreement, to the fullest extent permitted by law;

Any right it may have to require City to proceed against Developer, proceed against or exhaust any security held from Developer, or pursue any other remedy in City's power to pursue;

Any defense based on any legal disability of Developer; any discharge or limitation of the liability of Developer to City, whether consensual or arising by operation of law or any bankruptcy, reorganization, receivership, insolvency, or debtor-relief proceeding under any federal or state law, whether now existing or hereafter enacted ("Insolvency Proceeding"), or from any other cause; or any rejection or disaffirmation of the Project, or any part thereof, or any security held for the Project, in any Insolvency Proceeding; or any claim that Guarantor's obligations exceed or are more burdensome than those of Developer;

Any defense based on any action taken or omitted by City in any Insolvency Proceeding involving Developer, including any election to have City's claim allowed as being secured, partially secured or unsecured, any extension of credit by City to Developer in any Insolvency Proceeding, and the taking and holding by City of any security for any such extension of credit;

All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Agreement and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind except as otherwise specifically set forth in the Project Documents or this Agreement;

Any defense based on or arising out of any defense that Developer may have to the making of any payment or the performance of the Project or any part of it; and  
In connection with the foregoing waivers, Guarantor acknowledges that City's recourse against Developer may be limited by certain provisions in the Note and Security Instrument. Guarantor agrees that any act which tolls any statute of limitations applicable to the Indebtedness will operate to toll the statute of limitations applicable to Guarantor's liability hereunder.



**Subordination.** Guarantor hereby postpones and subordinates, to and in favor of full payment of the obligations set forth herein and performance of any and all other obligations described herein, any and all present and future debts and obligations owed or to become owing to Guarantor by Developer or by any other guarantors, indemnitors or obligors of all or any part of the Project or any indemnification or guaranty provided in connection therewith.

**Notices.** Any notice, report, demand, request or other instrument or communication authorized or required under this Agreement to be given or delivered to Guarantor or City will be given or delivered in the manner and to the address(es) set forth in the Development Agreement, and with respect to Guarantor, to the address(es) set forth below (unless the same will be changed in the manner provided in the Development Agreement):

If to Guarantor:            [Guarantor]  
   c/o PEG Companies  
   145 West 200 North, Suite 100  
   Provo, Utah 84601  
   Attention: General Counsel

With a copy to:            PEG Capital Partners  
   145 West 200 North, Suite 100  
   Provo, Utah 84601  
   Attention: Cameron Gunter

**Joint and Several Obligations.** If this Agreement is now, or hereafter will be, signed by more than one Person, it will be the joint and several obligations of all such Persons (including all makers, endorsers, sureties and guarantors, if any) and will be binding on all such persons and their respective heirs, personal representatives, successors and assigns.

**Bind Effect.** This Agreement will inure to the benefit of, and will be binding upon, the parties hereto and their respective successors and permitted assigns.

**No Oral Amendment.** This Agreement may not be modified or terminated orally, but only by a written instrument signed by each party thereto. City will not be deemed by any act of its omission or commission to have waived any of its rights, powers or remedies hereunder unless such waiver is in writing and signed by an authorized officer or employee of City, and then only to the extent specifically set forth in such writing. A waiver of one event will not be construed as continuing or as a bar or waiver of any right, power or remedy as to a subsequent event.

**Severability.** In the event any one or more of the provisions of this Agreement will for any reason be held to be invalid, illegal or unenforceable, in whole or in part or in any respect, or in the event that any one or more of the provisions of this Agreement will operate, or would prospectively operate, to invalidate this Agreement, then, in any such event, such provision or provisions only will be deemed to be null and void and of no force or effect and will not affect any other provision of this Agreement, and the remaining provisions of this Agreement will remain operative and in full force and effect, will be valid, legal and enforceable, and will in no way be affected, prejudiced or disturbed thereby.

**Counterparts.** This Agreement may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same agreement.

**Governing Law.** This Agreement and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby will be governed by, and construed in accordance with,

### 3-28-23 P&Z Recommendations

the laws of the State of Idaho, without regard to principles of conflicts of law. **Waiver of Jury Trial.** Guarantor hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.

*[ end of text; signature page follows]*

W:\Work\K\Ketchum, City of 24892\Gateway Hotel .015\Permit Acceptance Agreement\WFG Drafts using the 6.29.22 draft as base\WFG Clean with Table of contents link 3.03.23.docx

## Attachment C

**BEFORE THE PLANNING AND ZONING COMMISSION  
OF THE  
CITY OF KETCHUM**

IN RE:	)	AGREEMENT NO. <b>22847</b>
	)	
PEG KETCHUM HOTEL, LLC	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND RECOMMENDATION</b>
Permit Conditions Acceptance	)	<b>TO THE CITY COUNCIL</b>
Development Agreement	)	
	)	
	)	

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THE ABOVE ENTITLED MATTER coming before the Planning and Zoning Commission of the City of Ketchum (the "Commission"), on the 28<sup>th</sup> day of March, 2023, pursuant to the Applicant's and the City Staff's renegotiated 3-02-2023 draft Permit Conditions Acceptance Development Agreement (the "Renegotiated Development Agreement") which companions with the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit"). The Commission having reviewed the Renegotiated Development Agreement, and the information provided at the hearing on this matter, and the information provided at that hearing, does hereby make and set forth the Record of Proceedings, Findings of Fact, Conclusions of Law, and Recommendation to the City Council as follows:

**SECTION 1**

The record of the proceedings of the above-referenced matter consists of the following, to-wit:

**Notice of Hearing:** Notice of this hearing was:

- Published March 8, 2023 in the Idaho Mountain Express, the City's official newspaper of general circulation; and
- Mailed on the March 8, 2023 to the property owners within 300 feet of the subject real property and affected agencies; and
- Posted on the subject real property on March 21, 2023; and
- Posted on the City's website on the March 13, 2023.

**Exhibits**

	<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
1	<p>Staff Report dated March 28, 2023 with Attachments A-H and the following additional attachments:</p> <p><b>Attachments:</b></p> <p>A: June 14, 2022 staff report for Design Review Permit P22-028</p> <p>B: Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028 (the "Findings") approved June 14, 2022 together with Findings Attachment A: May 11, 2022 Memo Outlining Design Changes in Response to November 20, 2021 Pre-Application Design Review Meeting; and Findings; Attachment B: May 27, 2022 Design Review Plans.</p> <p>C: 3-2-23 Permit Conditions Acceptance Development Agreement.</p> <p>D: Proposed amendment to PUD/CUP P19-63</p>			X
2	Noticing Checklist/Certification			X

**PERSONS TESTIFYING and COMMENT:**

**Staff Report:** Suzanne Frick, presented and gave the City staff report with explanation and stood for questions from the Planning and Zoning Commissioners.

**Public Comment:** Scott Levy had questions about traffic issues related to Highway 75.

**Written Comment Received:** Two written comments were received prior to the distribution of the Planning and Zoning Commission packet. Those comments are provided in Attachment D of the Staff Report.

## DECISION and RECOMMENDATION

WHEREUPON THE PLANNING AND ZONING COMMISSION being duly informed and having reviewed the record, evidence, and testimony received and being fully advised in the premises, DO HEREBY MAKE THE FOLLOWING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION TO THE CITY COUNCIL, to-wit:

### II.

#### FINDINGS OF FACT and CONCLUSIONS OF LAW

[As set forth in this section are findings of fact and corresponding citations to KMC provisions which are also Conclusions of Law]

#### 2.1 Findings Regarding Notice:

2.1.1 **Notice Required:** Notice has been given in accordance with the Law as required by KMC Sections 16.08.110 and 17.116.040.

#### 2.2 Findings Regarding Applications Filed:

2.2.1 The City Staff presented to the Commission the Renegotiated Development Agreement together with information that the renegotiation process began between June 14, 2022 and July 6, 2022 which various drafts of the agreement were negotiated concluding with PEG Ketchum Hotel LLC (the "Applicant") agreement with a redlined draft of the Renegotiated Development Agreement on February 27, 2023 that formed the clean 03.02.23 draft Renegotiated Development Agreement. The Renegotiated Development Agreement required that the Applicant file an application for an amendment of the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3 by an increase of the time period for a certificate of the occupancy to be issued for their hotel project after the issuance of a building permit from 18 months to 30 months. The Applicant's Requested Amendment is a part of a renegotiated Permit Conditions Acceptance Development Agreement which was also heard with this matter simultaneously by the Commission.

#### 2.3 Findings Summarizing Public Comment Concerns and Objections to and Benefits of the Application:

The Commission having reviewed the written comments and having listened to the Staff Report and comments and the comments presented by the public summarizes the same as follows:

- There was no objection to the Renegotiated Development Agreement; and
- The Staff recommended approval of the Renegotiated Development Agreement; and
- The Commissioners had three concerns with the Renegotiated Development Agreement which included the following:

- that section 1.31 Institutional Lender did not adequately define what “good standing” meant; and
  - that section 13.1.2.1 should provide that the Building Official may administratively grant a two (2) month extension if the Building Official determines that additional time is required to complete the Building Permit review; and
  - that section 13.3 Certificate of Occupancy Time Limits should include an additional subsection requiring the Owner (the Applicant) to complete all conditions precedent to issuance of an occupancy permit and submit timely requests for inspections and verification of compliance in sufficient time to obtain a certificate of occupancy no later than thirty (30) months after the building permit is issued.
- The Commission is recommending approval of the Renegotiated Development Agreement to the City Council subject to three concerns above referenced.

#### 2.4 PUD/Conditional Use Ordinance Standards and Planning and Zoning Commission Evaluation Compliance Analysis and Findings:

##### **KMC § 16.08.120 C**

- The City of Ketchum is an Idaho municipal corporation and is required by I.C. § 67-6503 to exercise the powers conferred by the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code; and
- PEG Hotel, LLC (the “Applicant”) has filed with the City the following applications for the development of a hotel within the City:
  - Building Demolition Development Application; and
  - Floodplain Development Permit Application; and
  - Lot Line Shift Development Application; and
  - Planned Unit Development/Conditional Use Permit Application; and
  - Design Review Development Application; and
  - Related PUD/CUP applications for the hotel development.
- The City has processed the Applications and has approved the same subject to numerous conditions; and
- The Ketchum City Code (“KMC”) provides at KMC § 16.08.120 C:

*C. Prior to final approval of a PUD conditional use permit, the city council may require, but not limited to, the following:*

1. *Such written agreements executed by the developer to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to, development, services and/or annexation agreements.*
- In the process of staffing the Applications the City Planning and Building Department staff, in order to assure the Applicant will timely and in compliance with the Applications Permits conditions, has drafted the Renegotiated Development Agreement; and
  - The Renegotiated Development Agreement provides for the timely performance by the Applicant of the conditions of the Applications permits granted by the City for the Applicant's hotel development and is in the best interests of the City to which the PEG Ketchum Hotel LLC is agreeable.

### **III. CONCLUSIONS OF LAW**

The following are the legal principles that provide the basis for the Ketchum City Councils' decision which the Councilors have applied to the facts presented at the hearing of the above-entitled matter:

- 3.1 The City is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code; and
- 3.2 The City pursuant to Idaho Code Section 67-6515 has the authority, which it has exercised by ordinance, codified at Chapter .08 of Title 16 of the KMC, which is separate from its zoning ordinance for the processing of applications for planned unit development permits.
- 3.3 KMC section 16.08.120 C provides that prior to final approval of a PUD conditional use permit, the City Council may require a written agreement executed by the Applicant to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to Development and may also require recordation of documents establishing and guaranteeing the operation and maintenance of the Project; and

### **IV. DECISION AND RECOMMENDATION TO THE CITY COUNCIL**

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, IT IS HEREBY RECOMMENDED TO THE CITY COUNCIL THAT:

PLANNING AND ZONING COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW,  
RECOMMENDATION TO THE CITY COUNCIL PEG PERMITS CONDITIONS ACCEPTANCE  
DEVELOPMENT AGREEMENT



**Recommendation No. 1:** That the Renegotiated Development Agreement be approved and entered into by the City Council subject to and contingent upon the following terms and conditions:

**Condition No. 1 Section 1.31 revision:** That the definition of “institutional Lender” in section 1.31 be revised to read:

**1.31 Institutional Lender:** Means and refers to a national bank, savings association, state-chartered commercial and savings bank which is in good standing, and meets or exceeds all capital and liquidity requirements of the governing financial regulatory body, including passage of its most recent Stress Test, if applicable.

**Condition No. 2 Sub-Sub Section 13.1.2.1 revision:** That sub-sub section 13.1.2.1 be revised to read:

**13.1.2.1** A Building Permit shall be obtained by the Developer/Owner within four (4) months of the date the Building Permit Application is filed with the City. The Building Official may administratively grant a two (2) month extension if the Building Official determines additional time is required to complete the Building Permit review.

**Condition No. 3 Section 13.3 revision:** That section 13.3 include a subsection 13.3.1 to read:

**13.3.1** Owner shall complete all requirements in Section 14 and submit timely requests for inspections and verification of compliance in sufficient time to obtain the certificate of occupancy no later than thirty (30) months after the building permit is issued.

Findings of Fact **adopted** this 11 day of April, 2023.



Neil Morrow, *Chairman*  
City of Ketchum Planning and Zoning  
Commission

## Attachment D

**BEFORE THE CITY COUNCIL  
OF THE  
CITY OF KETCHUM**

IN RE:	)	FILE NO. <b>P19-063</b>
	)	
PEG KETCHUM HOTEL, LLC	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND ORDER OF DECISION</b>
Applicant for	)	
Planned Unit Development	)	
Conditional Use Permit	)	
	)	

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THE ABOVE ENTITLED MATTER coming before the City Council of the City of Ketchum upon remand from the Planning and Zoning Commission’s recommendations issued on December 22, 2020 on remand for joint public hearing held February 1, 2021 continued to February 16, 2021 for consideration of this Findings of Fact, Conclusions of Law, and Order of Decision of the above referenced matters. The Applicant’s Design Review and Permit Conditions Acceptance Agreement applications were both tabled by the Planning and Zoning Commission subject to the City Council’s action on the above reference Applications. The City Council having reviewed the entire record on remand and the record established in hearing on February 1, 2021 does hereby make and set forth the Record of Proceedings, Findings of Fact for all the above referenced matters as follows:

PEG Ketchum Hotel, LLC (the “Applicant”) submitted an Application for a Planned Unit Development (a “PUD Conditional Use Permit”) of a Master Plan inclusive of a request for waivers to minimum lot size, setback (side yards), height, and floor area ratio (FAR) limitations for a hotel development to be constructed and operated on a 1.09-acre site located at the southwest corner of the State Highway 75 and River Street intersection at 280 E. River, (the “Project Site”).

The Project Site is located within the Tourist District Zone as designed by KMC § 17.12.010

Applicant originally submitted a Master Plan and, during the course of the proceedings before the Council, subsequently on December 2, 2019 submitted Master Plan Version 2 and subsequently on January 21, 2020 submitted Master Plan Version 3 and subsequently on

February 3 submitted Master Plan Version 4 as part of its PUD Application.

The City Council having reviewed the entire record and provided notice and held a joint public hearing does hereby make and set forth these Findings of Fact, Conclusions of Law, and Order of Decision which is inclusive of the Waiver Application File No. P20-069 as follows:

## **I. RECORD OF PROCEEDINGS**

The above-entitled matter has been heard by the City Council in conjunction with the accompanying PEG Ketchum Hotel, LLC PUD Project Master Plan together with the other following accompanying Applicant Applications:

- Floodplain Development Permit File No. P19-062
- Lot Line Adjustment File No. P19-064
- Waiver File No. P20-069

The City Council has approved together with these Findings of Fact, Conclusions of Law, and Order of Decision that certain **Master Joint Hearings Compiled Record of Proceedings On Remand** for Files Nos. P 19-062, P19-063, P19-064, P20-069 and P20-019 (the “Master Joint Hearings Record of Proceedings”) which is herein included by reference as if set forth at length.

### **PUBLIC NOTICES FOR HEARINGS ON REMAND:**

Legal notice of the hearing before the City Council was published in the City’s newspaper of record and notice was mailed to adjoining landowners within 300’ was in compliance with the 15-day and 10-day notice requirements. Notice to neighbors and political subdivisions and publication in the *Idaho Mountain Express* occurred on January 13, 2021 with on-site posting on the subject premises on January 25, 2021, mailed to property owners and government subdivisions on January 13, 2021 and posted on the City’s website on January 25, 2021.

## II. FINDINGS OF FACT

**[As set forth in this section are findings of fact and corresponding citations to KMC provisions which are also Conclusions of Law]**

### 2.1 Findings Regarding Notice:

2.1.1 **Notice Required:** Notice has been given in accordance with the Law as required by KMC Sections 16.08.110 and 17.116.040.

2.1.2 **Notice Provided:**

2.1.2.1 Notice was published for the February 1, 2021 joint public hearing in the Idaho Mountain Express, the official newspaper, which has general circulation within the boundaries of the City of Ketchum.

Newspaper	Date Published
<b>Idaho Mountain Express</b>	January 13, 2021

2.1.2.2 Notice of the February 1, 2021 hearing was mailed on January 13, 2021 to the property owners within 300 feet of the subject real property and affected Agencies and was posted on the subject property on January 25, 2021.

### 2.2 Findings Regarding Applications Filed:

2.2.1 PEG Ketchum Hotel, LLC has submitted and completed an Application for a Planned Unit Development of a Master Plan inclusive of Waiver Applications File No. P20-019 for a hotel development on a 1.09-acre site located at the southwest corner of the State Highway 75 and River Street intersection at 280 E. River, (the "Project Site") inclusive of a request for waivers to minimum lot size, setback (side yards), height, and floor area ratio (FAR) limitations.

2.2.2 These Applications are made pursuant and is subject to the provisions of the Ketchum Planned Unit Development (PUD) Ordinance Codified at Chapter 16.08 Ketchum Municipal Code as a PUD conditional use permit within in the City Tourist District Zone (KMC §§ 16.08.050 and 16.08.060.)

2.2.3 KMC §16.08.020 provides:

A. *This chapter is adopted pursuant to authority granted by Idaho Code section 67-6501 et seq., and article 12, section 2 of the Idaho constitution. It is enacted for the purpose of protecting and promoting the public health, safety and welfare; to secure the most appropriate use of lands, to encourage flexibility and creativity in the development of land in order to improve the design, character and quality of new development, and to*

*provide usable open space; to preserve the scenic and aesthetic qualities of lands; to protect property rights and enhance property values; to ensure that adequate public facilities and services are provided; to ensure that the local economy is protected and enhanced; to encourage and promote the development of affordable housing; to ensure that the important environmental features are protected and enhanced; to avoid undue concentration of population and overcrowding of land; to ensure that the development on land is commensurate with the physical characteristics of the land; to protect life and property in areas subject to natural hazards; to protect fish, wildlife and recreation resources; to avoid undue water and air pollution; and to protect the quality of life offered by the city and surrounding resources enjoyed by residents and visitors alike.*

- B. *The provisions for planned unit developments contained in this chapter are intended to encourage the total planning of developments. In order to provide the flexibility necessary to achieve the purposes of this chapter, specified uses may be permitted subject to the granting of a conditional use permit. Because of their unusual or special characteristics, PUD conditional uses require review and evaluation so that they may be located properly with respect to the purposes of this chapter, the comprehensive plan, and all other applicable ordinances, and with respect to their effects on surrounding properties and the community at large. In the event of conflict between this PUD chapter and any other ordinance of the city, this PUD chapter shall control. The review process prescribed in this chapter is intended to assure compatibility and harmonious development between conditional uses and surrounding properties and the city at large. The provisions for planned unit developments contained in this chapter are intended to encourage the total planning of developments. In order to provide the flexibility necessary to achieve the purposes of this chapter, specified uses may be permitted subject to the granting of a conditional use permit. Because of their unusual or special characteristics, PUD conditional uses require review and evaluation so that they may be located properly with respect to the purposes of this chapter, the comprehensive plan, and all other applicable ordinances, and with respect to their effects on surrounding properties and the community at large. In the event of conflict between this PUD chapter and any other ordinance of the city, this PUD chapter shall control. The review process prescribed in this chapter is intended to assure compatibility and harmonious development between conditional uses and surrounding properties and the city at large.*

- 2.2.4 **Applicant Master Plan Submittals:** Applicant originally submitted a Master Plan and subsequently on December 2, 2019 submitted Master Plan Version 2 and subsequently on January 21, 2020 submitted Master Plan Version 3 as part of its PUD Application and subsequently on February 3 submitted Master Plan Version 4 as part of its PUD Application, File No. P20-069, is pursuant to Title 16, Chapter 16.08. KMC Subject Master Plan (also herein referred to as the “Project”) includes a request for waiver or deferral of requirements pursuant to (KMC §16.08. 070.F).
- 2.2.5 **Waiver Requests:** As set forth in the Applicant’s PUD Application and Master Plan, Master Plan Version 2 dated December 2, 2019 and Master Plan Version 3 dated January 21, 2020 and Master Plan Version 4 dated February 24 & March 9, 2020 waivers are requested to the following dimensional standards: Floor Area Ratio (FAR), side yard setbacks, and height requirements. Additionally, a waiver is requested for the PUD to occur on a Project Site with a minimum lot size of less than three (3) acres, which is permissible subject to stipulations set forth in KMC §16.08.080. A.
- 2.2.6 **Minimum Lot Size:** The Council may waive the three (3) acre minimum lot size requirement consistent with KMC §16.08.080. A.4 as allowed for hotels. To do so, the Council must find the Project meets the definition of hotel as set forth in KMC §17.08.020 and complies with the purpose of the Tourist zone as set forth in KMC §17.180 by providing the opportunity for tourist use. Additional relevant analysis is consistency of the Project with the Subarea Analysis and Gateway Study Excerpts.
- 2.2.7 **Waivers Part of PUD Ordinance:** Title 16, Chapter 16.04.020 defines Waiver as a:

Modification of a relevant provision and regulation of this chapter not contrary to public interest or public health, safety or welfare, and due to physical characteristics of the particular parcel of land and not the result of actions of the subdivision where literal enforcement of this chapter would result in undue hardship. The granting of waiver(s) ... rests with the sound discretion of the commission and council, on a case by case basis.

Similarly stated relevant standards for the analysis of waiver requests are set forth in KMC §16.08. 070.L and KMC §16.04.120.

- 2.2.8. **Four (4) waivers are submitted for the Project:** These include waivers to minimum lot size, setback (side yards), height, and floor area ratio (FAR) limitations. These waivers were requested by the Applicant consistent with KMC §16.04.120, §16.08.080 and §17.124.050, in part, as the literal enforcement of city code in the context of the special physical characteristics and conditions affecting the property would result in undue hardship. In particular, the Hotel site has a large slope with a grade differential of approximately thirty-seven feet (37') from Trail Creek at the south end of the lot to the north end along River Street. The site is constrained by the river to the south and the City desires to setback structures from riparian and flood areas. The City also desires to setback structures from State Highway 75 (SH75) in this location to help preserve the entry to town and minimize shading of the highway during winter months. Further, the grade along SH75, future Idaho Transportation Department (ITD) bridge and highway expansion plans, and a desire for no access onto SH75 in this location create unique conditions for development.
- 2.2.9 **Floor Area Ratio:** KMC §17.124. 050.A states: "Hotels may exceed the maximum floor area [0.5] ... requirements of this title subject to ... [a] Planned Unit Development ... which specifically outlines the waivers to bulk regulations requested." A subarea analysis is also required in the review process (KMC §17.124.050. A.2). The total developed gross floor area of the Project, as defined in KMC §17.08.020, is proposed to not exceed a FAR of 1.57 exclusive of basement areas and underground parking. Total building area when each of the three (3) basement and parking garage levels and four (4) hotel stories are calculated in aggregate, total approximately 131,881 square feet for the Project.
- 2.2.10 **Height:** KMC§17.124.050.A states: "Hotels may exceed the ... height ... requirements of this title subject to ... [a] Planned Unit Development ... which specifically outlines the waivers to bulk regulations requested." A subarea analysis is also required in the review process (KMC §17.124.050.A.2). As noted, the Project Site has a large slope from Trail Creek at the south end of the lot to the north end along River Street. The hotel is proposed as a four-story structure on River Street that then stair steps and terraces down to three floors near Trail Creek. Height Analysis, the maximum height of the building along River Street does not exceed forty-eight feet (48') and the building scales down to approximately twenty-eight (28') closer to the river on the south end of the property. The exception to this height analysis is in the center of the structure where 4-stories of hotel use are sandwiched between two public amenities (employee housing and a roof top bar for the public). At this more central site location, the existing grade drops at a fairly acute angle resulting in a portion of the building having a maximum height of seventy-two feet (72') as measured from existing grade. In comparison to both the built Limelight hotel and approved Bariteau / Harriman Hotel on



opposing corners, the height of the proposed Project will be lower and more closely align to the fourth-floor elevation of each of these buildings.

2.2.11 **Setback:** No rear/river or front setback waivers are requested. However, a waiver of the side yard setbacks is requested. KMC §17.124.050.A, subsections 1 and 2, specifies that a PUD and Subarea Analysis process shall be used in the granting of waivers to bulk regulations for hotels. KMC §17.12.030 sets forth the following minimum side yard setbacks: (A) the greater of one-foot (1') for every three-feet (3') of building height, or five feet (5') for the west side setback; and (B) Twenty-five foot (25') to thirty-two foot (32') setbacks adjacent to State Highway 75 (SH75), as calculated based on the adjacent right of way width. The Project, as amended, proposes a 31.3' average setback along SH75 with portions of the building as close as 20' from edge of SH75 ROW. See the Setback Analysis for exact details on subject building setback intrusion adjacent SH75. On the west-side of the structure, portions of the building are proposed as close as 11.8' from the neighboring west property line. City approves the following side setback waivers: a minimum of sixteen feet (16') west side yard setback waiver and a minimum east side setback of twenty feet (20') provided the average east side setback is greater than thirty-one feet (31').

2.2.12 **Project Details:** Details of the Project include both narratives and maps. Narratives include a written project description, development plan, project analysis, social impact study, schedule, parking analysis, traffic study, employee housing plan, Subarea Analysis, and contextual hotel component analysis. Exhibit maps include plans, elevations, sections, sun study, height analysis, civil drawings, landscape plan, exterior color palate, dark sky compliant fixtures, traffic study diagrams, plat map, and public way improvements. Also provided are application forms, analyses of code compliance, soils report, and a waiver list.

## 2.3 Findings Summarizing Public Comment Concerns and Objections to and Benefits of the Application:

The City Council having reviewed the written comment and having listened to the oral comments presented by the public summarizes the same as follows:

- Objections to the granting of waivers to the regulations and standards of the subject Tourist zone; and
- Objections to Building edifice bulk, setback location and height
- Concerns for traffic circulation and safety regarding Project access to and use of River Street on the north, Highway 75 on the east and the intersection of Highway 75 and River Street and concern with the unknown improvements Idaho Transportation may make to Highway 75; and

- Concerns with parking, loading and vehicular access when the Project is operational; and
- Concerns regarding the look of the Gateway entrance to the City; and
- Concern about the character of the City
- Benefit of increase in tourism
- Benefit of additional employment opportunities and on-site employee housing
- Benefit of increased tax revenue
- Benefit of the addition to this tourist community of well-designed and landscaped hotel facility with natural area enhancements and public use availability features.

### City Council Findings Regarding Standards and Findings for the Planned Unit Development Conditional Use Permit:

The City Council findings having reviewed the Project Master Plan Version 3 and 4, as well as public comment, staff analyses, and agency/peer review/department inputs supports the findings as set forth in Sections 2.4, 2.5 and 2.6 below regarding the Planned Unit Development Conditional Use Permit standards:

#### 2.4 PUD Ordinance Standards and City Evaluation Compliance Analysis and Findings:

**Planned Unit Development (PUD)**

**EVALUATION STANDARDS: 16.08.080**

*The standards set forth in this section shall apply to review of all PUD conditional use permit applications. The standards shall be used to review and evaluate the proposal in comparison to the manner of development and effects of permitted uses and standard development allowed on the property in question. Modification or waiver from certain standard zoning and subdivision requirements may be permitted subject to such conditions, limitations and/or additional development standards, pursuant to section 16.08.130 of this chapter, as the city council may prescribe to mitigate adverse impact at the proposed planned unit development, or to further the land use policies of the city, or to ensure that the benefits derived from the development justify a departure from such regulations. Where the city council determines that conditions cannot be devised to achieve the objectives, and/or the standards contained in this chapter are not met, applications for conditional use permits shall be denied. The city council shall make findings that each of the following evaluation standards have been met. The evaluation standards are as follows:*

### **KMC § 16.08.080.A**

*Minimum lot size of three (3) acres. All land within the development shall be contiguous except for intervening waterways. Parcels that are not contiguous due to intervening streets are discouraged. However, the commission and the council may consider lands that include intervening streets on a case by case basis. The commission may recommend waiver or deferral of the minimum lot size, and the council may grant such waiver or deferral only for projects which: ...4. For a hotel which meets the definition of "hotel" in section 17.08.020, "Terms Defined", of this code, and conforms to all other requirements of section 17.18.130, "Community Core District (CC)", or section 17.18.100, "Tourist District (T)", of this code. Waivers from the provisions of section 17.18.130 of this code may be granted for hotel uses only as outlined in section 17.124.040 of this code. Waivers from the provisions of section 17.18.100 of this code may be granted for hotel uses only as outlined in section 17.124.040 of this code.*

**City Findings:** The Project Site is approximately 1.09 acres and does not meet the minimum standard of (3) acres for a PUD. However, as noted herein below, the City finds that this requirement may be waived consistent with KMC §16.08.080.A.4 as allowed for hotels. Specifically, this Project:

- (A) Meets the definition of hotel as set forth in KMC §17.08.020. The Project consists of ninety-two (92) rooms, includes on site food and beverage service with kitchen facilities, common reservation and cleaning services, meeting room space, combined utilities, on site management and reception services, access to all sleeping rooms through an inside lobby supervised by a person in charge no less than eighteen (18) hours per day, and adequate on site recreational facilities. There are no other residential uses proposed in connection with the hotel operation, other than the proposed 23 beds of employee housing.
- (B) Complies with the purpose of the Tourist zone as set forth in KMC §17.180 by providing the opportunity for tourist use. Consistent with the sub-area analysis and Gateway Study Excerpts, as set forth in Exhibit A, the Project is compatible both in design and use with the surrounding uses and development.
- (C) Allows the granting of waivers for hotel-related Tourist District Floor Area Ratio (FAR), setback, and height dimensional standards as outlined in KMC §17.124.040. The Project proposes to exceed the 0.5 Tourist Zone permitted Gross FAR as set forth in KMC §17.124.040.A and may exceed its FAR maximum in accordance with the pertinent code provisions allowing for fourth floor hotel uses, as set forth in KMC §17.124.040.B.3 and by reference KMC §17.124.050. In accordance with the aforementioned and also precedent (e.g., entitled Bariteau / Harriman Hotel site at 300 E. River Street across SH75 was also approved as a PUD on an approximately 0.9-acre site and the Limelight was approved as a PUD on an approximately 1.09-acre site), the City finds this evaluation standard to have been met.

**The City Council further finds:** That it is the intent of the City that paragraph 4 of subsection A of KMC Section 16.08.080 exclusively and directly applies to Hotel planned unit development waivers. That paragraph 4 of subsection A of KMC Section 16.08.80 requires that developments which meet the definition of a Hotel in KMC section 17.08.020 and conform to the requirements of KMC section 17.18.100 be granted waivers of the three (3) acre minimum lot size for their PUD Development. That KMC Section 17.18.100.A is a statement of purpose of the City’s Tourist District and as such states the purpose of the district to provide the opportunity for high density residential and tourist use and development which can be justified as a primary use within the district. There is a general but not specific reference to the specific dimensional requirements of the Zoning ordinances in KMC Section 17.18.100. The zoning ordinance requirements of KMC section 17.124.040, which refers to KMC section 17.124.050, are not mandated by KMC Section 17.18.100 unless a waiver of 17.18.100 is required. In this instance the subject PUD application is a hotel use only, a waiver of 17.18.100 is not required, and the PEG Ketchum Hotel complies with the intent, purpose, and use requirements of the Tourist Zone set forth in KMC Section 17.18.100.

**KMC § 16.08.080.B and KMC § 16.08.080.D**

***KMC § 16.08.080.B:*** *The proposed project will not be detrimental to the present and permitted uses of surrounding areas.*

***KMC § 16.08.080.D:*** *The development shall be in harmony with the surrounding area.*

**City Council Findings:** The proposed hotel is both by design and use consistent with envisioned plans for the corner of SH75 and River Street. Further, the proposed hotel project is consistent with current Tourist Zoning District zoning allowances for hotels. Each of the attendant uses, including restaurant/bar, meeting rooms, and employee housing are also permitted in the Tourist Zoning District. The site was defined as Site 2 in the 2007 Gateway Scale and Massing Study and was identified as a priority urban infill site for a potential hotel development, inclusive of a public plaza near the project intersection with SH75. As such, the Property is in the Ketchum Urban Renewal District (KURA) Revenue Allocation Area. The Project Site borders three other hospitality focused uses. The Limelight Hotel is located directly across River Street to the North. The Best Western Hotel is located diagonally across Main Street from the Project Site. The Planned Future Harriman Hotel by Bariteau is located directly across Main Street to the East. The two closest properties to the West are commercial office buildings, (220 and 200 East River Street). The site is bordered by commercial uses to its North, East, and West and is separated from the multifamily residential uses to the South by Trail Creek. Accordingly, the City finds this Project will (A) not be detrimental to the present and permitted uses of surrounding areas and (B) be in harmony with the surrounding area.

**KMC § 16.08.080.C**

***The proposed project will have a beneficial effect not normally achieved by standard subdivision development.***

**City Council Findings:** The proposed hotel will benefit the city in ways not normally achieved by standard subdivision. These include public access to the river and, open space in excess of thirty-five percent (35%), and access to a 3,000 square foot bar patio terrace, which features landscaping and solar exposure unique for a built project. The Project will have significant economic and public amenity benefits to Ketchum that would not be achievable on this site without the PUD process due to the constraints created by the topography of the site (37' differential in grade between front property line on River and rear property line along Trail Creek), access constraints on the east side due to the east side bordering SH 75, and development constraints due to the south side of the property being Trail Creek. The provision of waivers through the PUD process allows the design of the building, interior layout, operations and programmatic aspects of the hotel to infuse economic and public benefits beyond what would be accomplished by hotel rooms alone.

Economic benefits of the development include local option taxes generated by the 92 new hotel rooms that will be booked through the international reach of the internationally recognized hotel brand's reservation network. The hotel will feature a number of public amenities, including a street front restaurant and lounge, banquet/meeting rooms, and a roof top bar with panoramic views of Bald Mountain and Dollar Mountain; there is no other publicly accessible rooftop space in Ketchum city limits with a similarly large footprint (approximately 2,035 net square feet of roof-top Bar Patio on Level 03 and 1,425 net square feet of roof-top Bar Terrace on Level 03 02) or that has 280-degree views and is operational in all four seasons. The hotel will also provide on-site employee housing, with a minimum of 23 beds, in a mix of traditional apartments and dorm style apartment units.

The hotel's inclusion of on-site employee housing will result in the project providing more on-site for employees than any other development in Ketchum city limits and the mix of housing unit styles will, as conditioned herein in §4.10, accommodate employees at different life stages and career stages (seasonal vs. long-term, full-time). Further, although the employee units are located on Lower Level 3 and Lower Level 2, which are partially below grade on the River Street portion of the building, because the grade of the site drops toward the south.

If the rooftop bar and lower floor employee housing units were removed from the project (or if the employee housing were located in a basement) the benefits of this project to the community would be lessened; the employee housing and roof-top amenity comprise approximately 12,883 square feet of the approximately 131,881 gross square foot development. Due to the site constraints, the allowance for waivers from the typical standards of the code is what makes inclusion of these public benefits truly benefits and is what makes these benefits possible.

Accordingly, the City finds the PUD process as having a beneficial effect not normally achieved by standard development.

**KMC § 16.08.080.D**

*The development shall be in harmony with the surrounding area.*

**City Council Findings:** The City finds this Project to be in harmony with the surrounding area. Details of this finding are presented jointly with KMC §16.08.080.B findings above stated.

**KMC § 16.08.080.E**

1. *Densities and uses may be transferred between zoning districts within a PUD as permitted under this chapter, provided, the aggregate overall allowable density of units and uses shall be no greater than that allowed in the zoning district or districts in which the development is located. Notwithstanding the above, the commission may recommend waiver or deferral of the maximum density and the council may grant additional density above the aggregate overall allowable density only for projects which construct community or employee housing and which:
  - a. *Include a minimum of thirty percent (30%) of community or employee housing, as defined in section 16.08.030 of this chapter; and*
  - b. *Guarantee the use, rental prices or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Blaine County housing authority and/or the Ketchum city council.**
2. *Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost or resale cost.*

**City Council Findings:** N/A. The Applicant is not requesting any density transfers.

**KMC § 16.08.080.F**

*The proposed vehicular and nonmotorized transportation system:*

1. *Is adequate to carry anticipated traffic consistent with existing and future development of surrounding properties.*
2. *Will not generate vehicular traffic to cause undue congestion of the public street network within or outside the PUD.*
3. *Is designed to provide automotive and pedestrian safety and convenience.*
4. *Is designed to provide adequate removal, storage and deposition of snow.*
5. *Is designed so that traffic ingress and egress will have the least impact possible on adjacent residential uses. This includes design of roadways and access to connect to arterial streets wherever possible, and design of ingress, egress and parking areas to have the least impact on surrounding uses.*
6. *Includes the use of buffers or other physical separations to buffer vehicular movement from adjacent uses.*
7. *Is designed so that roads are placed so that disturbance of natural features and existing vegetation is minimized.*
8. *Includes trails and sidewalks that create an internal circulation system and connect to surrounding trails and walkways.*

**City Council Findings:** The documents provided by the Applicant address how vehicular and pedestrian traffic will circulate in and around the proposed Project. The SH75 ingress/egress diagram and associated access analysis addresses the safety, aesthetics, grading limitations, and Trail Creek Impacts, which was requested by a member of the public, duly analyzed by the City, and determined by the City after hearing from the project engineer, as well as the city independent traffic engineering consultant as not being in the public interest. No operational issues are found to exist with Project vehicular ingress / egress being on River Street with acceptable level of service (LOS) noted for each circulation component (parking garage access, hotel pick-up/drop-off, and SH75 approaches). See AECOM memo. Foremost of these exhibits is the detailed traffic impact study (TIS) prepared by Hales Engineering, which AECOM (on behalf of the city) has provided a peer analysis and also includes River Street Public ROW Civil Plan Encroachment Options 1 and 2 that feature the Applicant's circulation plan, sidewalk improvements, and proposed snowmelt system for the Project. There are two excerpts of professional studies. The first is an excerpt from the Idaho Transportation District (ITD) Record of Decision (ROD) and proposed Fiscal Year 2025 (FY25) road improvements to State Highway 75 (SH75) adjacent the property between the Trail Creek Bridge and River Street. These include a 3-lane urban section with curb, gutter and sidewalk. Importantly, the middle lane features a left turn lane for north bound traffic on SH75 that would permit adequate queuing and protected westbound (WB) turning movement onto River Street and the Project. The second excerpt is from Vitruvian and references a city-sponsored recommendation to upgrade the unsignalized crossing at SH75/River Street (north-side of intersection between Limelight Hotel and the Best Western) with a Rectangular Rapid Flashing Beacon (RRFB) to enhance pedestrian safety. After receiving input from ITD, including the August 8, 2019 Minutes of the Ketchum Transportation Authority, KCC recommends that enhancements to pedestrian safety are better accommodated with a HAWK system on River Street than an RRFB system. Also proposed to improve vehicular LOS movements is making east bound (EB) and WB River Street at the intersection with SH75 right turn only movements (signing and striping required). To further reduce traffic and to meet City sustainability goals, as expressed throughout the Ketchum Comprehensive Plan, the operation of the hotel will integrate strategies to reduce vehicular impact on Ketchum's streets from this Project. These include strategies such as a Guest Shuttle (airport and to local destinations), Employee Car Share Program, and Employee Transit Passes. As conditioned herein, the City finds this standard to have been met. The Project will be adequately served by necessary vehicular and nonmotorized transportation systems.

**KMC § 16.08.080.G**

*The plan is in conformance with and promotes the purposes and goals of the comprehensive plan, zoning ordinance, and other applicable ordinances of the city, and not in conflict with the public interest:*

1. Pursuant to subsection 16.08.070D of this chapter, all of the design review standards in chapter 17.96 of this code shall be carefully analyzed and considered. This includes detailed analysis of building bulk, undulation and other design elements. The site plan should be sensitive to the architecture and scale of the surrounding neighborhood.
2. The influence of the site design on the surrounding neighborhood, including relationship of the site plan with existing structures, streets, traffic flow and adjacent open spaces, shall be considered.
3. The site design should cluster units on the most developable and least visually sensitive portion of the site.

**City Council Findings:** As previously set forth in the findings for KMC §16.08.080 subsections B, D and F (above), the Project as conditioned, will be adequately served by necessary vehicular and nonmotorized transportation systems and will be in harmony with the surrounding area. The Project will pay applicable fees, from Local Option Taxes (LOT) for construction materials to applicable building permit fees and connection fees for such items as water and sewer connections. The Conditionally Granted Project shall pay the plan check and building permit fees that are in effect at the time of plan check and building permit submittal and all fees required by law prior to issuance of building permit. Further, details have been added as conditions of approval to assure that Marriott or other reward stays pay LOT to the city. Pursuant to KMC §16.08.070.D, all of the design review standards set forth in KMC §17.96 are conditionally attached to the City's approval of the Planned Unit Development and are memorialized in the Project Development Agreement. Staff has analyzed Project Compliance with the Ketchum Comprehensive Plan subsection, that the Project both conforms with and promotes the purposes and goals of the comprehensive plan. The Applicant's site design drawings, Project massing has been carefully designed with a four-story bench design on River Street that terraces down (southward) to follow the topography drop from River Street to Trail Creek. Subject terraces then become gathering spots for guests and the public to enjoy the outdoor and take in the scenic views from the hotel. As noted by the Applicant, "the massing also provides for a façade that steps in and out of plane, which is enhanced by a layer balconies and articulation of those forms. The building pulls back over 35' from Trail Creek and has minimal visual impact on Forest Service Park." The building footprint near the front property line is setback 15' from the River Street frontage where it has an appropriate relationship to the sidewalk and street scape. The footprint is then pulled back to respect the riparian setback along Trail Creek to minimize the impact of the new building adjacent to a natural feature. Site landscape design has been designed to complement the bench topography and creek bank features of the site." As conditioned herein, this standard has been met.

#### **KMC § 16.08.080.H**

*The development plan incorporates the site's significant natural features.*



**City Council Findings:** Three significant natural features are recognized by the City, including: the site's location on a bench; Trail Creek along the south property line; and, the 360-degree scenic views from the site including Bald Mountain and Dollar Mountain. The hotel has been designed to step down, following the bench topography, creating rooftop terraces and public spaces that take advantage of solar orientation and available views. The landscape plan includes pedestrian pathways for hotel guest and the public to access Trail Creek viewpoint areas set outside of the riparian zone setback. As conditioned herein, this standard has been met and the Master Plan is found to properly incorporate the site's significant natural features.

**KMC § 16.08.080.I**

*Substantial buffer planting strips or other barriers are provided where no natural buffers exist.*

**City Council Findings:** As noted in KMC §17.12.040, 21,362 square feet of the property will remain open space, which is forty-three percent (45%) of the 47,591 square foot site. The Project has greater than the required thirty-five percent (35%) minimum open space set forth in the KMC for the Tourist Zoning District. Three notable buffer strips that benefit the public are proposed. The first is the twenty-five foot (25') setback from SH75/Main Street that will be landscaped. Subject setback, averages 31.3'. Portions of this area are proposed to include an outdoor dining patio toward the intersection of Main Street and River Street and will have landscape and architectural barriers such as raised planters, raised water features, and architecturally integrated railings separating the dining patio from the street. The second buffer is a twenty-five foot (25') Riparian Easement along with a ten foot (10') Utility Easement that combine to create a thirty-five foot (35') setback from the property line adjacent Trail Creek. The third design element includes the placement of a buffer landscape island between the hotel's Porte Cochere drive along River Street. Given the significant public amenities integrated into the hotel design and invitation of the public into the building, the City finds a favorable exchange to exist with details to be enumerated in the pending River Street encroachment permit request by the applicant. This design element is subject to a separate Encroachment Permit application that will be reviewed by City concurrently with the PUD. As conditioned herein, this standard has been met.

**KMC § 16.08.080.J**

*Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner.*

**City Council Findings:** The Applicant proposes to develop the Project in a single phase. To assure that that the development contains all the necessary elements and improvements to exist in a stable manner, the City finds this standard (KMC §16.08.080.J) to be met, provided as a conditioned of the issuance of any Building Permit for the construction of the Project that an appropriate project completion assurance (e.g., an irrevocable letter of credit on a bank acceptable to the City in an amount equal to 130% of engineering estimates of the Master Plan) and all fees required by law prior to and for issuance of a building permit.

**KMC § 16.08.080.K**

*Adequate and usable open space shall be provided. The applicant shall dedicate to the common use of the homeowners or to the public adequate open space in a configuration usable and convenient to the residents of the project. The amount of usable open space provided shall be greater than that which would be provided under the applicable aggregate lot coverage requirements for the zoning district or districts within the proposed project. Provision shall be made for adequate and continuing management of all open spaces and common facilities to ensure proper maintenance.*

**City Council Findings:** As previously noted, 21,362 square feet of the property will remain open space, which is approximately 45% of the 47,591 square foot site. Further, subject rooftop bar also includes patio space plus an additional 1,425 net square feet of landscaped terrace area devoted to public use. The open space, green roofs and patios that are provided exceeds the requirement by more than 8%, which is an amount “greater than that which would be provided under the applicable aggregate lot coverage requirements for the zoning district or districts within the proposed project.” The City finds that subject open space is both adequate and useable and complemented by the Project’s addition of the outdoor roof top bar space with adjacent living garden terrace, which is available to the public and managed and maintained by the Project.

**KMC § 16.08.080.L**

*Location of buildings, parking areas and common areas shall maximize privacy within the project and in relationship to adjacent properties and protect solar access to adjacent properties.*

**City Council Findings:** The City has reviewed the Applicant’s response to this standard of evaluation, including reference to its sun study and height analysis/compatibility view drawings, and generally concurs with the finding that “The Ketchum Boutique Hotel is configured along a northwest spine that has allowed for the building’s mass to be pulled back from the roadway view corridor leading to Main Street. All onsite parking is contained below grade and will have no visual impact on the site. The hotel features an interior courtyard located on level 2 that faces south, the courtyard will be hotel’s ‘private’ exterior amenities space that is reasonably shielded from the view of most adjacent properties. The hotel features many architectural balcony elements that serve to create another layer of structure between the guests and the exterior, enhancing a sense of a perimeter of privacy in those guest rooms. The Sun Studies provided ... demonstrate that the massing of the hotel will have very minimal shade impact on adjacent buildings, only during the December studies do any shadows from the hotel intrude appreciably on any adjacent properties, and in those cases the shadow impacts from [the PEG Ketchum] hotel are not any more intrusive than the affected buildings have on their adjacent neighbors.” As conditioned herein, the City finds this standard to have been met.

**KMC § 16.08.080.M**

*Adequate recreational facilities and/or daycare shall be provided. Provision of adequate on site recreational facilities may not be required if it is found that the project is of insufficient size or density to warrant same and the occupant's needs for recreational facilities will be adequately provided by payment of a recreation fee in lieu of such facilities to the city for development of additional active park facilities. On site daycare may be considered to satisfy the adequate recreational facility requirement or may be required in addition to the recreational facilities requirement.*

**City Council Findings:** Programmed recreation facilities within the Project, include a 1,002 square foot fitness center and a 3,301 square foot outdoor terrace, including hot tubs. The City finds these on-site guest amenities to adequately meet the recreational needs appropriate to the scale of the Project. In addition, the City finds that the proposed use, inclusive of the employee housing units, does not warrant the provision of on-site daycare services.

**KMC § 16.08.080.N**

*There shall be special development objectives and special characteristics of the site or physical conditions that justify the granting of the PUD conditional use permit.*

**City Council Findings:** As noted in the Gateway Study, the City of Ketchum has established special development objectives for the four corners surrounding the intersection of River Street/SH75. The City has reviewed and analyzed this Study and recognizes subject Project Site is on a bench with approximately 37 feet of grade change and without the PUD process would unlikely be developable as a hotel as it would have to have one building along River Street, and a second building at the bottom of the hotel accessible via SH75 Street. This latter access is not desirable for site visibility and safe ingress/egress as attested to by the city's independent traffic consultant upon review of project development drawings, Hales access memorandum, and ITD highway specifications. Accordingly, the City finds there to be special development objectives and special characteristics of the site and its physical conditions that justify the granting of the PUD conditional use permit.

**KMC § 16.08.080.O**

*The development will be completed within a reasonable time.*

**City Council Findings:** Regarding KMC §16.08. 080.J, it is found that this standard is met; provided that a project completion assurance agreement is entered into between the Applicant and City for the Project prior to the issuance of any Building Permit for the construction of the Project.

**KMC § 16.08.080.P**

*Public services, facilities and utilities are adequate to serve the proposed project and anticipated development within the appropriate service areas.*

**City Council Findings:** Street, water, sewer, and fire personnel have met with the Applicant and found that adequate city services are available to serve the Project. The Applicant and the City have also met with ITD regarding the Project and, as conditioned herein, is requesting improvements be installed by the Applicant at the intersection of SH75/River Street as a condition of Certificate of Occupancy. Formally, this will occur upon acceptance by ITD of a specific Encroachment Permit application submitted by the Applicant in conjunction with city recommendations to ITD for approval. Prior to building permit issuance, the Applicant will need will-serve letters from other utility providers (gas, electric, waste and recycling). To date, no issues of service have been identified. The payment of impact, local option tax, and building permit fees pursuant to approved city schedules are required. The City finds this standard has been met. Subject to the conditions set forth herein, public services, facilities and utilities are adequate to serve the Project and anticipated development within this area.

**KMC § 16.08.080.Q**

*The project complies with all applicable ordinances, rules and regulations of the city of Ketchum, Idaho, except as modified or waived pursuant to this section*

**City Council Findings:** KMC §16.08.080 Subsections G and Q both stipulate that the Project conform with and promote the purposes of applicable ordinances and not conflict with the public interest. This Project involves six (6) interrelated permits (floodplain, subdivision, design review, PUD, CUP, and a development agreement), as well as encroachment permits that will be required for SH75 from ITD and for River Street from the Ketchum City. Each of these eight (8) sets of approvals, as well as future compliance of Project construction drawings with other city regulations, such as Building, Fire, and Green Building Codes are required of the Applicant. As conditioned herein, the City finds that this Project complies with all applicable rules and regulations of the City. The City makes this finding in recognition of its previous finding in favor of waiving the three (3) acre minimum PUD eligibility criteria as detailed under KMC §16.08.080.A as allowed for hotels. Further, the City makes this finding in recognition of the following dimensional standard and project waiver analysis for the proposed FAR, height/story, and setbacks proposed for the Project. Further, as noted in general finding 2.2.3 herein, Ketchum’s planned unit development ordinance is intended to encourage the total planning of developments, provide flexibility, and work with unusual or special characteristics of the land or a development project. Notably, KMC §16.08.020.B states, “[i]n the event of conflict between this PUD chapter and any other ordinance of the city, this PUD chapter shall control.”

**2.5 Tourist Zoning District Dimensional Standards and Project Waiver Analysis and City Council Evaluation Compliance Analysis and Findings:**

**KMC § 17.12.030**

**Minimum Lot Area & Lot Width:** 9,000 square feet minimum & 80’ average.

**City Council Findings:** The property is 47,249 square feet in size and has a lot width with the one-lot subdivision application that exceeds the minimum lot size and widths required in the Tourist Zone.

**KMC § 17.12.030**

**Minimum Open Space**

**City Council Findings:** That 21,362 square feet of the property will remain open space, which is approximately 45% of the 47,249 square foot site. The Project has greater than the required thirty-five percent (35%) minimum open space set forth in the KMC for the Tourist Zoning District. The City finds that this standard has been met.

**KMC § 17.12.030**

*Setbacks*

*Front: 15’*

*Riparian: 25’*

*SH75: 25’ / 32’*

*Side: the greater of 1’ for every 3’ in building height, or 5’*

**City Council Findings:** The project complies with the city's 25' riparian and 15' front setback requirements. A waiver of the side yard setbacks is requested. KMC §17.124.050.A, subsections 1 and 2, specifies that a PUD and Subarea Analysis process shall be used in the granting of waivers to bulk regulations for hotels. KMC §17.12.030 sets forth the following minimum side yard setbacks: (A) the greater of one-foot (1') for every three-feet (3') of building height, or five feet (5') for the west side setback; and (B) Twenty-five foot (25') to thirty-two foot (32') setbacks adjacent to State Highway 75 (SH75), as calculated based on the adjacent right of way width. The Project, as amended, proposes a 31.3' average setback along SH75 with portions of the building as close as 20' from edge of SH75 ROW. On the west-side of the structure, portions of the building are proposed as close as 11.8' from the neighboring west property line. The City approves the following side setback waivers: a minimum of sixteen feet (16') west side yard setback waiver and a minimum east side setback of twenty feet (20') provides the average east side setback is greater than thirty-one feet (31').

**KMC § 17.12.030**

***Permitted Gross Floor Area Ratio: 0.5 or greater for hotels.***

**City Council Findings:** The City finds the Project meets the definition of hotel as set forth in KMC §17.08 and, as a consequence, is eligible to exceed listed FAR consistent with the City's previous finding within KMC §17.08.080, subsections B and D. A FAR of 1.57 is proposed for the hotel, which incorporates employee housing and other public amenities within the Project. Significantly, the City has reviewed the Subarea Analysis, the Gateway Study and a Comparative Hotel PUD Summary Chart. The City finds the proposed hotel is both by design and use consistent with envisioned plans for the corner of SH75 and River Street. The FAR of the Project is significantly less than the CC-Limelight Hotel and Tourist Zone Harriman Hotel Project – neither of which incorporate community housing on the hotel site. The Project Site was defined as Site 2 in the 2007 Gateway Scale and Massing Study and was identified as a priority urban infill site for potential hotel development. As such, the Property is in the Ketchum Urban Renewal District (KURA) Revenue Allocation Area. The allowance of a 1.57 FAR, as herein conditionally approved by the City, is warranted due to special development objectives and special characteristics of the site and its physical conditions. In reaching this finding, the City finds that the proposed FAR, as stipulated, will not be detrimental to the public welfare, health and safety nor injurious to property owners in the immediate area.

Subject to the approval of the PUD application with conditions as noted herein, the City finds that the Project FAR warrants a waiver and, as a result, complies with this provision of the Tourist Zoning District.

**KMC § 17.12.030**

***Building Height***

***Maximum Permitted: 35' or greater for hotels***

**City Council Findings:** The Project proposes to exceed the thirty-five foot (35') height limit, which is permissible subject to the city's fourth floor hotel use allowance in the Tourist Zoning District provisions, as set forth in KMC §17.124.040.B.3 and by reference KMC §17.124.050.A and B.6. Evidence in support of the Project height waiver up to seventy-two feet (72') from existing grade and an interpretation that the "hotel" does not exceed four floors are as follows:

- (A) The Project site has a large slope from Trail Creek at the south end of the lot to the north end along River Street. The hotel is proposed as a four-story structure on River Street, and step / terrace down to three and then two stories nearest Trail Creek.
- (B) The KMC does not specify the maximum height of a four-story building. Historic references in the KMC, as well as the top floor plate of the adjoining Limelight Hotel show the hotel fourth floor to equal approximately forty-eight feet (48') while the top of the Limelight hotel penthouse parapet is 73.5'.
- (C) Maximum height of the building shall not exceed 48' when the building is measured from the highest elevation of the property (along River Street) or 72' when building height is measured from the lowest elevation of the property (along Trail Creek), Height Analysis.
- (D) During the transition where the four-story building along River Street steps down approximately thirty feet (30') toward Trail Creek, the forty-eight foot (48') high 4-story building reads like 6-stories at seventy-two feet (72') high. This is permissible consistent with KMC §16.08.020.B and desirable as follows: first, the height of the building at subject central location is below the forty-eight (48') 4-story horizontal plane established by precedent and with the top of the fourth floor at the adjacent Limelight; second, the City recognizes that in this central location of the structure, that the 4-stories of hotel use are sandwiched between two public amenities (employee housing and a roof top bar for the public). The unique characteristics of the site at this location, where the existing grade drops quickly in the center of the site, result in a portion of the building having a taller element of seventy-two feet (72') as measured from existing grade. The City finds this consistent with general finding 2.2.3 herein and KMC §16.08.020.B, "[i]n the event of conflict between this PUD chapter and any other ordinance of the city, this PUD chapter shall control."
- (E) In comparison to both the Limelight and approved Harriman Hotels on opposing corners, the height of the proposed Boutique Hotel is lower and more closely aligned to the fourth floor of each building.
- (F) The Gateway Study and Subarea Analysis indicate that the proposed hotel is both by design and use consistent with envisioned plans for the corner of SH75 and River Street.

- (G) Further, the proposed hotel project is consistent with current Tourist Zoning District zoning allowances for hotels. Each of the attendant uses, including restaurant/bar, meeting rooms, and employee housing are also permitted in the Tourist Zoning District. The Project proposes a height waiver for hotels in the Tourist Zone District and, subject to approval of the PUD application with conditions as noted herein, complies with this zoning standard.

**KMC § 17.125.030.H**

***Curb Cut Permitted:*** A total of 35% of the linear footage of any street frontage can be devoted to access off street parking.

**City Council Findings:** There are no curb cuts proposed along State Highway 75. The new configuration results in less than thirty-five percent (< 35%) of the linear footage of street frontage devoted to access the off street parking within the parking garage.

**KMC § 17.125.020.A.2 and KMC § 17.125.050**

***Parking Spaces:*** Off-street parking standards of this chapter apply to any new development and to any new established uses.

**City Council Findings:** As analyzed by staff and consistent with KMC §17.125 and the revised Project parking analysis, a minimum of eighty-four (84) parking spaces in the underground parking garage are required. The Project proposes eighty-four (84) spaces in the parking garage. Of the 84 spaces provided for the Project not less than thirteen (13) spaces are reserved for public use and eighteen (18) spaces are reserved for employee housing use. As conditioned herein, the Project complies with this standard.

**2.6 Conditional Use Permit Standards Analysis and City Council Evaluation Compliance Analysis and Findings:**

**KMC § 17.116.030 (A)**

*The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.*

**City Council Findings:** The proposed hotel and each of the attendant uses within the Project, including restaurant/bar, meeting rooms, and employee housing, are permitted uses in the Tourist Zoning District. The characteristics of the conditional use for the Planned Unit Development CUP and the waivers approved herein pursuant to KMC §17.124.050 are compatible with the types of uses permitted in the Tourist Zoning District. The City finds this standard of evaluation has been met.

**KMC § 17.116.030 (B)**

*The conditional use will not materially endanger the health, safety and welfare of the community.*



**City Council Findings:** The Project will be served with essential public services and facilities, an acceptable level of service for traffic operations and pedestrian safety as set forth in the applicable findings noted in §16.08.080.F and §17.116.030 (B). As conditioned herein, the City finds this standard has been met.

**KMC § 17.116.030 (C)**

*The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.*

**City Council Findings:** The City found in KMC §16.08.080.F herein above that the Project will be adequately served by necessary vehicular and nonmotorized transportation systems. This finding was made after reviewing includes documents from the Applicant that address how vehicular and pedestrian traffic will circulate in and around the proposed Project. Foremost of these exhibits is the detailed traffic impact study (TIS) prepared by Hales Engineering, which AECOM (on behalf of the city) has provided a peer analysis and documents which include the River Street Public ROW Encroachment details that feature the Applicant’s circulation plan, sidewalk improvements, and proposed snowmelt system for the Project and the two excerpts of professional studies. The first is an excerpt from the Idaho Transportation District (ITD) Record of Decision (ROD) and proposed Fiscal Year 2025 (FY25) road improvements to State Highway 75 (SH75) adjacent the property between the Trail Creek Bridge and River Street. As conditioned herein, the City finds this standard to have been met. In particular, three off-site mitigation measures that will be required as a condition of development, including:

- (A) Developer to accommodate a northbound left-turn lane plus taper at River/Main. The developer will need to coordinate with ITD to determine where the west edge of SH-75 will be and whether ITD will accept temporary paving. The developer would install sidewalk, curb and gutter to the city’s standard. AECOM suggests that “ITD and the City consider creating an opposing left-turn lane and better aligning the approach and departure lanes through the intersection. In addition, it’s understood that this will help prevent queuing and also be a safety improvement.
- (B) Developer to install “right-turn only” signs on the eastbound and westbound approaches (City would likely pay for the cost on the westbound approach).
- (C) At the discretion of the Ketchum City Council, the developer shall install a HAWK system on the crosswalk on the north leg. No crosswalk required on the south leg. However, as noted by AECOM “Before constructing a HAWK signal at River Street, an engineering study should be performed using the guidance provided in Section 4F.01 of the MUTCD.”

**KMC § 17.116.030 (D)**

*The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.*

**City Council Findings:** Consistent with the findings made for KMC §17.116.03 subsections B and C, the City finds this standard to have been met.

**KMC § 17.116.030 (E)**

*The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this Section.*

**City Council Findings:** The proposed conditional use is supported by the following goals and policies of the 2014 Comprehensive Plan. As noted herein, the proposed conditional use does not conflict with the policies of the Comprehensive Plan or the basic purposes of Chapter 17.116 Conditional Uses.

**2.7 City Council Findings Regarding Applicant’s PUD Bulk Area Waivers:**

- 2.7.1 The Applicant’s Project includes waivers to the floor area ratio, side yard setbacks, and height requirements and, subject to compliance by the Applicant with conditions as noted herein, the Project complies with each of the Tourist Zone dimensional standards for hotels.
- 2.7.2 The proposed Planned Unit Development and Conditional Use Permit Application meets the standards of approval under KMC Title 16 and Title 17, subject to conditions of approval.
- 2.7.3 The Project may exceed the maximum floor area, height, setback or minimum lot size requirements of Title 17 KMC, subject to a planned unit development having been prepared for the Project’s proposed hotel and subject to approval by the City Council which outlines the waivers to bulk regulations requested.
- 2.7.4 All height and bulk Project limitations shall be in accordance with Tourist District except those items waived as an incident of the PUD Development Plan approval. The approved Project plans illustrate areas where buildings may exceed height and bulk limitations. As conditioned herein, the City refers to the zoning and subdivision waivers set forth in these PUD Findings.

**III.  
CONCLUSIONS OF LAW**

The following are the legal principles that provide the basis for the Planning and Zoning Commission’s decision which the Commissioners have applied to the facts presented at the hearing of the above entitled matter:

- 3.1 The City is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code; and
- 3.2 The City pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code has the authority to enact the Ordinances and regulations which the City has exercised and approved Ordinances codified in the Ketchum City Code (“KMC”), and which are identified in Section II of these Findings of Fact, and which are herein restated as Conclusions of Law by this reference, and which City Ordinances govern the Applicant’s Project Applications for the Development and use of the Project Site.
- 3.3 The City pursuant to Idaho Code Section 67-6515 has the authority, which it has exercised by ordinance, codified at Chapter .08 of Title 16 of the KMC, which is separate from its zoning ordinance for the processing of applications for planned unit development permits.
- 3.4 KMC section 16.08.120 C provides that prior to final approval of a PUD conditional use permit, the City Council may require a written agreement executed by the Applicant to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to Development and may also require recordation of documents establishing and guaranteeing the operation and maintenance of the Project; and
- 3.5 The Project Applications, which includes waivers to the floor area ratio, side yard setbacks, and height requirements is governed under KMC Sections 16.08.020 B, 16.08.030, 16.08.040, 16.08.070, 16.08.080 and 17.124.050 are reviewed and considered by the Council in accordance with the following:
  - 3.5.1 In the event of a conflict Chapter 8 of Title 16 KMC controls over any other City ordinance; and
  - 3.5.2 A planned unit development involves a development of land in which the standard land use regulations of the City may be modified or waived in order to promote beneficial development of an entire tract of land in conformance with an approved planned unit development conditional use permit accentuating usable open space, recreational uses, public amenities, community housing, and harmonious development with surrounding properties and the city at large; and
  - 3.5.3 Any person wishing to develop a planned unit development shall comply with the requirements of chapter 8 of Title 16 KMC in addition to the zoning, subdivision and other applicable laws, ordinances, regulations and rules, subject to any modification or waiver granted as part of the planned unit development (PUD) conditional use permit; and

- 3.5.4 The Planning and Zoning Commission can make recommendations and the City Council has authority to grant waivers or deferrals of any of the requirements of sections 16.08.070 and 16.08.080 KMC on a case-by-case basis when the waiver or deferral will not be detrimental to the public welfare, health and safety nor injurious to property owners in the immediate area; and
- 3.5.5 The proposed Planned Unit Development and Conditional Use Permit meets the standards of approval under Title 16 and Title 17 KMC, subject to conditions of approval.

#### IV. ORDER OF DECISION

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, IT IS HEREBY DECIDED THAT THE FOLLOWING ORDERS BE ISSUED:

**Order No. 1:** PEG Ketchum Hotel, LLC Application for a Planned Unit Development Conditional Use Permit Version 3 Master Plan (“Project”) for a hotel development on a 1.09-acre site located at the southwest corner of the State Highway 75 and River Street intersection at 280 E. River, (the “Project Site”) inclusive of a request for waivers to minimum lot size, setback (side yards), height, and floor area ratio (FAR) limitations (the “Conditionally Granted Project”) is granted subject to and contingent upon the following terms and conditions:

- 1.1 **Condition No. 1 Revised Master Plan West Side Set Back:** Applicant shall revise the Version 4 Master Plan with a redesign of the subject Hotel structure within the same locations on the north, east and south with an additional setback on the west side of four feet four inches (4’-4”) from the property line than is shown in Version 3 Master Plan; and
- 1.2 **Condition No. 2 Emergency Services Conditions:** The following are emergency services and safety terms and conditions:
  - 1.2.1 **Completion of Fire Improvements:** The City Building Official or the City Fire Marshal may withhold building and/or fire inspection approval for any phase of construction until all necessary components of the water and/or fire alarm system sufficient to provide protection for that portion of the Conditionally Granted Project are complete.
  - 1.2.2 **Fire Access During Construction:** Vehicle parking and material storage during Conditionally Granted Project construction shall not restrict or obstruct public streets or access to any building. Emergency vehicle access shall be maintained as required by the Fire Chief. Once construction begins on the second floor and above, 26-foot aerial

ladder truck access is required along one entire side of the building, in a location approved by the Fire Marshal, for evacuation of injured persons from upper floors. All required Fire Lanes, including within 15 feet of fire hydrants, shall be maintained clear and unobstructed at all times.

- 1.2.3 **Fire Code Requirements:** The Conditionally Granted Project shall comply with all the terms and conditions set forth in the Ketchum Fire Department Pre-application Requirements Memo dated June 24, 2019 from Tom Ancona, Assistant Chief & Fire Marshall, inclusive of subsequent amendments thereto, as well as all 2012 International Fire Code requirements and any additional specific City Building (Chapter 15.04 and 15.06) and Fire Ordinances (Chapter 15.08).

- 1.3 **Condition No. 3 ROW Improvements Conditions:** The following ROW Improvements are required of the Applicant:

- 1.3.1 **DIG:** The Applicant shall submit a Street and Alley Digging, Excavation, and Trenching (“DIG”) Permit application with an associated traffic control plan for all construction work within the City ROW to be reviewed and approved by the City Streets Department.
- 1.3.2 **TURP:** The use of City right-of-way for construction which includes the closure of adjacent streets or sidewalks requires a Temporary Use of Right-of-Way Permit (“TURP”).
- 1.3.3 **River Street Encroachment Permit Improvements:** KMC §17.96.030.C states: “The City Council shall approval all permanent encroachments within the City-owned ROW associated with a development Conditionally Granted Project.” Applicant has made application as a part of the Conditionally Granted Project to the City for a license to encroach into the River Street Public Right of Way (“River Street ROW”) with a preference for Civil Plan Option 1, as set forth in the 1/21/20 design update which includes the following improvements: guest pick-up/drop-off, underground utilities, landscaping, street trees with decorative tree grates, public art, bike racks, sidewalks, pedestrian walkway lighting, and street lighting, and related improvements along River Street, pursuant to KMC §12.08.040. Further, the Applicant proposes that all walkway and driving surfaces within this encroachment area be hooked into its private boiler or similar snowmelt system within the Conditionally Granted Project mechanical room. The snow melt system is proposed to be operational every winter after the Hotel Operations begins operations. Final approval of the River Street ROW improvement plans is required and is subject to review and approval by the Ketchum City Council through a separate encroachment agreement. If approved via separate City encroachment process, such order or decision on encroachment,

including any and all conditions thereon, is hereby incorporated by reference and made a part of these findings.

1.3.4 **SH75 Encroachment Permit:** ITD has an approved Record of Decision (“ROD”) that includes a 3-lane section with a six-foot (6’) wide sidewalk abutting the Subject Real Property. Subject ITD improvements to the SH75 ROW are proposed to be installed by ITD in Fiscal Year 2025 with road work in the vicinity, at the earliest, occurring in October of 2025. The installation of these SH75 Improvements by ITD and, particularly, the striping of a dedicated left turn lane West Bound onto River Street with adequate queuing for cars turning onto River Street is important to traffic flow both along SH75 and into the Conditionally Granted Project.

1.3.4.1 Given the Applicant’s timeframe for construction and Certificate of Occupancy, subject SH75 work will not be conducted by ITD prior to the Developed Conditionally Granted Project and the commencement of Hotel Operations opening. Given that the City finds that a center turn lane with adequate queuing of approximately fifty to one hundred feet (50’ – 100’) is necessary for the SH75/River Street intersection to retain its current Level of Service (“LOS”) for vehicular car movement, therefore the Applicant shall file with ITD an application for an encroachment permit. The Applicant and City shall work together to attain approval from ITD for the construction and striping of a partial center turn near the River Street intersection north of the Trail Creek bridge. This condition includes the City’s retaining of authority to modify the traffic patterns on State Highway 75, specifically the left turn lane traffic flow, in the event the initial traffic patten instituted by the Idaho Department of Transportation is inadequate. The Applicant shall pay for engineering, traffic control and construction costs for subject SH75 improvements adjacent to the Conditionally Granted Project.

1.3.4.2 Further, to avoid excessive delays for East Bound traffic on River Street, the Applicant shall work with the City and ITD to install appropriate signage and improvements to allow only a right turn onto southbound SH75 at this intersection.

1.3.4.3 **Pedestrian Safety:** To help assure pedestrian safety and consistent with KMC, at the discretion of the Ketchum City Council upon the recommendation of the Ketchum Transportation Authority and the city’s peer review engineering firm (AECOM), the Applicant shall work with the

City and ITD to upgrade the unsignalized SH75 and River Street crossing (on north-side) to include a HAWK system. The circulation design shall meet all standards as specified in KMC §17.96.060.G. Further, as recommended by AECOM, “Before constructing a HAWK signal at River Street, an engineering study should be performed using the guidance provided in section 4F.01 of the MUTCD.”

- 1.3.5 **Letter of Credit:** The Applicant shall provide an irrevocable letter of credit to the City for the aforementioned ROW Improvements affecting both the SH75 and River Street ROWs.
- 1.4 **Condition No. 4 Terrace Walls:** Construction of terrace walls or features of the outdoor dining patio with landscaping and architectural features adjacent to SH75 may be subject to future design review at the time the application is filed for approval at the discretion of the Administrator.
- 1.5 **Condition No. 5 Time Limits:** The following are the time limits that govern this Conditionally Granted Project:
  - 1.5.1 Pursuant to KMC §17.96.090, a design review permit is valid for twelve (12) months from the date of final decision on the associated Findings of Fact, Conclusions of Law, and Decision. The Application for the Conditionally Granted Project building permit must be filed within the time as specified in KMC §17.96.090(A)(2). Any extension shall only be as allowed and specified in KMC §17.96.090.
  - 1.5.2 Unless extended by the Ketchum City Council, a building permit shall be issued within twelve (12) months from the date of the last issued Permit.
  - 1.5.3 A certificate of occupancy shall be issued for the Conditionally Granted Project no later than ~~18~~ 30 months after the building permit is issued unless the time for completion of the Conditionally Granted Project is extended by the City Council.
- 1.6 **Condition No. 6 Certificate of Occupancy:** No Certificate of Occupancy shall be issued for the use and occupancy of this Conditionally Granted Project until the following items are complete:
  - 1.6.1 All Design Review elements of the Conditionally Granted Project have been completed and approved by the Planning & Building Department; and
  - 1.6.2 All occupancies in the Conditionally Granted Project (residential, commercial, etc.) shall meet the Leadership in Energy and Environmental Design (LEED) Silver or equivalent standards consistent with (A) representations of the Applicant and its 1/21/20

design update Sustainability Integration representations (building system / geothermal, high performance building and site, material and product sustainability assessment) and (B) provisions of the City of Ketchum Green Building Code as set forth in KMC §15.20, inclusive of additional recommendations of the Planning & Zoning Commission during Conditionally Granted Project Design Review; and

- 1.6.3 All proposed encroachments within the City's River Street right-of-way have been installed in accordance with the Conditionally Granted Project Master Plan and approved by the City Engineer; and
  - 1.6.4 All rooftop mechanical and electrical equipment is fully screened from public vantage points and approved by the Planning & Building Department; and
  - 1.6.5 The City's Fire, Utilities, Building, Arborist, Streets, and Planning Departments have conducted final inspections and authorized issuance of Certificate of Occupancy; and
  - 1.6.6 Prior to Certificate of Occupancy, a Parking Plan verifying free public use, the thirteen (13) displaced public parking spaces, and other details at the discretion of the City, shall be provided and approved by Ketchum City Council for the Conditionally Granted Project Parking Garage.
- 1.7 **Condition No. 7 City Permit Performance Fees:** The Applicant shall be charged and shall pay the City Permit Performance Fees for the administration of the City's performance of the Permit Conditions Acceptance Development Agreement.
- 1.8 **Condition No. 8 Conditions to Applicant's Obligations:** The Applicant's obligations hereunder are conditioned upon (1) receiving all the referenced approvals from the City and (2) securing financing as provided in the Permit Conditions Acceptance Development Agreement.
- 1.9 **Condition No. 9 Drainage:** Conditionally Granted Project Drainage system plans shall be submitted to the City Engineer for review and approval. Pursuant to KMC §17.96.060.C, all storm water shall be retained on site, drainage improvements constructed shall be equal to the length of the Subject Real Property boundary lines, and all drainage facilities shall be constructed per City standards. All drainage improvements shall meet the applicable design criteria as specified in KMC §12.04.030.
- 1.10 **Condition No. 10 Utilities Plan:** The Applicant shall submit a Conditionally Granted Project Utility Plan indicating the location and size of water and sewer mains as well as gas, electric, TV and phone services (KMC §17.96.040.C.2c & KMC §17.96.060.D.1-3). Per KMC §17.96.060.D.2, utilities shall be located



underground and utility, power, and communications lines within the Conditionally Granted Project Site should be concealed from public view.

- 1.11 **Condition No. 11 Employee Housing Units:** The Applicant shall either maintain or enter into a master lease with the Hotel Operator for apartment units within the Developed Conditionally Granted Project containing not less than 23 beds, as materially set forth in the 1/21/21 employee housing plan design update, and thereby fulfill and satisfy the employee housing obligation of this Conditionally Granted Project consistent with the KMC.
- 1.11.1 Notwithstanding, consistent with the recommendations of the BCHA and the Commission, the Applicant may as part of the Design Review process seek to amend the employee housing plan configurations to have fewer shared bedroom configurations, improved bathroom to bed ratio, and more individual or couple employee housing suites; and
- 1.11.2 All leased apartment units must be subleased, assigned or otherwise made available to employees of the Hotel Operator on terms and conditions that emphasize the retention of a local workforce consistent with Blaine County Housing Authority (BCHA) community housing guidelines, and providing employee housing at a price point that is commensurate with its employees' ability to pay. The Applicant may enter into a master lease with the Hotel Operator for apartment units containing twenty-three (23) beds and thereby fulfill and satisfy the employee housing obligation of this Conditionally Granted Project consistent with KMC §17.124.050.
- 1.11.3 All leased apartment units must be subleased, assigned or otherwise made available to employees of the Hotel Operator on terms and conditions determined by it in the exercise of its discretion consistent with the goals of retaining a local workforce and adhering to the BCHA community housing guidelines.
- 1.11.4 Apartment leases and the management of this covenant of the developer to provide employee housing in the hotel are subject to annual recertification audits by the City and / or its designee. A fee established by resolution of the City may be charged for this service and associated compliance and monitoring activities.
- 1.12 **Condition No. 12 Hotel Operations:** The core feature of the Conditionally Granted Project is a hotel building operated at an industry acknowledged Four Star Hotel Operations Standard. Adherence to a Four-Star Hotel Operations Standard, particularly during Peak Travel Season, affects the sufficiency of on-site parking and traffic circulation in the immediate vicinity of the Conditionally Granted Project and is a requirement of the occupancy and use of the Developed Conditionally Granted Project.

- 1.13 **Condition No. 13 Lower Parking Demand and Traffic Impacts:** To assure that the Applicant and/or Hotel Operator provides guest shuttle, employee shuttle, car share program, transit passes, carpool program, alternative transportation (such as bike storage for employees), and strict monitoring and management of deliveries and garbage pick-up, as set forth in §4.13, the Applicant and/or Hotel Operator shall include in the irrevocable letter of credit a Lower Parking Demand and Traffic Impacts amount of fifty thousand dollars (\$50,000) for a period of not greater than five (5) years upon which the City Council may request a draw to cover the City's costs in the mitigation of lowering traffic impacts and/or parking demands associated with the Applicant and/or Hotel Operator's failure to comply.
- 1.14 **Condition No. 14 Parking & Loading:** The Applicant shall present a Conditionally Granted Project Parking Plan for review and consideration by the Commission as part of its full Design Review Submittal. Prior to Certificate of Occupancy, a Conditionally Granted Project Parking Plan verifying public use, validation processes for determining parking charges (if any) for the public and the thirteen (13) displaced public parking spaces, and other details at the discretion of the City, shall be provided and approved by Ketchum City Council for the Conditionally Granted Project Parking Garage. The Conditionally Granted Project is required to have a minimum of eighty-four (84) parking spaces in the underground parking garage. Of these spaces, 53 spaces are required for the Four-Star Hotel Operations Standard, 18 spaces are required for employee housing, and 13 are required for the public to mitigate displaced public parking spaces from River Street. Of this total, not less than:
- 1.14.1 Eighteen (18) stalls shall be allocated for employee housing, inclusive of at least one (1) car share vehicle; and
  - 1.14.2 Thirteen (13) underground parking stalls will be available to the general public at no charge to the public while visiting the property or using the conference center, spa, restaurant and bar. Subject to city final approval, a validation system may be employed by the Applicant and/or Hotel Operator with regard to the monitoring of public use of the thirteen, free-of-charge, underground public spaces located in the Conditionally Granted Project Parking Garage; and
  - 1.14.3 Guest shuttle, employee shuttle, car share program, transit passes, and bike storage shall be provided as a part of the Four-Star Hotel Operations Standard.
  - 1.14.4 During and upon completion of the construction of the Conditionally Granted Project, delivery vehicles associated with the Conditionally Granted Project shall not interfere with the regular flow of traffic surrounding the Conditionally Granted Project Site. Delivery vehicles

shall not block the regular flow of traffic along River Street. Accordingly, deliveries will be made (a) preferably with single-unit trucks, not large tractor-trailer trucks; (b) during off-peak hours; and, (c) with hand trucks from the designated on-street loading zone. The Applicant shall strictly monitor and manage deliveries and garbage pick-up to ensure these activities do not occur during peak traffic periods, and that they do not occur simultaneously.

- 1.15 **Condition No. 15 Local Option Tax:** The Conditionally Granted Project shall be subject to the provisions of KMC Section 3.12, relating to local option taxes.
- 1.15.1 **Beverage, Food & Retail Sales:** All retail, food and beverage sales on the Conditionally Granted Project Site and in the Conditionally Granted Project shall be subject to the local option tax.
  - 1.15.2 **Building Materials:** The Conditionally Granted Project and Conditionally Granted Project Site shall be subject to the local option tax on building materials.
  - 1.15.3 **Employee Housing:** The obligation to pay local option tax shall not apply to the rental of employee housing units.
  - 1.15.4 **Future Amendments to LOT Ordinance:** Any amendments to or repeal of Ketchum's Local Option Tax Ordinance and/or Idaho law relating to such local option taxes shall also apply to and modify this Section to the extent of such amendment(s) and/or repeal.
  - 1.15.5 **Hotel Rooms:** All hotel rentals in the Conditionally Granted Project Four-Star Hotel Operations Standard shall be subject to the local option tax, regardless of who makes the reservation, including independent third-party travel agencies or other independent parties.
  - 1.15.6 **Short-term rentals:** All non-hotel rentals, if any, shall be subject to the local option tax on short-term rentals.
  - 1.15.7 **Marriott Rewards:** Reward stay bookings for any evening shall be assigned a room rate in accordance with the Idaho Administrative Procedures Act (IDAPA) and similar Idaho State Tax Commission rules and regulations. In all cases, subject reward stay booking shall be tracked as room revenue and charged the applicable local option tax rate. Local option taxes shall be remitted for all stays.
- 1.16 **Condition No. 16 Waivers:** Setbacks, FAR, and height for the Conditionally Granted Project shall comply with final Design Review for the Conditionally Granted Project as approved by the City. The final plans once approved and integrated into the Permit Conditions Acceptance Development Agreement by the Ketchum City Council illustrate areas where buildings may exceed height

and bulk limitations. As conditioned herein above, Ketchum acknowledges the zoning and subdivision waivers set forth in the PUD Findings.

- 1.17 **Condition No. 17 City Department Requirements:** All requirements of the Fire, Utility, Building, Planning and Public Works departments of the City of Ketchum shall be met. All public improvements shall meet the requirements of the Public Works Department.
- 1.18 **Condition No. 18 Compliance with the Applicable Laws and Ordinances:** All other provisions of Ketchum Municipal Code, Chapters 16 and 17 and all applicable ordinances rules and regulations of the City and other governmental entities having jurisdiction shall be complied with by the Conditionally Granted Project.
- 1.19 **Condition No. 19 Building Permit Requirements:** The building permit for the Conditionally Granted Project shall not be issued until:
  - 1.19.1 The Conditionally Granted Project is subject to completion assurances and a letter of credit, which shall be detailed by the City Attorney and Finance Director and approved by the Ketchum City Council as provided in the Permit Conditions Acceptance Development Agreement governing this Conditionally Granted Project; and
  - 1.19.2 The Conditionally Granted Project shall pay the plan check and building permit fees that are in effect at the time of plan check and building permit submittal and all fees required by law prior to and for the issuance of a building permit.
  - 1.19.3 Storm Water Management Pollution Prevention Plan (“SWPPP”) in accordance with local, state and federal laws and regulations is in place for the Conditionally Granted Project; and
  - 1.19.4 A detailed Conditionally Granted Project Construction Staging and Mitigation Plan which is consistent with the standards specified in Chapter 15.06 of KMC, including provisions for off-site parking for contractors, sub-contractors, and other trades associated with the construction of the Conditionally Granted Project, off-site storage of bulk materials, and required right of way encroachments during construction, shall be submitted and approved by the City Planning and Building Administrator prior to building permit approval.
  - 1.19.5 The Applicant has secured a will serve letter from Idaho, Clear Creek Disposal and other applicable public and private utility providers prior to issuance of a Building Permit.
  - 1.19.6 The River Street Encroachment Permit encroachment agreement shall be obtained.

1.19.7 The Applicant shall cause to be issued in irrevocable letter of credit for the aforementioned Public ROW Improvements affecting both the SH75 and River Street ROWs. The amount of the financial guarantee shall be at 150% of engineering estimates for the guaranteed improvements. Partial and/or full release(s) of the letter of credit may be made upon: (i) Acceptance of subject River Street ROW improvements by the City; (ii) formal commencement of work by ITD of the SH75 ROW improvements adjacent the Subject Real Property and/or upon complete installation of the SH75 ROW improvements adjacent the Property.

1.20 **Condition No. 20 Written Permit Conditions Agreement:** The City Council has approved and the Applicant has entered into a Permit Conditions Acceptance Development Agreement inclusive of all the conditions of approval but subject first to inclusion of conditions of the Planning and Zoning Commission's Design Review of Conditionally Approved Project and which Permit Conditions Acceptance Development Agreement is finalized and Approved by the City Council having completed its public hearing process regarding the same.

1.21 **Condition No. 21 Design Review:** At the time of Design Review the applicant shall be required to address venting of mechanicals that vent toward the western property line. Applicant shall be required to provide detail related to how they are preventing impact to the adjacent property owner.

**Order No. 2 Not a Final Action:** These Findings of Fact, Conclusions of Law and Order of Decision are not a final action of the City Council on this Planned Unit Development Conditional Use Permit and Waiver Application until the following conditions subsequent have occurred:

- 2.1 There is a final action by the City upon the Design Review of the PUDCUP; and
- 2.2 The City Council has taken final action upon the Permit Acceptance Agreement.

**Adopted** this 16<sup>TH</sup> day of February, 2021.

**City Council of the City of Ketchum**

By: \_\_\_\_\_  
Neil Bradshaw, Mayor

## **Notice to Applicant**

The subject Planned Unit Development/Conditional Use Permit and Waiver Application concerns a site-specific land use request and therefore this notice is provided to the applicant pursuant to I.C. § 67-6535 (3) of the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

*W:\Work\K\Ketchum, City of 24892\Gateway Hotel .015\AGENCY RECORD\FCO On Remand Drafts\2021-02-16 19-063 FCO by KCC PUD Findings on remand - lh 2-05-2021.docx*

## Attachment E

**BEFORE THE PLANNING AND ZONING COMMISSION  
OF THE  
CITY OF KETCHUM**

IN RE:	)	FILE NO. <b>P19-063</b>
	)	
PEG KETCHUM HOTEL, LLC	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND RECOMMENDATION</b>
Applicant for	)	<b>TO THE CITY COUNCIL</b>
Planned Unit Development	)	
Conditional Use Permit	)	
	)	

---

THE ABOVE ENTITLED MATTER coming before the Planning and Zoning Commission of the City of Ketchum (the "Commission"), on the 28<sup>th</sup> day of March, 2023, pursuant to the Applicant's request for an amendment of the Applicant's Planned Unit Development/Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3 by an increase of the time period for a certificate of the occupancy to be issued for the Project after the issuance of a building permit from 18 months to 30 months (the "Requested Amendment"). The Applicant's Requested Amendment is a part of a renegotiated Permit Conditions Acceptance Development Agreement which is also being heard simultaneously by the Commission. The Commission having reviewed the Requested Amendment, and the information provided at the hearing on this matter; and having reviewed the renegotiated Permit Conditions Acceptance Development Agreement, and the information provided at that hearing, does hereby make and set forth the Record of Proceedings, Findings of Fact, Conclusions of Law, and Recommendation to the City Council as follows:

**SECTION 1**

The record of the proceedings of the above-referenced matter consists of the following, to-wit:

**Notice of Hearing:** Notice of this hearing was:

- Published March 8, 2023 in the Idaho Mountain Express, the City's official newspaper of general circulation; and
- Mailed on March 8, 2023 to the property owners within 300 feet of the subject real property and affected agencies; and
- Posted on the subject real property on March 21, 2023; and
- Posted on the City's website on the March 13, 2023.



**Exhibits**

	<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
1	<p>Staff Report dated March 28, 2023 with Attachments A-H the following additional attachments:</p> <p><b>Attachments:</b></p> <p>A: June 14, 2022 staff report for Design Review Permit P22-028                      B: Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028 (the "Findings") approved June 14, 2022 together with Findings Attachment A: May 11, 2022 Memo Outlining Design Changes in Response to November 20, 2021 Pre-Application Design Review Meeting; and Findings; Attachment B: May 27, 2022 Design Review Plans.                      C: 3-2-23 Permit Conditions Acceptance Development Agreement.                      D: Proposed amendment to PUD/CUP P19-63</p>			X
2	Noticing Checklist/Certification			X

**PERSONS TESTIFYING and COMMENT:**

**Staff Report:** Suzanne Frick, presented and gave the City staff report with explanation and stood for questions from the Planning and Zoning Commissioners.

**Public Comment:** Scott Levy had questions about traffic issues related to Highway 75.

**Written Comment Received:** Two written comments were received prior to the distribution of the Planning and Zoning Commission packet. Those comments are provided in Attachment D of the Staff Report.

**DECISION and RECOMMENDATION**

WHEREUPON THE PLANNING AND ZONING COMMISSION being duly informed and having reviewed the record, evidence, and testimony received and being fully advised in the premises, DO HEREBY MAKE THE FOLLOWING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION TO THE CITY COUNCIL, to-wit:

PLANNING AND ZONING COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW, RECOMMENDATION TO THE CITY COUNCIL - PEG PUD/CUP AMENDMENT

## II.

### FINDINGS OF FACT and CONCLUSIONS OF LAW

[As set forth in this section are findings of fact and corresponding citations to KMC provisions which are also Conclusions of Law]

#### 2.1 Findings Regarding Notice:

2.1.1 **Notice Required:** Notice has been given in accordance with the Law as required by KMC Sections 16.08.110 and 17.116.040.

#### 2.2 Findings Regarding Applications Filed:

2.2.1 PEG Ketchum Hotel, LLC has submitted and completed an application for an amendment of the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3 by an increase of the time period for a certificate of the occupancy to be issued for their hotel project after the issuance of a building permit from 18 months to 30 months.

2.2.2 The Applicant's Requested Amendment is a part of a renegotiated Permit Conditions Acceptance Development Agreement which was also heard simultaneously by the Commission.

#### 2.3 Findings Summarizing Public Comment Concerns and Objections to and Benefits of the Application:

The Commission having reviewed the written comment and having listened to the Staff Report and comments and the comments presented by the public summarizes the same as follows:

- There was no objection to the Amendment Request; and
- The Staff recommended approval of the Amendment Request to this Permit would align with the renegotiated Permits Conditions Acceptance Development Agreement which this Commission is recommending approval to the City Council subject to three modifications unrelated to this Amendment Request.

#### 2.4 PUD Ordinance Standards and Planning and Zoning Commission Evaluation Compliance Analysis and Findings:

##### **KMC § 16.08.080.0**

*The development will be completed within a reasonable time.*

The Commission finds this standard is met; provided that the Permit Conditions Acceptance Development Agreement is entered into between the Applicant and City Council for the Project prior to the issuance of any Building Permit for the construction of the Project.

### III. CONCLUSIONS OF LAW

The following are the legal principles that provide the basis for the Ketchum City Councils' decision which the Councilors have applied to the facts presented at the hearing of the above-entitled matter:

- 3.1 The City is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code; and
- 3.2 The City, pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code, has the authority to enact the Ordinances and regulations which the City has exercised and approved Ordinances codified in the Ketchum City Code ("KMC"), and which are identified in Section II of these Findings of Fact, and which are herein restated as Conclusions of Law by this reference, and which City Ordinances govern the Applicant's Project Applications for the Development and use of the Project Site.
- 3.3 The City pursuant to Idaho Code Section 67-6515 has the authority, which it has exercised by ordinance, codified at Chapter .08 of Title 16 of the KMC, which is separate from its zoning ordinance for the processing of applications for planned unit development permits.
- 3.4 KMC section 16.08.120 C provides that prior to final approval of a PUD conditional use permit, the City Council may require a written agreement executed by the Applicant to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to Development and may also require recordation of documents establishing and guaranteeing the operation and maintenance of the Project; and
- 3.5 The Project Applications, which includes waivers to the floor area ratio, side yard setbacks, and height and four-story requirements is governed under KMC Sections 16.08.020 B, 16.08.030, 16.08.040, 16.08.070, 16.08.080 and 17.124.050 are reviewed and considered by the Council in accordance with the following:
  - 3.5.1 In the event of a conflict Chapter 8 of Title 16 KMC controls over any other City ordinance; and
  - 3.5.2 A planned unit development involves a development of land in which the standard land use regulations of the City may be modified or waived in order to promote beneficial development of an entire tract of land in conformance with an approved planned unit development conditional use permit accentuating usable open space, recreational uses, public amenities, community housing, and harmonious development with surrounding properties and the city at large; and

- 3.5.3 Any person wishing to develop a planned unit development shall comply with the requirements of chapter 8 of Title 16 KMC in addition to the zoning, subdivision and other applicable laws, ordinances, regulations and rules, subject to any modification or waiver granted as part of the planned unit development (PUD) conditional use permit; and
- 3.5.4 The Planning and Zoning Commission can make recommendations and the City Council has authority to grant waivers or deferrals of any of the requirements of sections 16.08.070 and 16.08.080 KMC on a case-by-case basis when the waiver or deferral will not be detrimental to the public welfare, health and safety nor injurious to property owners in the immediate area; and
- 3.5.5 The Amendment Request of the Planned Unit Development and Conditional Use Permit meets the standards of approval under Title 16 and Title 17 KMC, subject to conditions of approval.

#### IV. DECISION AND RECOMMENDATION TO THE CITY COUNCIL

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, IT IS HEREBY RECOMMENDED TO THE CITY COUNCIL THAT:

**Recommendation No. 1:** PEG Ketchum Hotel, LLC's Application for an amendment of the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3, by an increase of the time period for a certificate of the occupancy to be issued for the Project after the issuance of a building permit from 18 months to 30 months, be granted subject to and contingent upon the following terms and conditions:

**Condition No. 1 Permits Conditions Acceptance Development Agreement:** That the Permit Conditions Acceptance Development Agreement (with the Commission's recommended modifications) has been entered into between the Applicant and City Council for the hotel project prior to the issuance of any Building Permit for the construction of the hotel project.

Findings of Fact **adopted** this 11<sup>th</sup> day of April, 2023.

  
\_\_\_\_\_  
Neil Morrow, *Chairman*  
City of Ketchum Planning and Zoning  
Commission



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Jade Riley - Administration

Agenda Item: Recommendation to implement Traffic Calming pilot project in West Ketchum and associated budget request.

Recommended Motion:

"I move to approve the outlined traffic calming pilot project, associated budget request and report back findings."

Reasons for Recommendation:

- Several residents in West Ketchum have requested different traffic calming techniques
• A neighborhood meeting was held onsite last fall to review problem areas and potential solutions
• HDR developed a pilot concept for Bird Drive that if proved successful, could be deployed to other parts of the neighborhood

Policy Analysis and Background (non-consent items only):

Staff will review the attached presentation and would recommend the Council take public testimony as no members of the public attended a recent open house at city hall. The city is currently conducting an online survey (results attached).

Sustainability Impact:

Adequate facilities within each community does reduce the likelihood of increased vehicular trips.

Financial Impact:

None OR Adequate funds exist in account: Materials cost should not exceed \$19,000. Adequate funds are available in the CIP contingency account.

Attachments:

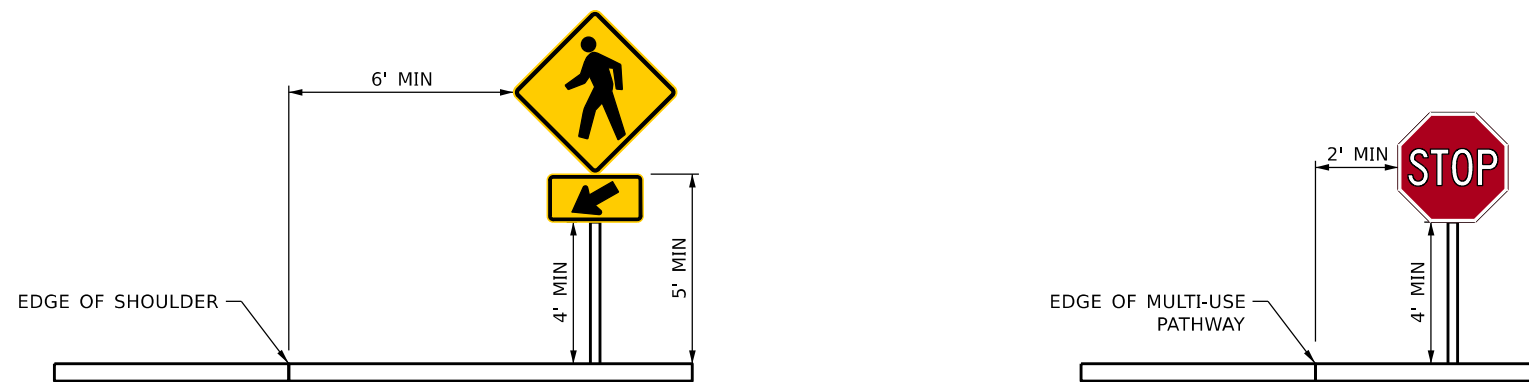
- 1. HDR Traffic Calming Design Elements
2. Current Online Survey Results

**GENERAL NOTES:**

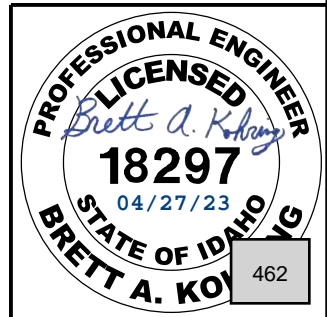
1. DESIGN IS CONSIDERED TEMPORARY INSTALLATION TO TEST BENEFITS OF A TRAFFIC CALMING STRATEGY. CITY TO CONFIRM MATERIALS FOR CONSTRUCTION AND APPROPRIATE DURATION OF TRAFFIC CALMING TEST.
2. ALL TRAFFIC CONTROL DEVICES SHALL CONFORM TO THE LATEST EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
3. INSTALL SIGNS ON TEMPORARY STANDS. TEMPORARY STANDS MUST BE BREAKAWAY. SPACE SIGNS A MINIMUM OF 100' APART UNLESS OTHERWISE NOTED.
4. MONITOR INSTALLATION A MINIMUM OF ONCE DAILY TO ENSURE TEMPORARY DEVICES ARE OPERATING EFFECTIVELY AND ALL DEVICES USED ARE CLEARLY VISIBLE AND IN GOOD REPAIR.
5. DESIGN BASED ON AERIAL IMAGERY AND ADJUSTMENTS MAY BE NEEDED IN THE FIELD. MAINTAIN MINIMUM OR MAXIMUM VALUES AS IDENTIFIED.
6. SURVEY AND PROPERTY LINE DATA NOT DETERMINED DURING DESIGN. VERIFY RIGHT-OF-WAY LIMITS PRIOR TO INSTALLATION.
7. COMPLETELY COVER ALL EXISTING WARNING AND REGULATORY SIGNS IN CONFLICT WITH PROPOSED DESIGN.
8. OBLITERATE CONFLICTING PAVEMENT MARKINGS. REINSTALL EXISTING PAVEMENT MARKINGS AT CONCLUSION OF TEST.
9. STOP BARS, CROSSWALKS AND YIELD LINE PAVEMENT MARKINGS SHALL BE WATERBORNE PAINT. OBLITERATE AT CONCLUSION OF TEST.
10. PARKING BLOCK AND TUBULAR MARKER QUANTITIES INCLUDE A 10% CONTINGENCY. VERIFY QUANTITY PRIOR TO ORDERING.

**MATERIAL QUANTITIES**

DESCRIPTION	QUANTITY	UNITS
SIGN PANELS	239	SF
6' PRECAST PARKING BLOCKS	14	EA
18" TUBULAR MARKERS (WHITE)	250	EA
36" TUBULAR MARKERS (WHITE)	88	EA
36" TUBULAR MARKERS (YELLOW)	14	EA
PAINTED MARKINGS	354	SF



**TYPICAL SIGN INSTALLATION**  
N.T.S.



**NOTES:**

1. OMIT TUBULAR MARKERS ACROSS PRIVATE APPROACHES, PEDESTRIAN CROSSINGS AND 25' FROM PUBLIC STREET INTERSECTIONS. COORDINATE WITH ADJACENT LANDOWNERS ON PLACEMENT ACROSS PRIVATE APPROACHES GREATER THAN 20'.

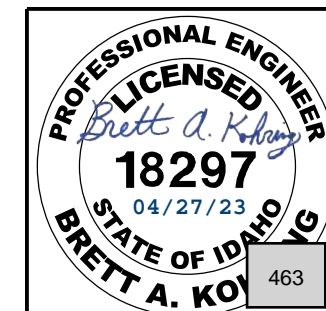
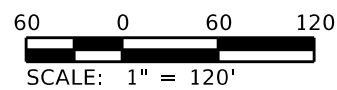


**LEGEND:**

- p PROPOSED SIGN
- P EXISTING SIGN
- TUBULAR MARKER

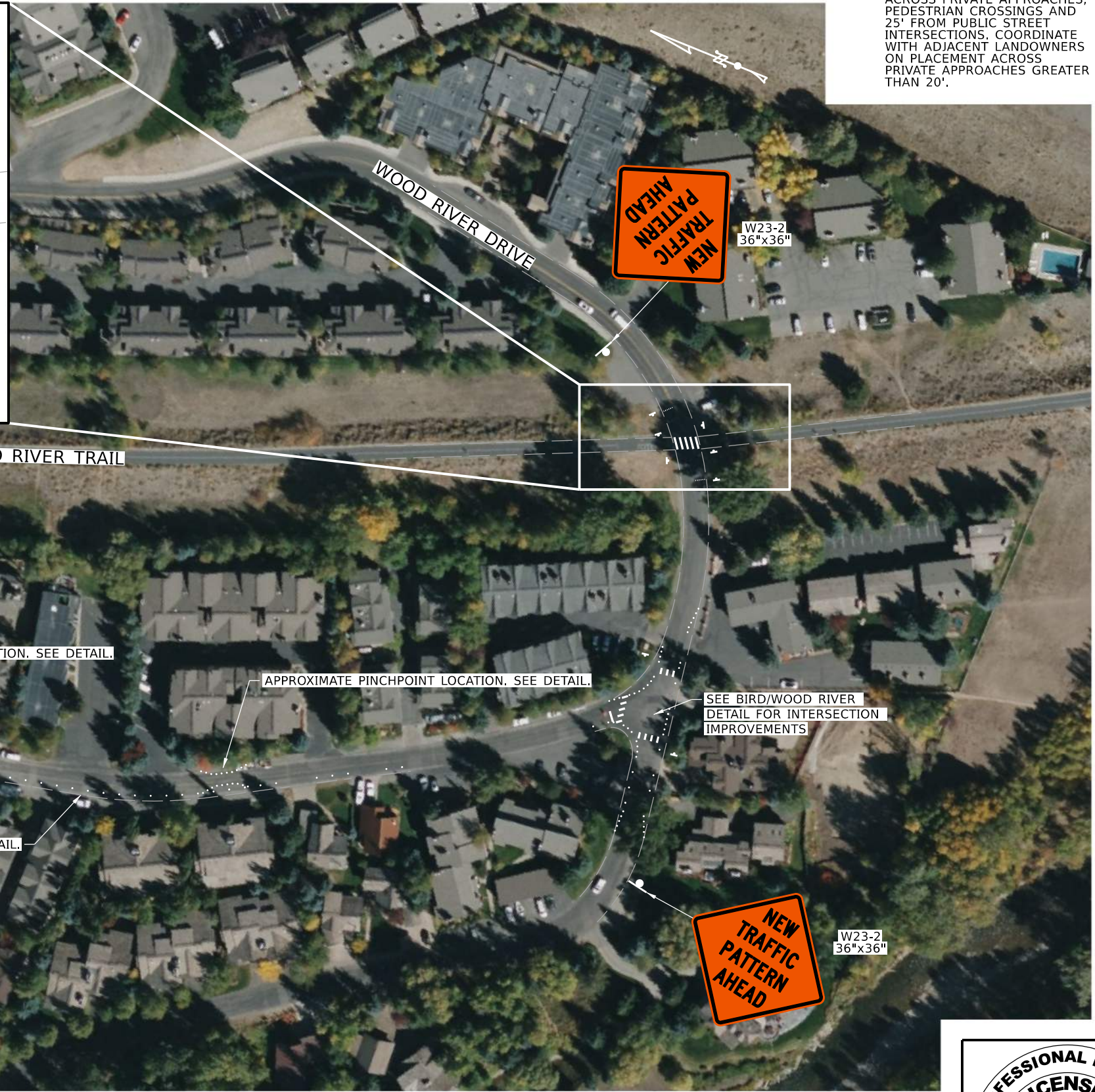
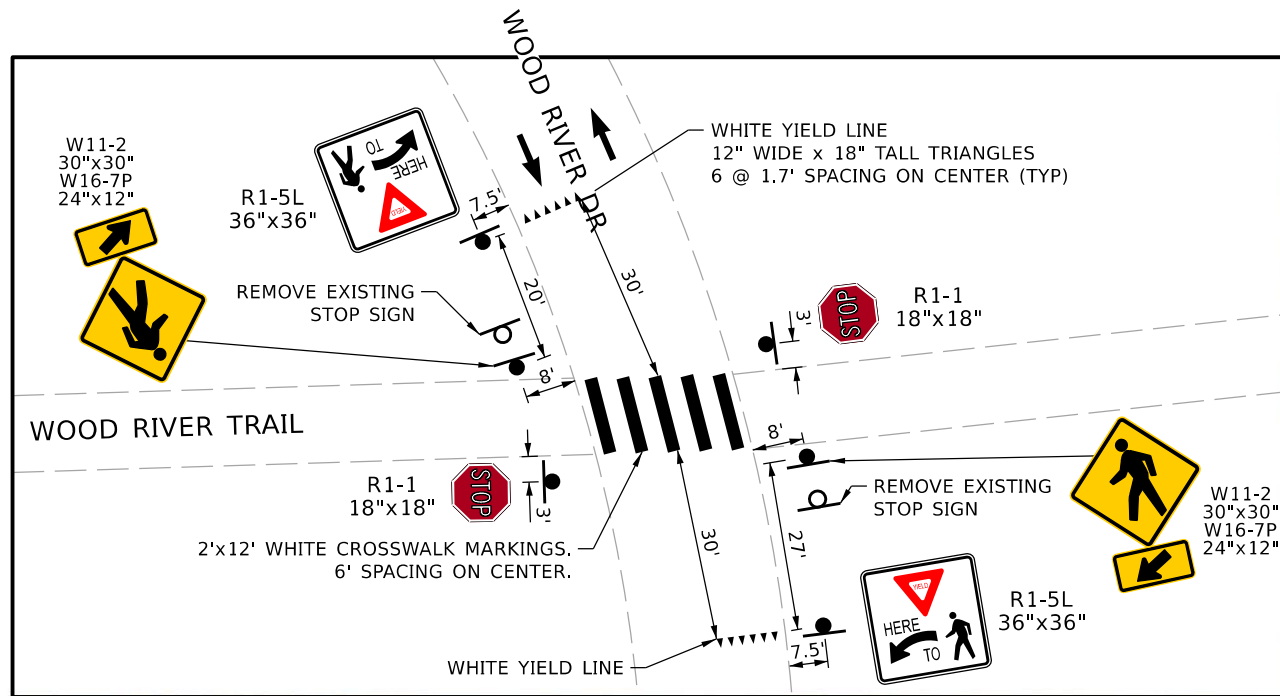
BIRD DRIVE TRAFFIC CALMING TEST

PLAN VIEW  
NORTH BIRD DR



**NOTES:**

1. OMIT TUBULAR MARKERS ACROSS PRIVATE APPROACHES, PEDESTRIAN CROSSINGS AND 25' FROM PUBLIC STREET INTERSECTIONS. COORDINATE WITH ADJACENT LANDOWNERS ON PLACEMENT ACROSS PRIVATE APPROACHES GREATER THAN 20'.



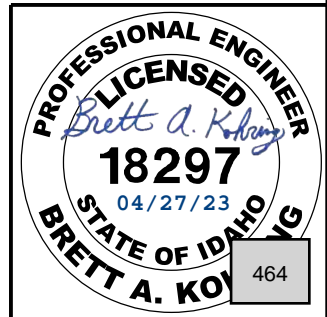
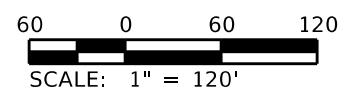
MATCH LINE

**LEGEND:**

- ♣ PROPOSED SIGN
- Ⓟ EXISTING SIGN
- TUBULAR MARKER

BIRD DRIVE TRAFFIC CALMING TEST

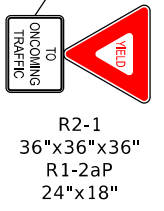
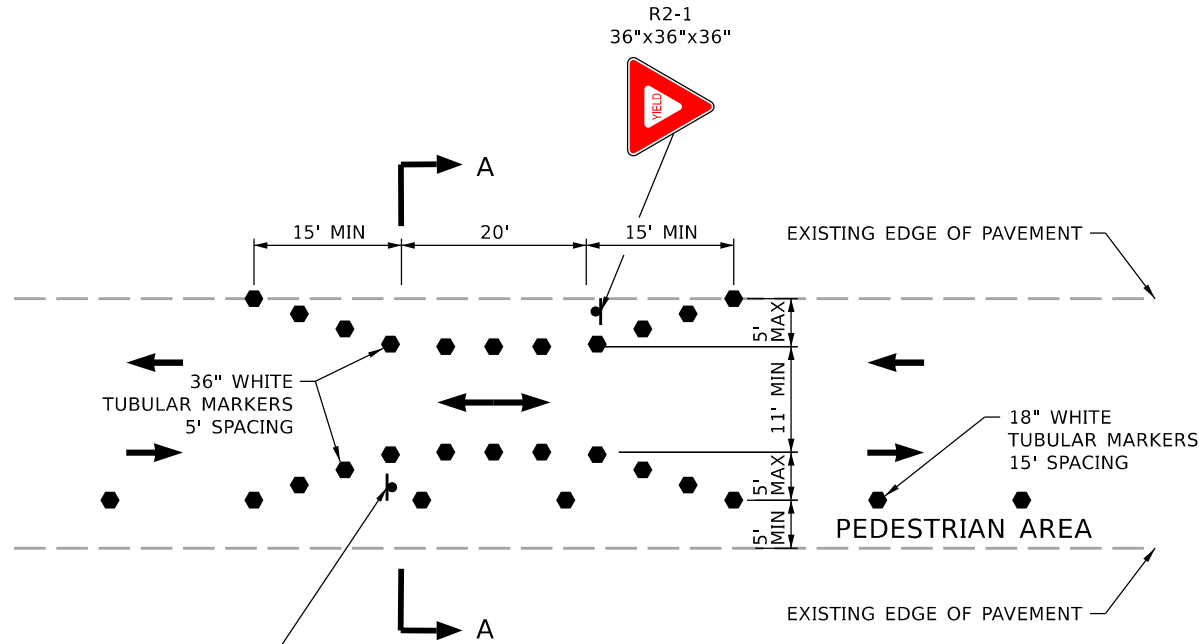
PLAN VIEW  
SOUTH BIRD DR



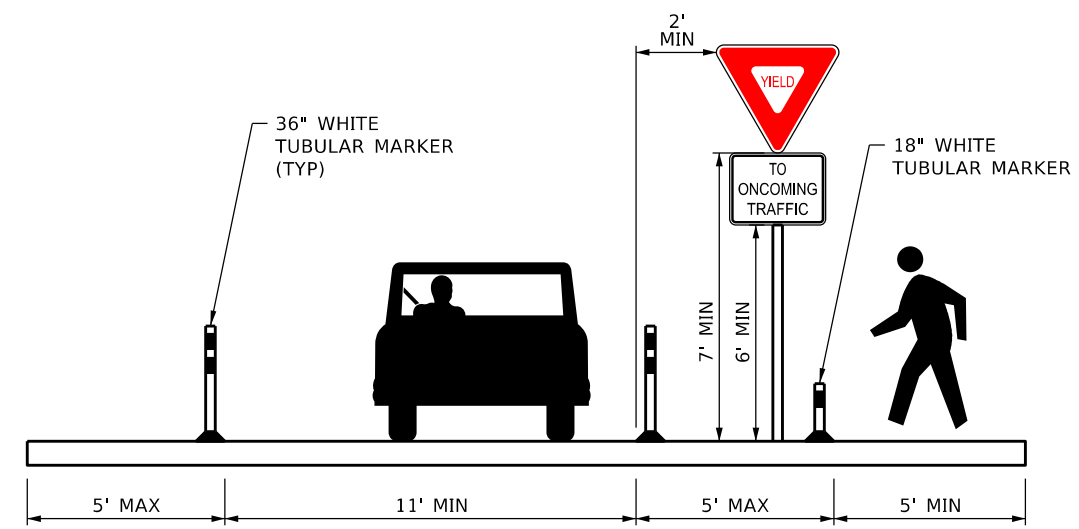


**LEGEND:**

- ▶ PROPOSED SIGN
- ← VEHICLE TRAVEL DIRECTION
- TUBULAR MARKER



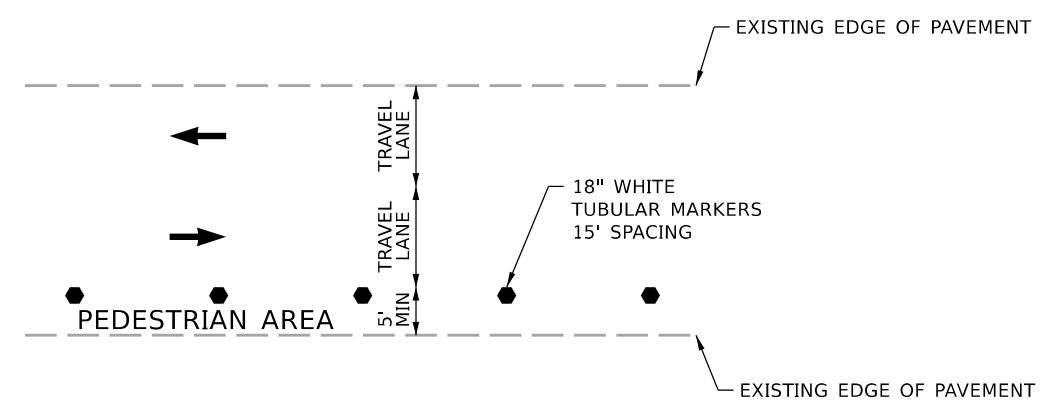
**PINCHPOINT AREA DETAIL**  
N.T.S.  
SETUP DIMENSIONED FOR 20 MPH



**SECTION A-A**  
N.T.S.

**NOTES:**

1. PLACE YIELD SIGNS TO MAINTAIN 2' MINIMUM CLEARANCE FROM TRAVELED WAY WITHIN PINCHPOINT LIMITS. MOUNT SIGNS ON TEMPORARY BREAKAWAY STANDS. MAINTAIN 6' SIGN CLEARANCE OTHERWISE.
2. OMIT TUBULAR MARKERS ACROSS PRIVATE APPROACHES, PEDESTRIAN CROSSINGS AND 25' FROM PUBLIC STREET INTERSECTIONS. COORDINATE WITH ADJACENT LANDOWNERS ON PLACEMENT ACROSS PRIVATE APPROACHES GREATER THAN 20'.
3. SEE PLAN VIEWS FOR LOCATIONS OF PINCHPOINTS.
4. PLACE R1-2aP TO FACE VEHICLE TRAFFIC TRAVELING TOWARD WOOD RIVER DRIVE.

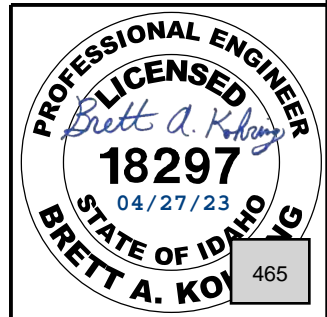


**PEDESTRIAN AREA DETAIL**  
N.T.S.



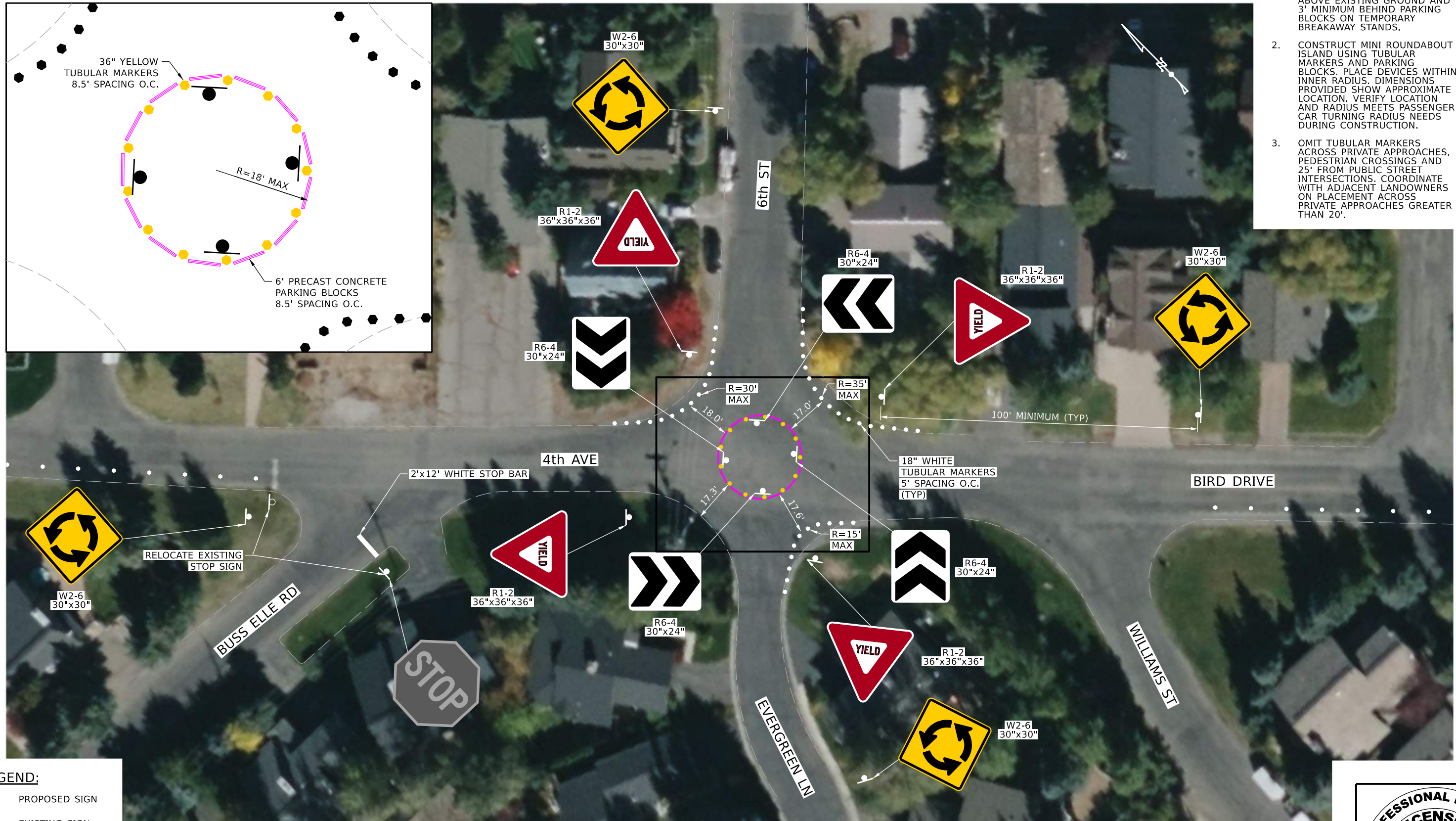
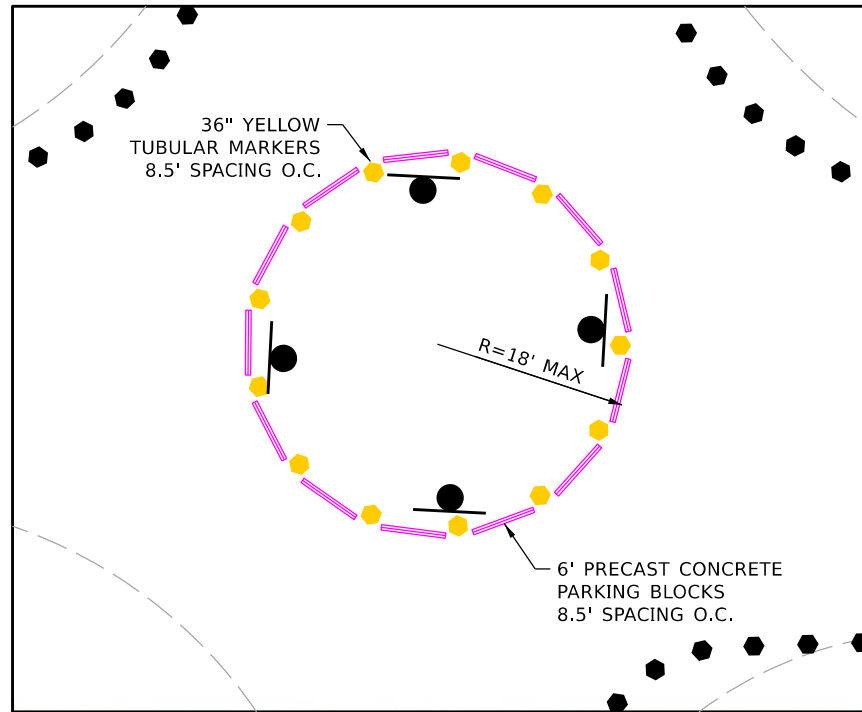
BIRD DRIVE TRAFFIC CALMING TEST

PINCHPOINT DETAILS



**NOTES:**

1. MOUNT R4-6 SIGNS 4' MINIMUM ABOVE EXISTING GROUND AND 3' MINIMUM BEHIND PARKING BLOCKS ON TEMPORARY BREAKAWAY STANDS.
2. CONSTRUCT MINI ROUNDABOUT ISLAND USING TUBULAR MARKERS AND PARKING BLOCKS. PLACE DEVICES WITHIN INNER RADIUS. DIMENSIONS PROVIDED SHOW APPROXIMATE LOCATION. VERIFY LOCATION AND RADIUS MEETS PASSENGER CAR TURNING RADIUS NEEDS DURING CONSTRUCTION.
3. OMIT TUBULAR MARKERS ACROSS PRIVATE APPROACHES, PEDESTRIAN CROSSINGS AND 25' FROM PUBLIC STREET INTERSECTIONS. COORDINATE WITH ADJACENT LANDOWNERS ON PLACEMENT ACROSS PRIVATE APPROACHES GREATER THAN 20'.

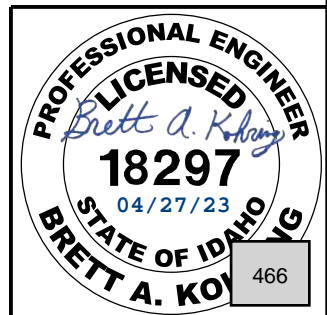
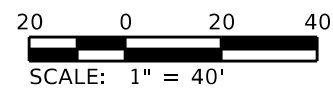


**LEGEND:**

- PROPOSED SIGN
- EXISTING SIGN
- TUBULAR MARKER

BIRD DRIVE TRAFFIC CALMING TEST

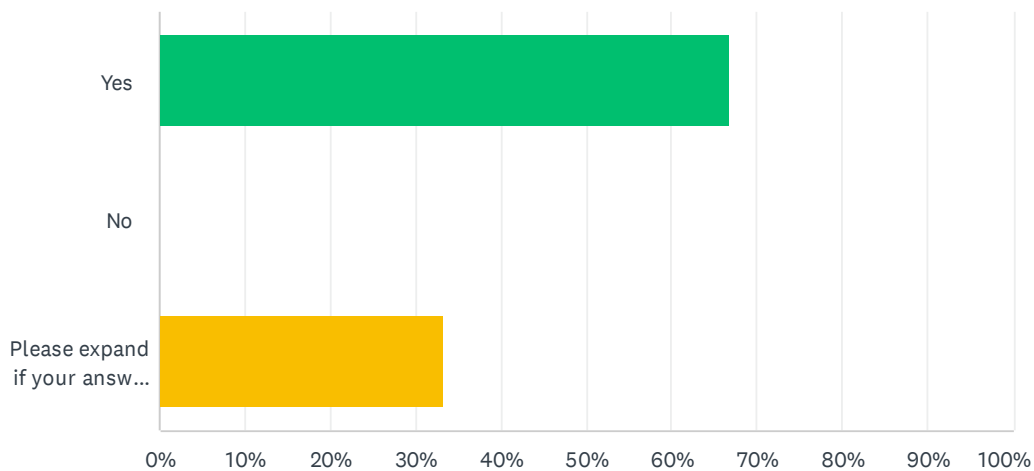
MINI ROUNDABOUT DETAIL





# Q1 Do you support testing this improvement option this summer?

Answered: 21 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	66.67%	14
No	0.00%	0
Please expand if your answer is 'no':	33.33%	7
<b>TOTAL</b>		<b>21</b>

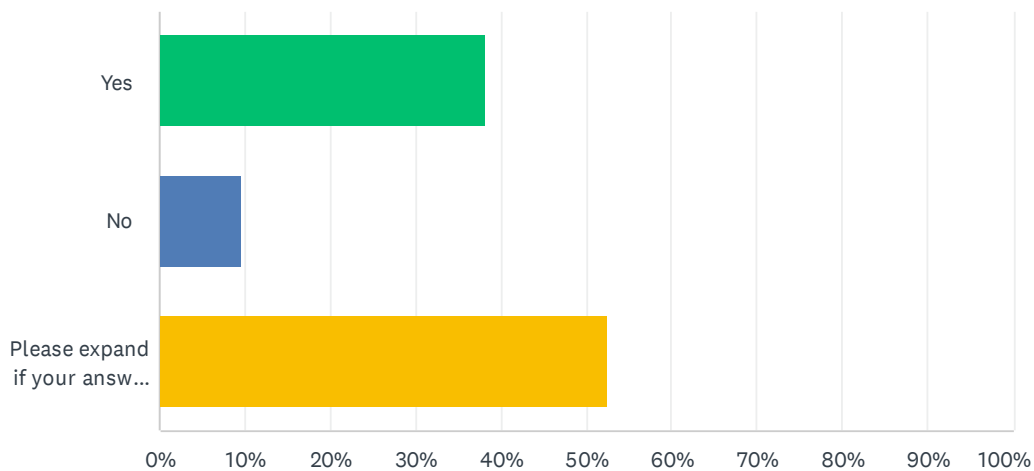
#	PLEASE EXPAND IF YOUR ANSWER IS 'NO':	DATE
1	Not sure what 18" tubular markers are but if they are vertical plastic tubes, then NO WAY! Littering the street with signs and tubular markers will detract from neighborhood's charm and make it feel more like an airport runway with all the traffic control. Do you ever look around you and see how many road signs exist? There are so many that they tend to be ignored anyway. I walk the same route near pennay's to reach river run in the winter and summer and feel perfectly safe because I stop and look before crossing and 9/10 times cars stop for me. It's less of a car problem than a pedestrian problem where people walk up the middle of Bird Dr. to cross. I think painting crosswalk bars would help establish safe places to cross the road that cars and peds. will eventually get accustomed to. Don't forget that there has been a huge and ongoing construction boom in the neighborhood which has temporarily increased traffic and congestion. This should go away as the last two projects finish. Also, will some of your proposals reduce the on-street parking? Not to be too car-centric but you should take a look at the # of vehicles, trailers, campers, etc that park on the street in the summer. Lastly, who will maintain the markers, sweep the streets behind them and seasonally remove them for plowing? Like all other markers, they will become debris magnets that will get damaged over time and look even worse.	5/10/2023 2:11 PM
2	I don't think making pedestrian only zones is the answer	5/10/2023 1:33 PM
3	I do! But it would be great to not have a bunch of those tubular markers everywhere. Makes it feel like we live on Seattle instead of Ketchum. Anything a little more natural looking than could be used? Or potentially a roundabout here too?	5/9/2023 10:51 AM
4	Waste of money, speed bumps are cheap	5/3/2023 8:13 AM
5	Not necessary	5/2/2023 7:56 PM

## West Ketchum Traffic Calming\_Spring/Summer 2023

6	I love the idea of crosswalks at this intersection, however we don't need three! We need one to cross bird, and we need one to cross WR drive; the one that seems safest/best to me (and where I typically cross) is the crosswalk closer to the mountain (past Bird if you are coming down WR drive from the bike path).	5/2/2023 7:02 PM
7	I don't think this will be helpful..I think that people will continue to turn onto Bird drive at a high rate of speed despite these recommendations...an elevated pedestrian crossing at those three locations should definitely work	5/2/2023 3:15 PM

## Q2 Do you support testing this improvement option this summer?

Answered: 21 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	38.10%	8
No	9.52%	2
Please expand if your answer is 'no':	52.38%	11
<b>TOTAL</b>		<b>21</b>

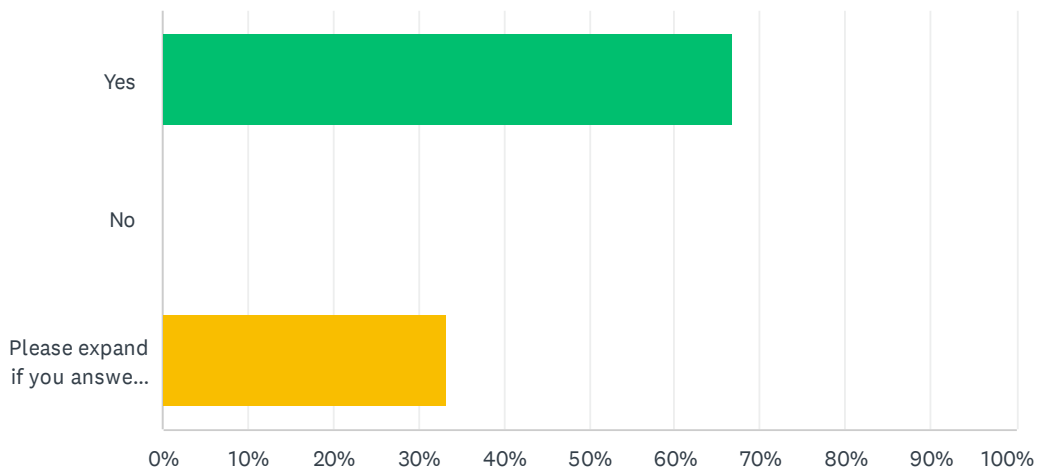
#	PLEASE EXPAND IF YOUR ANSWER IS 'NO':	DATE
1	If I understand what tubular markers are, they will make a residential neighborhood look trashy, take away from the charm, and eliminate on street parking that is sorely needed. I'm all for a walkable/ bikeable neighborhood but pedestrians have to accept some responsibility and stay somewhat to the side of the street and when walking dogs, as many do, have them on a leash. I will drive at a safe 10-15 mph all day long and still get glared at by a dog walker who's pet is running loose on the opposite side of the road.	5/10/2023 2:17 PM
2	I think this will make cars feel like they can drive faster because pedestrians aren't supposed to be in the street	5/10/2023 1:34 PM
3	I do support testing it, but again is there anything that can be used instead of big white tubular markers?	5/9/2023 10:52 AM
4	I do not feel the disruption and expense of adding sidewalks is a reasonable solution. Once the current construction is finished the accumulation of cars and trucks parking along Bird will drop significantly. Bird is wide enough that if pedestrians walk on the side of oncoming traffic, the concerns should be reduced.	5/5/2023 4:52 PM
5	Sidewalks in West Ketchum would change the character of the neighborhood making it feel more suburban. We are long-time residents of West Ketchum and absolutely don't want sidewalks.	5/5/2023 3:59 PM
6	We all walk our dogs in the street, where they go we go.t	5/3/2023 8:15 AM
7	Not necessary	5/2/2023 7:58 PM
8	Sidewalks would take away from street parking, would be a pain for snow removal (and make it more dangerous to walk), and also I do not feel they would help the "safe" walking feel. Not a	5/2/2023 7:04 PM

## West Ketchum Traffic Calming\_Spring/Summer 2023

	fan of more concrete on our street.	
9	Separating pedestrians from cars just serves to make cars feel safer to drive at speed. Solutions should be focused on slowing cars down so they share the road more safely with people not removing pedestrians from the roads	5/2/2023 3:19 PM
10	I do not see how this will help...I do support a "pedestrian" zone...if those markers were elevated causing the cars to notice if they went into the pedestrian zone, this will work	5/2/2023 3:18 PM
11	This area does not see a tremendous amount of foot traffic. The foot traffic is from 6th Street to the Bike path extension on 4th Ave, (sometimes referred to as Bird Drive). There NEEDS to be a pinch point on that section of roadway, not on the portion of 4th Ave from 6th Street to where 4th Ave turns into Rocking Horse.	5/2/2023 2:14 PM

### Q3 Ultimately, are you in support of the City installing and monitoring the pilot program this summer?

Answered: 21 Skipped: 0



ANSWER CHOICES	RESPONSES
Yes	66.67% 14
No	0.00% 0
Please expand if you answered 'no':	33.33% 7
<b>TOTAL</b>	<b>21</b>

#	PLEASE EXPAND IF YOU ANSWERED 'NO':	DATE
1	I'm curious about the roundabout. I don't think that intersection has issues but the roundabout might be an improvement. On the other hand, all delivery trucks might start avoiding that tight turn and redirect to Wood River Dr. & Bird Dr. I assume the turning radius is ok for firetrucks so maybe other big vehicles will be able to navigate that tight turn.	5/10/2023 2:20 PM
2	I like the idea of narrowing the street or creating obstacles for cars to go slower. I do not like pedestrian designated areas. I think removing all stop signs could slow cars down because they would have to navigate right of way at every intersection.	5/10/2023 1:36 PM
3	Yes! But it would be great not to have the big tubular markers which seems like a big city thing instead of a west Ketchum thing. Thanks or all the hard work!	5/9/2023 10:52 AM
4	I feel like once it's in it will stay. The roundabout will add clutter to 6th Street and more signs, we need fewer signs. It's a small town not a city	5/3/2023 8:18 AM
5	Why?	5/2/2023 7:58 PM
6	I'm a fan of some pinch points, crosswalks, and reducing the speed limit to 15! The current speed limit of 20 is WAY too fast. I understand you cannot simply change the speed limit alone, but this should be part of the comprehensive plan. Thank you!	5/2/2023 7:05 PM
7	Anything will hopefully be helpful	5/2/2023 3:19 PM



- Hi Aly, Thanks for all this. I did not know there was an in person meeting. I must have missed the email. I did the survey but my biggest comment is can something other than big white tubular markers be used? I think it will make it feel like we live in a big city like seattle or something. It does not seem to fit the character of our neighborhood. What about small circular bumps (like an upside down dinner plate) or something like that?  
Thanks for all the hard work! Niels
- Thank you for the information on the Traffic Calming Pilot Program. I'm sorry to learn that no residents were there at your meeting and apologies that I wasn't able to be there as well. You've all done a lot of work on this and my husband Bob and I appreciate the effort.  
I look forward to seeing the plan implemented this summer and see how it impacts drivers' behavior.  
One thing I noticed on the Spring Update document - on page 5 there is a red circle around Williams Street and Wood River Drive. We live on Bordeaux and walk that almost every day and haven't seen issues there. Perhaps the circle was meant to be drawn further down Wood River Drive as one travels towards town, at the blind corner just before Bird Drive. That's the corner I've been concerned about.  
I'll try and make the April 20th meeting but curious if there are any plans for the sharp corner (heading West) just past Bird Dr on Wood River Drive in terms of a right angle sign and slower speed limit - 10 or 15 mph. That's the area that has a blind corner and residents have home-made slow down signs. I feel this is an area of high safety concern for pedestrians and bicyclists, not to mention pets.
- I missed the first meeting due to Covid and the second I'm out of town. I suspect many people were out of town for that second meeting due to the hard winter. I hope this is no way diminishes the urgency on getting this done. I was able to look at the last drawing of the proposed changes and thought they looked good. I personally wanted more, like speed bumps and stop signs as well as some of the measures you have proposed. I realize is a start and a good one so please proceed.
  - I see my neighbors when I'm home but don't have contacts for many of them, we mostly see each other walking in the hood. That sort of speaks to the importance of this issue, we all walk a lot in the neighborhood. As with a lot of social activism you get more complaints and less applause but trust me it's very much appreciated. I'm out of town but was able to contact some.
  - The next thing a lot of people would love to see ( and hear ) is a ban on leaf blowers and loud landscape equipment. This is low hanging fruit, vast majority would agree those things are obnoxious all summer long. I just sent you a recent article about this from USA today.
- Thanks for sending out this recap. I tried to make the meeting, but was not able to break away. Were there any discussions around pedestrian improvements extending up 6th from the new proposed roundabout to the bike path? As you know, this road gets a lot of traffic and people walk up/down it quite often. It is really unfortunate that the city did not make the developers of the 2 new projects on corner of 3rd Ave and 6th St do a sidewalk, but that ship has

sailed...Could they do the white dots like want is being proposed along the Bird/4th Ave corridor?



- Please consider the single most important solution is to reduce the posted speed limit. 20 mph is too fast to drive cars in a neighborhood that has multiple curb cuts, no sidewalks or shoulders and has the characteristics of a walking neighborhood like West Ketchum. 20 mph is the same speed cars are allowed to drive down Elkhorn Road, parts of Saddle and Warm Springs roads and most of the other non-connector streets in Ketchum. When you are in a car it may not feel very fast; when you are on the street unprotected you realize how vulnerable you are. I applaud the efforts to add infrastructure; that is important too. Lowering the posted speed limit and promoting safe driving when people and animals are present could go a long way in making West Ketchum a neighborhood where all modes of travel can happily coexist.
- I am a little concerned—There does not seem to be much interest in doing any ‘traffic calming’ on 4th Ave (it is referred to as Bird Drive by some people) from the 6th Street intersection to the bike path extension on the Bird Drive turn. Yes, I did notice that my pinch point idea was noted on the “Requested attention” portion of the West Ketchum Traffic Calming Solutions. From the speed study that was done between April 13 and April 20, 2021, it is obvious that section (4th Ave between 4th street and 5th street) has the highest speeds. (Note—this was taken from the presentation on October 27, 2022). That section also has quite a few pedestrians and bikers that are traveling to utilize the bike path extension. The highest speed in the mentioned study was 36.3 mph and the 85% speed as 25.61 mph. I am aware of another speed study that was done last summer on Bird Drive at the Bike path extension but I have never been able to find those figures. I thought it was just an oversight when the information came out a few weeks ago that showed a ‘pinch point’ on 4th Ave between 6th Street and 8th Street. That section has a VERY LOW vehicle usage compared to 4th Ave (also referred to as Bird Drive) between 6th Street and the bike path extension.

I would really like for someone to come down here and walk it with me—I tried to get that done last October but there was a vocal group that got the engineers attention to look at Wood River Drive and Bird Drive. Is there anyway I might be able to meet with someone about this? I know that everyone is very busy but this is very important—I have seen way too many conflicts out my living room window, which looks right at 4th Ave (also referred to as Bird Drive) between 5th Street and the bike path extension.

- Wondering if there was any discussion yesterday regarding any future plans for sidewalks on Wood River Dr. and Bird Dr. Unfortunately I was not able to attend the meeting on Zoom at 5:30pm
- Hi Aly, We have family responsibilities today and won't be able to attend the meeting or zoom . The "round about " looks like a plan to try. But please don't forget about Williams street. We would love to have "Speed Bumps " in several places. The roundabout will not stop the speeding we have on Williams.
- Aly, I can't make the meeting tomorrow but have a few comments on the proposed plans. I think it is ridiculous. We don't need a roundabout, marked off ped lane the length of 4th and Bird, pinch points ( these seem absurd, who has the right of way entering those), more signs telling us what obstacles are coming out way next. West Ketchum will look like an amusement ride with lots of foam things for people to run over. How about a few dips or bumps that should do the trick. Don't litter our neighborhood with all this junk . Sorry I couldn't make it. Hopefully my neighbors share my feeling on this proposal. Sincerely , Deeder Petersen , Smoky Lane
- Several neighbors on Bird feel that speeding tickets will help all issues.
- My recommendation would be to have the police issue citations. That will solve the problem.
- Thanks for working on this! I am going to try and be there on Thursday but have another meeting I need to be at too so I may be late and I thought I'd send over my thoughts and concerns:
  - 1. Roundabout seems awesome, theres two maybe even three more spots I think could use "mini roundabouts" or some sort of obstacle to force people to drive around, I also like pinch points and am excited to see how thats implemented.
  - 2. I have concerns about adding "Pedestrian Areas" to roads as they inevitably create "Car areas" and I feel they have the unintended side effect of making drivers feel safer driving faster even when pedestrians are present. Dogs and Children don't necessarily follow lines on the road, and I think we need to focus on slowing car's down and increasing drivers focus not segmenting pedestrians to specific zones.
  - 3. In the vain of slowing cars down there are a couple of problem areas that seem to be caused by 1 way stops, (Bird and Williams, Bird and Remember, Remember and Williams, Buss Elle and 4th Ave) Cars on the main street are not obligated to stop or even slow down when going through these intersections as the other road has a stop

sign, this causes long stretches of road where cars do not need to be alert or check their speed. I would like to see the stop signs removed in these intersections forcing cars coming from all directions to slow and navigate an uncontrolled intersection. I know that removing stop signs maybe unpopular but I think it would be an interesting solution. (If thats a complete no-go then maybe add stop signs to all 3 roads on some of these intersections.)



**CITY COUNCIL MEETING AGENDA MEMO**

Meeting Date:  Staff Member/Dept:

Agenda Item:

Recommended Motions:

- FAR Exceedance Agreement 22845*
- Option 1 Motion: “I move to direct the applicant to modify the range of income categories proposed for the community housing units to achieve an average no higher than 4.”
  - Option 2 Motion: “I move to approve the updated community housing proposal with the range of income categories proposed by the applicant and authorize the Mayor to sign FAR Exceedance Agreement 22845 with The Perry Building LLC.”
- Subdivision Applications*
- If Option 2 Motion is approved, then:
- Motion: “I move to approve The Perry Building Lot Consolidation Preliminary Plat Application File No. P22-045A subject to conditions 1 through 2.”
  - Motion: “I move to approve The Perry Building Condominium Subdivision Preliminary Plat Application File No. P22-045B subject to conditions 1 through 2.”

Reasons for Recommendation:

- The City of Ketchum Planning and Zoning Commission (the “Commission”) reviewed and approved The Perry Building Design Review Application File No. P22-045C and Variance Application File No. P22-045D and recommended approval of Lot Consolidation Preliminary Plat Application File No. P22-045A and Condominium Subdivision Preliminary Plat Application File No. P22-045B during their meeting on March 14, 2023.
- During their meeting on March 6, 2023, the City Council discussed the initial community housing proposal for The Perry Building project and provided direction to the applicant and staff. The City Council expressed support for targeting the seven community housing units for a range of income categories provided that the range achieves an average of 4. Following the City Council’s discussion on the initial request, the applicant submitted a revised community housing proposal with a modified range of income categories that achieves an average of 4.6. Staff recommends the City Council review the applicant’s modified community housing proposal and either: (1) direct the applicant to modify the range of income categories to achieve an average no higher than 4 or (2) approve the updated community housing proposal with the range of income categories proposed by the applicant.

- The Perry Building FAR Exceedance Agreement must be approved by the City Council before action may be taken on the subdivision applications. If the City Council approves the applicant's updated community housing proposal, Staff recommends the City Council approve the subdivision applications. The Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications comply with the procedures for subdivision approval (Ketchum Municipal Code §16.04.030), subdivision development and design standards (Ketchum Municipal Code §16.04.040), and condominium requirements (Ketchum Municipal Code §16.04.070).

#### Policy Analysis and Background:

The applicant is proposing to develop a new mixed-use building located on three Ketchum Townsite lots (131 W 4<sup>th</sup> Street and 431 & 471 N 1<sup>st</sup> Avenue) at the northwest corner of 1<sup>st</sup> Avenue and 4<sup>th</sup> Street within the Mixed-Use Subdistrict of the Community Core. The Perry Building will contain a parking garage accessed from the alley, four retail units on the ground floor, seven community housing units, and sixteen market-rate multi-family dwelling units. The project is proposing to take advantage of the Floor Area Ratio ("FAR") bonus in exchange for community housing, mitigating the additional floor area by dedicating seven on-site community housing units as deed-restricted rentals. The applicant proposes to target these community housing units for a range of income categories.

Ketchum Municipal Code §17.124.040.B.2e requires that community housing units provided in exchange for a FAR bonus be targeted for Blaine County Housing Authority ("BCHA") Income Category 4 but states that, "The applicant may seek the recommendation of the governing housing authority in the determination of an alternative category...This allowance shall be based on need for the category type." Pursuant to Ketchum Municipal Code §17.124.040.B.2g, "the City Council may consider alternative proposals by the applicant to fulfill the community housing incentive." The City Council has the authority to review and approve alternative categories for community housing units provided in exchange for an increase in permitted FAR.

The City Council discussed the initial community housing proposal during their meeting on March 6 and provided direction to the applicant and staff. The initial proposal targeted two units for Income Category 4, two units for Income Category 5, two units for Income Category 6, and one unit for BCHA Category L. During their discussion, the City Council expressed support for targeting the seven community housing units for a range of income categories provided that the range achieved an average of 4. The City Council was not supportive of designating community housing units for BCHA Category L, which has no income or rent limit, but must be targeted for full-time residents and employees of Blaine County. The March 6 staff report included as Attachment 2 provides staff's comprehensive analysis of the initial proposal.

Following the City Council discussion on March 6, the applicant modified the proposed range of income categories and submitted a revised community housing proposal. Staff reviewed the revised proposal and met with the applicant to provide feedback. After meeting with staff, the applicant further modified the range of income categories and submitted an updated community housing proposal on April 27, 2023. The applicant's updated community housing proposal is included in Attachment 1. Table 1 provides the range of income categories proposed with the initial request and updated proposal.

Table 1: The Perry Building Community Housing—Proposed Income Categories				
Unit No.	Bedrooms	Unit Size	Income Category (Initial Request)	Modified Income Category (Updated Proposal)
U104	one bedroom	625 square feet	4	4
U106	two bedrooms	914 square feet	4	4
U103	one bedroom	625 square feet	5	4
U105	one bedroom	625 square feet	5	4
U102	one bedroom	625 square feet	6	5
U107	one bedroom	624 square feet	6	5
U109	one bedroom	976 square feet	L	6
Average Income Category			5 + L	4.6
Median Income Category			5	4

The applicant’s updated community housing proposal designates four units for Income Category 4, two units for Income Category 5, and one unit for Income Category 6. Two units previously targeted for Income Category 5 in the initial proposal are designated for Income Category 4 in the updated proposal, and two units previously targeted for Income Category 6 are now proposed to be designated for Income Category 5. The unit targeted for BCHA Category L in the initial request is proposed to be designated for Income Category 6 in the updated proposal. The applicant has lowered the average category from 5 in the initial request to 4.6 in the updated proposal, and the median income category has been lowered from 5 to 4. Staff appreciates the changes made by the applicant in their updated proposal and their responsiveness to City Council feedback.

While the updated proposal is more favorable than the initial request, the average income category is higher than the average of 4 recommended by the City Council during their discussion on March 6. Staff recommends the City Council review the modified range of income categories and determine whether the updated community housing proposal meets the intent of the direction they provided during their consideration of the initial request on March 6. If the City Council determines the updated proposal does not sufficiently comply with their direction, Staff recommends the City Council direct the applicant to further modify the range of income categories to achieve an average no higher than 4. If the City Council believes the updated community housing proposal sufficiently meets the intent of their direction, Staff recommends the City Council move to approve the updated community housing proposal and authorize the Mayor to sign the FAR Exceedance Agreement included as Attachment 3.

The Perry Building community housing contribution and FAR Exceedance Agreement must be approved by the City Council before action may be taken on the subdivision applications. If the City Council approves the applicant’s updated community housing proposal, Staff recommends the City Council approve the Lot Consolidation Preliminary Plat and Condominium Subdivision applications. The Lot Consolidation Preliminary Plat will remove the shared property lines separating lots 2, 3A, and 4A within block 56 of the original Ketchum townsite to establish the development parcel. The Condominium Subdivision Preliminary Plat application will subdivide the building into four commercial condominium units, seven community

housing condominium units, sixteen multi-family dwelling condominium units, common area, and limited common area. During city department review, staff reviewed the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications for conformance with the city's subdivision regulations specified in Chapter 16.04 of Ketchum Municipal Code. The applications comply with all applicable subdivision regulations.

**Sustainability Impact:**

The project does not limit the ability of the city to reach the goals of the Ketchum Sustainability Action Plan. The project must be designed to comply with the 2018 International Energy Conservation Code and the city's Green Building Code standards specified in Chapter 15.20 of Ketchum Municipal Code.

**Financial Impact:**

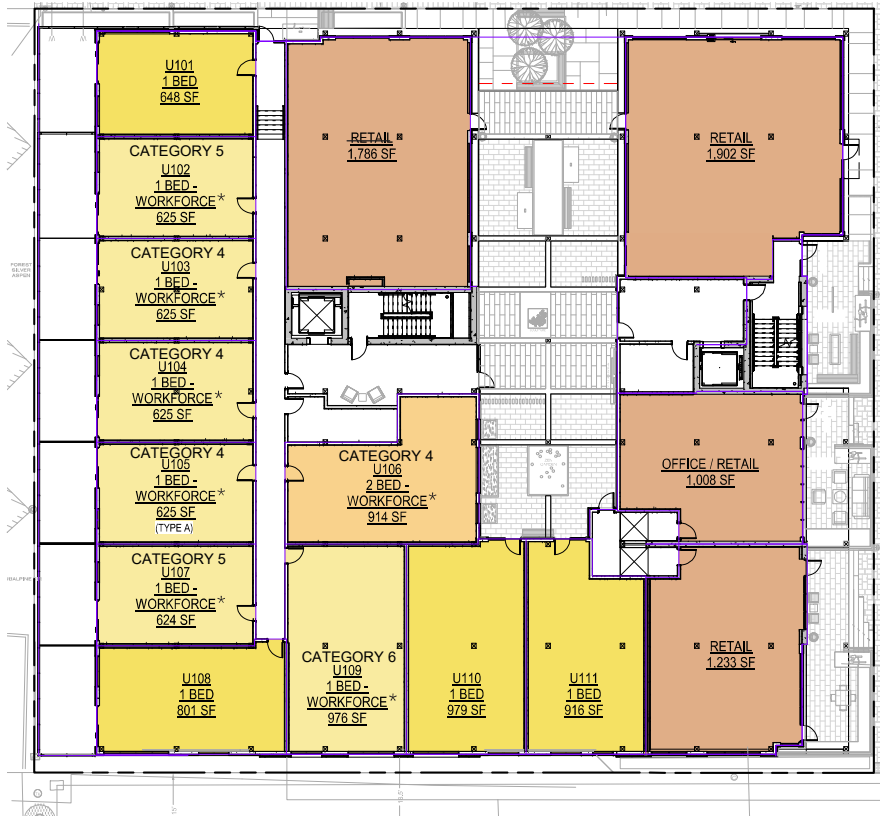
None OR Adequate funds exist in account:	There is no financial requirement from the city for this action at this time.
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**Attachments:**

- |  |
|--|
| 1. The Perry Building: Revised Community Housing Contribution Proposal   |
| 2. March 6, 2023 Staff Report: The Perry Building Preliminary Community Housing Contribution Discussion  |
| 3. The Perry Building FAR Exceedance Agreement 22845   |
| 4. Application Materials & Plan Set: Lot Consolidation Preliminary Plat Application File No. P22-045A  |
| 5. Application Materials & Plan Set: Condominium Subdivision Preliminary Plat Application File No. P22-045B                                      |
| 6. Draft City Council Findings of Fact, Conclusions of Law, and Decision: Lot Consolidation Preliminary Plat Application File No. P22-045A       |
| 7. Draft City Council Findings of Fact, Conclusions of Law, and Decision: Condominium Subdivision Preliminary Plat Application File No. P22-045B |



Attachment 1  
The Perry Building:  
Revised  
Community Housing Contribution  
Proposal



LEVEL 1

NOT TO SCALE



Attachment 2  
March 6, 2023 Staff Report:  
The Perry Building  
Preliminary  
Community Housing Contribution  
Discussion



March 6, 2023

Mayor Bradshaw and City Councilors  
City of Ketchum  
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Discussion and Direction Regarding the Proposed Community Housing Contribution for The Perry Building Project Located at 131 W 4th Street and 471 & 431 N 1st Avenue.**

Recommendation and Summary

Staff recommends the City Council review the alternative community housing contribution to mitigate the Floor Area Ratio ("FAR") increase proposed for The Perry Building project and provide feedback to the applicant.

The reasons for the recommendation are as follows:

- Planning staff has modified the sequence of FAR Exceedance Agreement review based on the direction provided by the City Council during their regular meeting on January 17, 2023. For projects proposing an alternative proposal as allowed per Ketchum Municipal Code ("KMC") §17.124.040.B.2g, the proposed community housing contribution will be scheduled as a discussion item for City Council review and feedback prior to design review. Following design review approval and before building permit issuance, the final FAR Exceedance Agreement will be brought back to the City Council for review and approval.
- Pursuant to KMC §17.124.040.B.2e, community housing units shall be targeted for Blaine County Housing Authority ("BCHA") income category 4, but "the applicant may seek the recommendation of the governing housing authority in the determination of an alternative category." This allowance shall be based on the need for the category type. Pursuant to KMC §17.124.040.B.2g, "the City Council may consider alternative proposals by the applicant to fulfill the community housing incentive."
- The project is required to provide a minimum of 4,936 square feet of community housing in exchange for the FAR bonus. The Perry Building project is proposing to mitigate the FAR increase by providing 5,014 square feet of community housing on site, dedicating seven community housing units on the ground floor of the mixed-use building as deed-restricted rentals. The rental units range in size from 624 square feet to 976 square feet. The applicant is proposing to target these community housing units for a mixture of income categories, including BCHA categories 4, 5, 6, and L.

Introduction and History

Ketchum Municipal Code §17.124.040 encourages new developments to include a reasonable supply of affordable and resident-occupied housing for sale or rent to help meet the demand and needs for housing of the community's workforce. Developments in the Community Core may be built to a permitted FAR of 1.0. An increased FAR up to a maximum of 2.25 may be permitted, subject to design

review approval, with an associated community housing contribution. Pursuant to KMC §17.124.040.B.2f, “the following options for fulfillment of the community housing incentive are available to the applicant outright. These include, but are not limited to: (1) Housing constructed by the applicant on or off-site, within the City of Ketchum; (2) Payment of an in lieu fee; or (3) Acquisition of existing housing stock that meets with the governing housing authority’s requirements and approval.”

The applicant is proposing to develop a new mixed-use building located on three Ketchum Townsite lots (131 W 4th Street and 471 & 431 N 1st Avenue) at the northwest corner of 1<sup>st</sup> Avenue and 4<sup>th</sup> Street (the “subject property”) within the Mixed-Use Subdistrict of the Community Core (“CC-2 Zone”). The mixed-use building will contain a parking garage accessed from the alley, 4 retail units on the ground floor with frontage along 1<sup>st</sup> Avenue and 4<sup>th</sup> Street, 7 community housing rental units, and 16 market-rate multi-family dwelling units (the “project”).

The project is proposing to take advantage of the FAR bonus in exchange for community housing, mitigating the additional floor area by dedicating seven on-site community housing units as deed-restricted rentals. The FAR calculations and exceedance analysis for the project is provided in Table 1. The mixed-use building is 53,756 gross square feet and the proposed FAR is 2.18.

TABLE 1: THE PERRY BUILDING FAR EXCEEDANCE ANALYSIS	
CC-2 Zone Permitted FAR	
Permitted FAR	1.0
Permitted FAR with Community Housing	2.25
The Perry Building: Proposed FAR & Exceedance Analysis	
Subject Property Area	24,723 square feet
Permitted Gross Floor Area (1.0 FAR)	24,723 square feet
Proposed Gross Floor Area	53,756 square feet
Proposed FAR	2.18
Increase Above Permitted 1.0 FAR	29,033 square feet
20% of Increase	5,807 square feet
Net Livable (15% Reduction)	4,936 square feet
Minimum Required Community Housing Contribution	4,936 square feet

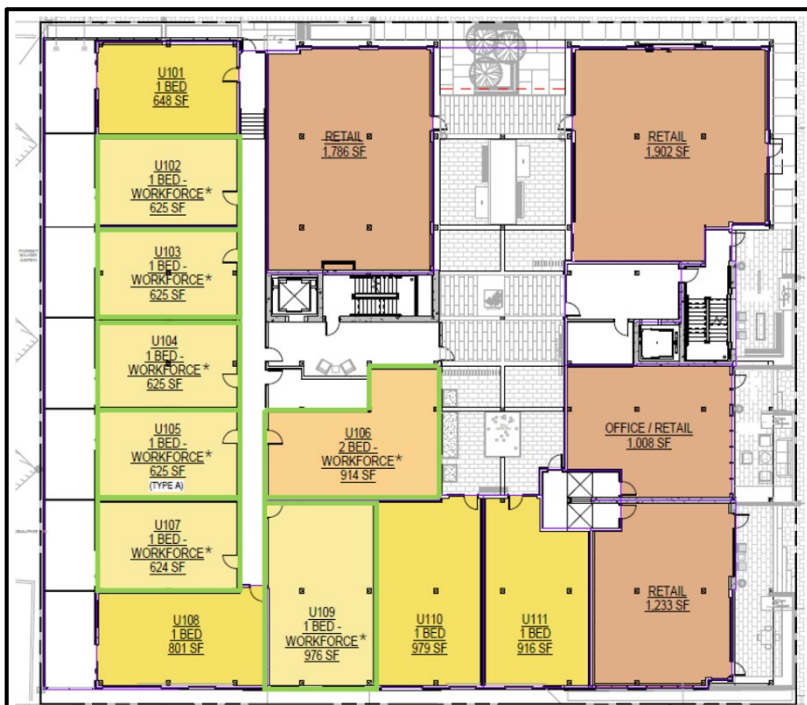


Figure 1: Ground-Level Floor Plan

As noted in the table above, the project is required to provide a minimum of 4,936 square feet of community housing in exchange for the FAR bonus. The Perry Building project is proposing to mitigate the FAR increase by providing 5,014 square feet of community housing on site, dedicating seven community housing units on the ground floor of the mixed-use building as deed-restricted rentals. The rental units range in size from 624 square feet to 976 square feet. Figure 1 shows the main-level floor plan with the proposed community housing units are outlined in green. The project’s community housing proposal, including floor plans and targeted income categories, is included as Attachment A to the staff report.

Pursuant to KMC §17.124.040.B.2e, community housing units shall be targeted for Blaine County Housing Authority (“BCHA”) income category 4, but “the applicant may seek the recommendation of the governing housing authority in the determination of an alternative category.” This allowance shall be based on the need for the category type. Pursuant to KMC §17.124.040.B.2g, “the City Council may consider alternative proposals by the applicant to fulfill the community housing incentive.” The applicant is proposing to target these community housing units for a mixture of income categories as follows:

<b>Unit No.</b>	<b>Bedrooms</b>	<b>Unit Size</b>	<b>Proposed Income Category</b>	<b>Percentage of Area Median Income (AMI)</b>
U104	one bedroom	625 square feet	4	80% to 100%
U106	two bedrooms	914 square feet	4	80% to 120%
U103	one bedroom	625 square feet	5	100% to 120%
U105	one bedroom	625 square feet	5	100% to 120%
U102	one bedroom	625 square feet	6	120% to 140%
U107	one bedroom	624 square feet	6	120% to 140%
U109	one bedroom	976 square feet	L	No Income Limit (must be a full-time resident and employee of Blaine County)

Staff appreciates the total number of community housing units provided on the ground-level of the mixed-use development and their integration with market-rate residential units; however, staff does not support the income categories targeted for each rental unit as proposed by the applicant. The analysis below provides an overview of staff’s position on the proposed community housing contribution. Staff requests the City Council provide feedback on the income category targets for the project. Goal 2 of the Housing Action Plan states that Ketchum should “Build a regulatory and policy environment that strongly encourages housing development with an emphasis on community and workforce housing, and which is consistent with other community goals.” As detailed in the analysis below, staff recommends more community housing units should be targeted for 80% and less AMI to provide an equitable distribution and help address Ketchum’s urgent need for more rental units for the local workforce. This is because 70% of Ketchum’s workforce earns below 80% AMI – the median earnings per individual for our area is about 50% AMI and more than half of BCHA’s waitlist are single-person households.

Analysis

Due to a significant population increase and severe housing shortage, Ketchum is losing its workforce and year-round residents because most local people cannot afford to live here. The *Ketchum Housing Matters: Housing Action Plan, 2022-2023* (the “Housing Action Plan”) identifies that the community’s workforce has the greatest unmet housing need stating that, “Ketchum’s workforce primarily consists of low- and middle-income households (under \$45,355 per year or \$23 per hour) that our local economy depends on. Sixty percent of local renters live in unaffordable housing, meaning they pay more than 30% of their gross/pre-tax income on housing costs.” The city’s economy depends on its workforce who primarily earn under 80% AMI based on industry median earnings data published by the US Census. While more housing is needed at every income level, the Housing Action Plan identifies that Ketchum’s most significant need is for rental units ranging from 0% to 120% AMI targeted for the local workforce. Pursuant to KMC §17.124.040.B.1, the purpose of the FAR bonus program is to, “encourage new development to include a reasonable supply of affordable and resident occupied workforce housing for sale or rent, to help meet the demand and needs for the housing of

community's employees." Community housing provided in exchange for FAR increases is intended to target Ketchum's workforce.

Staff believes the seven community housing units should be targeted to meet the objectives identified in the Housing Action Plan and targeted for income categories 4 or an equitable range of income categories with a median of income category 4 for the following reasons:

- Policy decisions related to income levels for the deed restricted community housing program should be informed by the recently adopted Housing Action Plan.
- The Housing Action Plan identifies that Ketchum most significantly needs more rental units for the local workforce housing that consists primarily of low- and middle-income households.
- The purpose of the FAR bonus in exchange for community housing program is to "help meet the demand and needs for housing of the community's employees" (KMC 17.124.040)
- Approximately 70% of Ketchum's workers earn less than 80% to 100% of area median income ("AMI").
- The most significant demand is for rental units targeted for income categories of 4 or less. Over 80% of households on the BCHA waitlist qualify for income categories of 4 or less.
- Staff has received an increased number of requests for higher income categories for on-site deed restricted community housing units. Allowance of higher income categories will erode the effectiveness of the program over time and diverge from the goals of the Housing Action Plan. The action on this project will set a precedent for other requests to increase income levels for on-site community housing units. The Housing Action Plan proposes alternative tools to increase housing production for higher income levels.

Staff would support a more equitable distribution of income categories with a median of income category 4. A more equitable range of income categories would include an income-category-3 unit for every income-category-5 unit and an income-category-2 unit for every income-category-6 unit. The median of the income categories should be 4 with an equitable distribution of units targeted for income categories of 3 or less and income categories of 5 or more. As proposed, 72% of the proposed community housing targets 100% and higher AMI and 43% of the community housing is proposed to target 120% and higher AMI. As income categories 5 and 6 are proposed, more community housing units should be targeted for 80% and less AMI to provide an equitable distribution and help address Ketchum's urgent need for more rental units for the local workforce.

The 976-square-foot one-bedroom unit is proposed to be targeted for BCHA Category L, which has no income or rent limit, but must be targeted for full-time residents and employees of Blaine County. Staff is not supportive of BCHA Category L because it does not fulfill the intent of the regulation. The 976 square feet of community housing proposed to be targeted for BCHA Category L would equate to an in-lieu fee of \$439,200. Staff believes that the in-lieu fee would be more desirable than providing a community housing unit with no income limit. Comparable, peer communities are able to buy category L deed-restrictions for \$100,000 to \$150,000 per unit: This \$439,200 could equate to three to four new deed-restrictions on existing units.

#### Sustainability

The project does not limit the ability of the city to reach the goals of the Ketchum Sustainability Action Plan – 2020. Ability to house employees and community participants locally decreases commuter vehicular trips.

Financial Impact

There is no financial requirement from the city for this action.

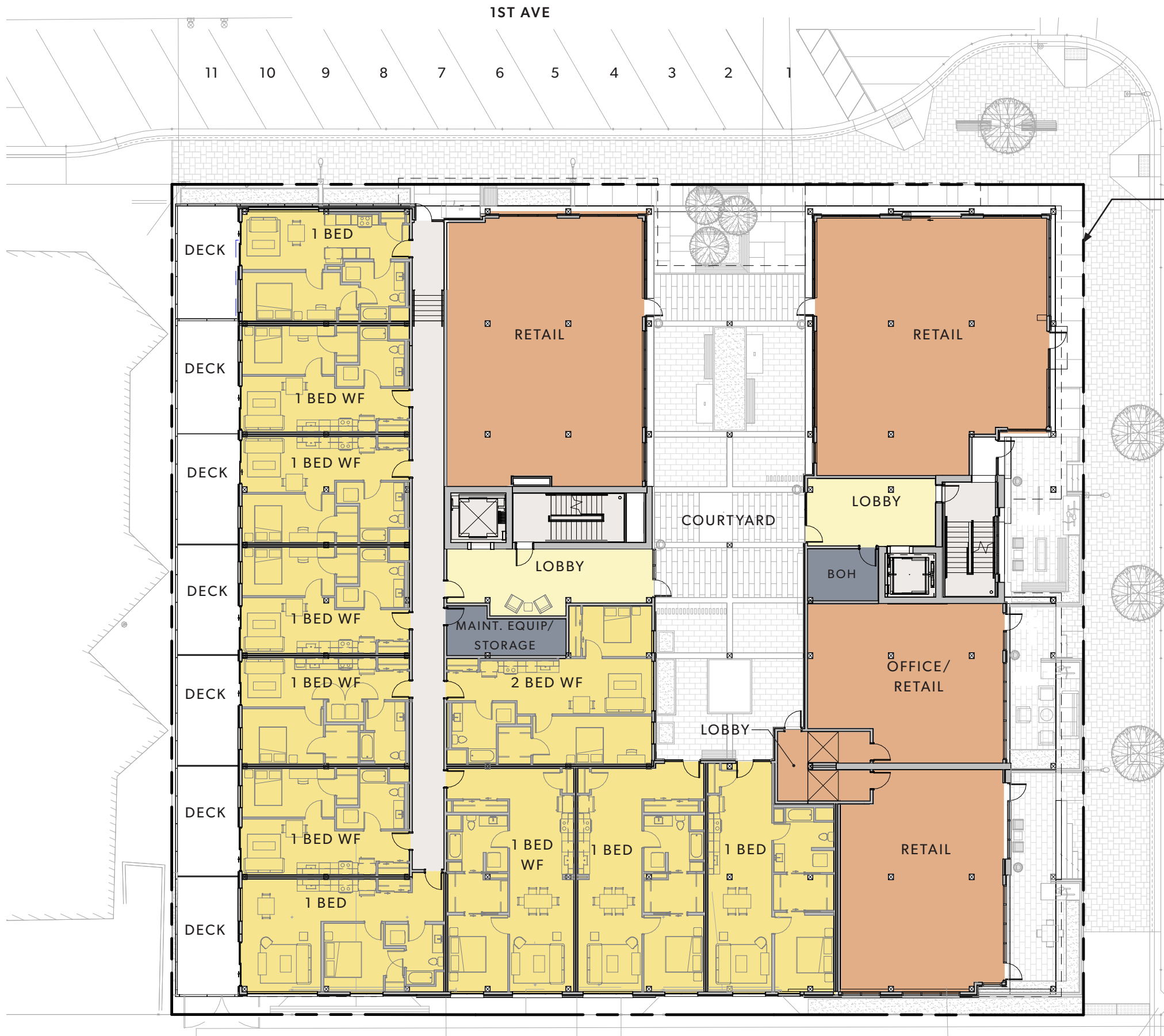
Attachments

- A. The Perry Building: Proposed Community Housing Contribution



Attachment A  
The Perry Building:  
Proposed  
Community Housing  
Contribution





PROPERTY LINE

4TH ST

LEVEL 1  
SCALE: 1" = 20'-0"



LICENSED ARCHITECT  
AR-987252

TINA I RITVAL  
STATE OF IDAHO

*Tina I. Ritval*



PROPERTY LINE

4TH ST

ALLEY

LEVEL 1  
SCALE: 1" = 20'-0"



LICENSED ARCHITECT  
AR-987252

TINA I RITVAL  
STATE OF IDAHO

*Tina I. Ritval*

Attachment 3  
The Perry Building  
FAR Exceedance Agreement 22845

**FAR EXCEEDANCE  
AGREEMENT #22845**

**Parties:**

City of Ketchum	"City"	P.O. Box 2315, 191 W 5 <sup>th</sup> Street, Ketchum, Idaho 83340
The Perry Building LLC	"Owner"	C/O Alston Courtnage & Bassetti LLP, 1420 Fifth Avenue Suite 3650, Seattle, WA 98101

This FAR Exceedance Agreement ("Agreement") is made between the City of Ketchum, a municipal corporation of the state of Idaho, and The Perry Building LLC, a limited liability corporation, the owner of the development project.

**RECITALS**

- A. Pursuant to the City's authority under the Idaho Local Land Use Planning Act, the Ketchum Municipal Code ("K.M.C.") Chapter 17.124 provides for certain development standards, including maximum floor area ratio (FAR) standards under K.M.C. 17.124.040 - Floor Area Ratios and Community Housing. These standards are intended to protect the public interest, health, general welfare, and provision of public services. The City has provided options for development proposals to potentially exceed the allowable FAR in exchange for mitigation of the impacts of such larger development, particularly as focused on affordable community and workforce housing. K.M.C. 17.124.040(B).
- B. Litigation was brought challenging the constitutionality and legality of the City's FAR standards in relation to the inclusionary housing incentive under K.M.C. 17.124.040 that was voluntarily dismissed.
- C. The City has adopted Resolution 17-006 which provides for the Parties to proceed with the FAR standards and options under K.M.C. 17.124.040, so long as the Parties voluntarily opt into a FAR Exceedance Agreement, making clear they are voluntarily opting by contract into use of such FAR standards and mitigation measures and are waiving any claims or demands related to any legal challenge to K.M.C. 17.124.040.

THEREFORE, in consideration of the mutual agreement herein contained and subject to the terms and conditions stated, it is hereby understood and agreed by the Parties as follows:

- 1. **Attestation of Developer.** Developer, by this Agreement, attests that the City has disclosed potential litigation challenging K.M.C. 17.124. Developer desires to voluntarily proceed on the development proposal, including proposal of exceedance of FAR standards and accompanying mitigation measures, using the approach and standards as set forth in K.M.C. 17.124.

2. **Waiver and Release of Claims.** Developer, by this Agreement, waives and releases any claims, demands, challenges, claims for reimbursement or refund, and/or damages now or in the future deriving from or relying on the outcome of future litigation substantially challenging the validity of K.M.C. 17.124 and its standards. It is Developer's intent to accept and proceed with such standards as outlined in K.M.C. 17.124 for Developer's development plan for purposes of allowable FAR and Developer voluntarily and knowingly accepts the mitigation measures as proposed.
3. **FAR Exceedance Consideration.** In consideration for Developer's attestation and waiver, the City agrees to consider their exceedance proposal and will currently consider and evaluate Developer's proposed FAR exceedance and accompanying mitigation measures within the framework and standards of K.M.C. 17.124.040, attached hereto as Exhibit A and made a part of this Agreement.
4. **Maximum FAR and Mitigation.** The Parties hereby agree to an allowable maximum floor area ratio and accompanying mitigation measures as set forth in Exhibit B, attached hereto and made a part of this Agreement.
5. **Withdrawal.** Developer may withdraw from this Agreement upon thirty days notice to City provided that Developer has not commenced building and has received no benefit from a maximum FAR exceedance. Withdrawal shall cause an immediate reversion to the permitted gross FAR as set forth in Exhibit A: K.M.C. 17.124.040(A) at the time of this Agreement.
6. **Amendments.** This Agreement may not be amended, modified, altered or changed in any respect whatsoever, except by further agreement in writing duly executed by the parties.
7. **No Assignment.** Developer shall not sell, assign, or transfer all or any portion of its interest in this Agreement at any time without consent of the City.
8. **Binding Effect.** This Agreement shall be binding upon the heirs, estates, personal representatives, successors, and assigns of the parties.
9. **Attorney Fees and Costs.** In the event any action is brought to enforce this Agreement, the prevailing party is entitled to an award of reasonable attorney fees and costs.
10. **Notices.** Any notice under this Agreement shall be in writing and shall be treated as duly delivered if the same is personally delivered or deposited in the United States mail, certified, return receipt requested, postage prepaid, and properly addressed to the contacts as specified at the beginning of this Agreement.

11. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a way as to be effective and valid under applicable law. If a provision of this Agreement is prohibited by or invalid under applicable law, it shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.
12. **Waiver:** The rights and remedies of the parties to this Agreement are cumulative and not alternative. Neither the failure nor any delay by any party in exercising any right, power, or privilege under this Agreement or the documents referenced in this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege.
13. **Execution and Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original agreement, but all of which shall be considered one instrument.

DATED THIS \_\_\_\_ DAY OF MAY 2023.

Developer

City of Ketchum, Idaho

\_\_\_\_\_  
Carson Palmer  
Managing Member  
The Perry Building LLC

\_\_\_\_\_  
Neil Bradshaw, Mayor

\_\_\_\_\_  
Broderick Smith  
Managing Member  
The Perry Building LLC

Attest:

\_\_\_\_\_  
Trent Donat, City Clerk



STATE OF IDAHO, )  
 ) ss.  
County of Blaine. )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared CARSON PALMER, known to me to be a managing member of THE PERRY BUILDING LLC, and the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF IDAHO, )  
 ) ss.  
County of Blaine. )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared BRODERICK SMITH, known to me to be a managing member of THE PERRY BUILDING LLC, and the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

STATE OF IDAHO        )  
                                  ) ss.  
County of Blaine        )

On this \_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned Notary Public in and for said State, personally appeared NEIL BRADSHAW, known or identified to me to be the Mayor of the CITY OF KETCHUM, IDAHO, and the person who executed the foregoing instrument on behalf of said municipal corporation and acknowledged to me that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission expires \_\_\_\_\_

**17.124.040: FLOOR AREA RATIOS AND COMMUNITY HOUSING:**

- A. General Requirements: All new buildings and alterations to existing buildings in the GR-H, T, T-3000, T-4000 and CC zoning districts, unless otherwise specified in this title, shall be subject to the maximum floor area ratio (FAR) described below. Hotels that meet the definition of "hotel" found in [chapter 17.08](#) of this title may exceed the floor area listed in the table below subject to section [17.124.050](#) of this chapter.

Districts	Permitted Gross FAR	Inclusionary Housing Incentive
GR-H	0.5	1.4
T	0.5	1.6
T-3000	0.5	1.6
T-4000	0.5	1.6
CC	1.0	2.25

B. Inclusionary Housing Incentive:

1. The purpose of this section is to encourage new development to include a reasonable supply of affordable and resident occupied workforce housing for sale or rent, to help meet the demand and needs for housing of the community's employees. Land within the zoning districts specified in the table above may be built to the listed permitted FAR. As an incentive to build community housing units, floor area may be increased up to the maximum FAR listed in said table with inclusionary housing incentive.
2. An increased FAR may be permitted subject to design review approval, and provided, that all of the following conditions are met:
  - a. A minimum of twenty percent (20%) of the total increase in gross floor area above the greater of the permitted FAR is deed restricted in perpetuity as community housing unit(s). Of this gross square footage, a fifteen percent (15%) reduction will be allowed as a standard discount from gross square footage to net livable square footage for community housing units.
  - b. After calculating net livable square footage, an allowance can be made for projects with demonstrated groundwater issues as documented by a registered engineer. Upon determination by the city that groundwater on the subject property precludes underground parking, a credit of three hundred fifty (350) square feet per required parking space shall be subtracted from the net livable square footage prior to the calculation for the twenty percent (20%) deed restricted community housing. Parking space credit shall be rounded to the nearest whole number, and shall not be calculated as fractions.
  - c. Community housing requirements may be paid via a fee in lieu of housing. The community housing units times the fee equals the amount due to the city. The fee in lieu shall be recommended by the governing housing authority on an annual basis and adopted by the city council. For fractions of units, the developer has the option of providing a full housing unit

rather than paying the fee in lieu or working with the city or other nonprofit entity to construct the balance of the community housing unit with additional funds.

- d. All community housing units, either for sale or rent, shall be administered by the governing housing authority, unless otherwise determined by the city council. The governing housing authority shall recommend the types and locations of all proposed community housing units for approval by the city.
  - e. The community housing units shall be targeted for Blaine County housing authority income category 4 (100 percent or less of area median income). The applicant may seek the recommendation of the governing housing authority in the determination of an alternative category with corresponding adjustment in the amount of community housing required. Said recommendation, if mutually agreed upon by the applicant and the commission, may be used in place of category 4. This allowance shall be based on need for the category type. The definition of who may qualify to purchase affordable housing shall be maintained in the guidelines of the governing housing authority as adopted by the city council.
  - f. The city's primary goal is to see the development of and encourage the construction of community housing units, but realizes that other options will also move the city closer to its goal of housing the workforce. With this in mind, the following options for fulfillment of the community housing incentive are available to the applicant outright. These include, but are not limited to:
    - (1) Housing constructed by the applicant on or off site, within the city of Ketchum;
    - (2) Payment of an in lieu fee; or
    - (3) Acquisition of existing housing stock that meets with the governing housing authority's requirements and approval.
  - g. In addition to those outright options noted in this section, the city council may consider alternative proposals by the applicant to fulfill the community housing incentive. The city council has full discretionary power to determine said request. Options for fulfillment of the community housing incentive include, but are not limited to:
    - (1) Land conveyance to the city;
    - (2) Existing housing unit buy down or mortgage buy down; or
    - (3) Other proposals and options as approved by the city council.
3. In the CC district, the maximum floor area incentive applies to buildings up to three (3) stories in height. Buildings above three (3) stories may exceed the 2.25 FAR maximum only in accordance with the pertinent code provisions allowing for a fourth floor (for example, hotels, PUDs and 100 percent community housing project, etc.). For hotel uses, community housing calculations apply to all those portions of the hotel development except the hotel units, which are addressed pursuant to employee housing of this chapter. (Ord. 1135, 2015)

**EXHIBIT B  
EXCEEDANCE AGREEMENT COMPLIANCE**

**PROJECT:** The Perry Building

**APPLICATIONS:** Design Review Application File No. P22-045C  
Lot Consolidation Preliminary Plat Application File No. P22-045A  
Condominium Subdivision Preliminary Plat Application File No. P22-045B  
Variance Request Application File No. P22-045D

**PROPERTY OWNER:** Carson Palmer and Broderick Smith, Managing Members, The Perry Building LLC

**REPRESENTATIVE:** Tiina Ritval (Architect), GGLO

**REQUEST:** Final Design Review, Variance Request, Lot Consolidation Preliminary Plat, and Condominium Subdivision Preliminary Plat applications for the development of a new 53,756 gross-square-foot mixed-use building

**LOCATION:** 131 W 4th Street and 471 & 431 N 1st Avenue  
(Ketchum Townsite: Block 56: Lots 2, 3A, and 4A)

**ZONING:** Mixed-Use Subdistrict of the Community Core (CC-2 Zone)

**BACKGROUND:**

1. The applicant is proposing to develop a new 53,756-gross-square-foot mixed-use building (the “project”) located on three Ketchum townsite lots at the northwest corner of 4<sup>th</sup> Street and 1<sup>st</sup> Avenue (the “subject property”). As proposed, the project includes a parking garage accessed from the alley, 5,929 square feet of retail space within four commercial units on the ground floor with frontage along both 4<sup>th</sup> Street and 1<sup>st</sup> Avenue, and 23 multi-family dwelling units—seven community housing units and sixteen market-rate units.
2. The subject property is located within the Mixed-Use Subdistrict of the Community Core (“CC-2 Zone”). Multi-family dwelling units and retail are permitted uses in the CC-2 Zone.
3. The subject property has an area of 24,723 square feet.
4. The proposed gross floor area of the project is 53,756 square feet with the variance exempting the parking garage.
5. The mixed-use building has a proposed Floor Area Ratio (FAR) of 2.18 (53,756 sf gross floor area/25,723 sf subject property area).

6. The City of Ketchum Planning and Zoning Commission (the “Commission”) reviewed The Perry Building Design Review Application File No. P22-045C, Variance Application File No. P22-045D, Lot Consolidation Preliminary Plat Application File No. P22-045A, and Condominium Subdivision Preliminary Plat Application File No. P22-045B during their meeting on March 14, 2023. The applications were considered concurrently, and the public hearings were combined in accordance with Idaho Code §67-6522. The Commission approved the Design Review and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications.
7. Pursuant to Condition of Approval No. 2 of Design Review Application File No. P22-045C, a FAR Exceedance Agreement between the applicant and the City to memorialize the community housing contribution shall be signed and recorded prior to issuance of a building permit for the project.
8. Pursuant to Condition of Approval No. 9 of Design Review Application File No. P22-045C, the approval is based on the plans and information presented by the applicant at the March 14, 2023 Commission Meeting. The project plans for all on-site improvements submitted for the building permit must conform to the approved Design Review plans unless otherwise approved in writing by the Commission or Administrator.

#### **EXCEEDANCE ANALYSIS**

*The project shall comply with the requirements of Ketchum City Code § 17.124.040 as adopted on the date a building permit is submitted for the project.*

#### **Permitted in Community Core Subdistrict 2 (CC-2)**

Permitted Gross FAR: 1.0

Permitted Gross FAR with Inclusionary Housing Incentive: 2.25

#### **The Perry Building: Proposed FAR**

Proposed Gross Floor Area: 53,756 square feet with variance exempting parking garage

Subject Property Area: 24,723 square feet

Proposed FAR: 2.18 (53,756 sf gross floor area/25,723 sf subject property area)

Increase Above Permitted FAR: 29,033 square feet

20% of Increase: 5,087 square feet

Net Livable (15% Reduction): 4,936 square feet

Community Housing Required in Exchange for FAR Increase: 4,936 square feet

Proposed On-Site Community Housing: 5,014 square feet

#### **The Perry Building: Community Housing Contribution**

As shown on ground-level floor plan, the applicant has proposed mitigating the additional floor area by providing seven on-site community housing units within the new mixed-use building. The Perry Building

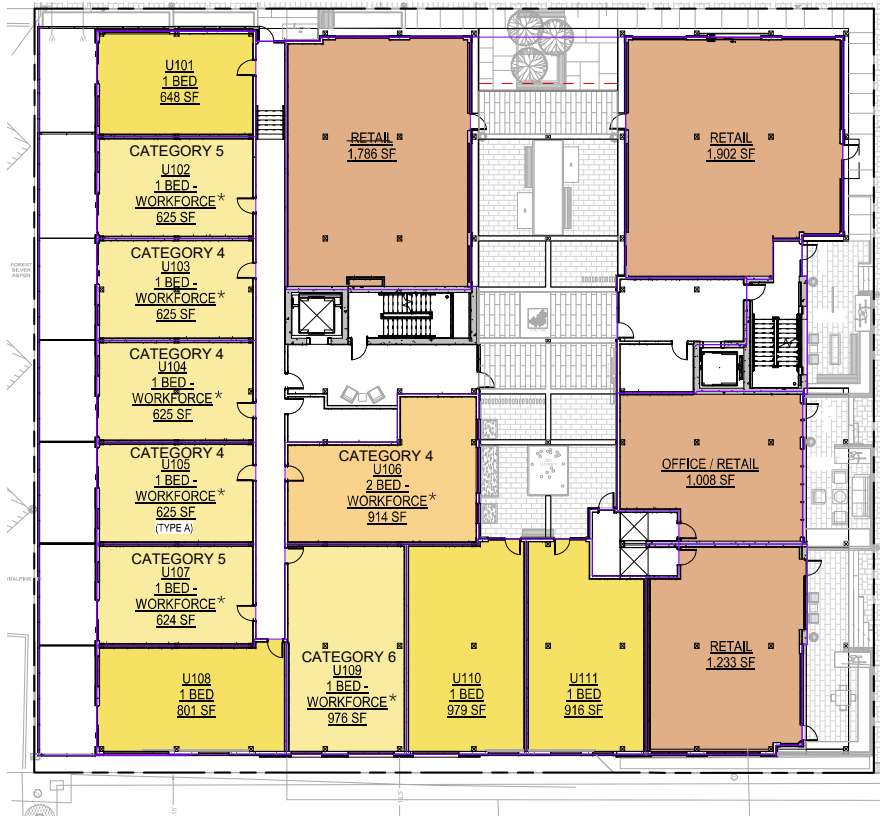
FAR Exceedance Agreement 22845: Exhibit B—Exceedance Analysis

community housing units will be dedicated as deed-restricted rentals. The floor areas and targeted income categories for each of the seven community housing units as shown on the ground-level floor plan are specified in Table 1.

Table 1: The Perry Building Community Housing Contribution			
Unit No.	Bedrooms	Unit Size	Income Category
U104	one bedroom	625 square feet	4
U106	two bedrooms	914 square feet	4
U103	one bedroom	625 square feet	4
U105	one bedroom	625 square feet	4
U102	one bedroom	625 square feet	5
U107	one bedroom	624 square feet	5
U109	one bedroom	976 square feet	6

**The following conditions apply to the community housing contribution for The Perry Building Mixed-Use Development:**

1. Provide seven community housing units dedicated as deed-restricted rentals on the ground floor of the mixed-use building as shown in the attached ground-level floor plan and specified in Table 1. The total floor area of the community housing units is 5,014 square feet.
2. The community housing units shall be targeted for the Blaine County Housing Authority (BCHA) Income Categories specified in Table 1 and shown on the ground-level floor plan. The tenants chosen to occupy the community housing units shall be selected from the BCHA database of qualified households.
3. The community housing units shall be listed for rent through BCHA concurrent with the issuance of a Certificate of Occupancy by the city for the project.
4. The deed covenant for the community housing units shall be recorded prior to Certificate of Occupancy for the mixed-use building and notated on the condominium subdivision final plat.
5. If the total gross square footage of the project changes through building permit application review, a revised community housing contribution may be calculated using the methodology outlined above and approved by the Administrator. Substantial increases or decreases in square footage may require an amendment to this agreement at the discretion of the Administrator.



LEVEL 1

NOT TO SCALE





## Attachment 4

Application Materials & Plan Set:  
Lot Consolidation Preliminary Plat  
Application File No. P22-045A



**City of Ketchum  
Planning & Building**

**OFFICIAL USE ONLY**

Application Number:	P22-045A
Date Received:	11/18/22
By:	HN
Fee Paid:	\$1300
Approved Date:	11/28/22
By:	HN

**Subdivision Application**

Submit completed application to the Planning and Building Department electronically to [planningandzoning@ketchumidaho.org](mailto:planningandzoning@ketchumidaho.org). Once your application has been received, we will review it and contact you with the next steps. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the city website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: The Perry MU			
Owner of Record: The Perry Building, L.L.C.			
Address of Owner: 100 Lindsay Circle, Ketchum, ID 83340			
Representative of Owner: Carson Palmer, Broderick Smith			
Legal Description: Lot 2, 3A, & 4A, Block 56, Ketchum Townsite RPK: RPK00000560020, RPK0000056003A, & RPK0000056004A			
Street Address: 471 N 1st Ave., 431 N 1st Ave., & 131 W 4th St., Ketchum, ID 83340			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 3 Lots, Consolidating to 1 Lot (Lot 2A)			
Total Land Area: 24,723 SF (0.57 Acres)			
Current Zoning District: CC-2 (Community-Core Mixed)			
Proposed Zoning District: CC-2 (Community-Core Mixed)			
Overlay District: n/a			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input checked="" type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: n/a			
Briefly describe the improvements to be installed prior to final plat approval: This is an application for a Lot Line Consolidation in Ketchum's Downtown District - Subdivision Application.			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations One (1) copy of current title report and owner's recorded deed to the subject property One (1) copy of the preliminary plat All files should be submitted in an electronic format to <a href="mailto:planningandzoning@ketchumidaho.org">planningandzoning@ketchumidaho.org</a>			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortious conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

  
Applicant Signature

11/16/22  
Date



## CITY OF KETCHUM SUBDIVISION RECORDING PROCEDURES AND PLAT CERTIFICATES

### Recording Procedures

Once a subdivision application is approved by the Ketchum City Council, signature and recording of plats shall be completed using the following process:

1. Applicant prints all sheets of the plat on mylar, with all required certificates, and gathers signatures from the owner, surveyor, and health department.
2. Applicant delivers all mylar sheets to Ketchum City Hall, 191 W 5<sup>th</sup> Street addressed to the Staff Planner on the application.
3. Staff Planner will gather required signatures from the City Engineer and City Clerk and sign the plat.
4. Once all signatures have been gathered, the Staff Planner will notify the applicant that the plat is ready for pick-up at City Hall.
5. The applicant is responsible for gathering all remaining signatures and recording the plat with the Blaine County Clerk and Recorder.

Per Section 16.04.030.K of the Ketchum Municipal Code, the following certificates are required for subdivision plats for property within the City of Ketchum:

- Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
- Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
- Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all City requirements.
- Certification and signature of the City Engineer verifying that the subdivision and design standards meet all City requirements.
- Certification and signature of the City Clerk of the City of Ketchum verifying that the subdivision has been approved by the council.



City of Ketchum  
Planning & Building

**Plat Certificates** - The following certificate language shall be included on all plats for property within the Ketchum City Limits. The certificates listed below are in addition to certificates required by Blaine County.

Ketchum City Council Certificate

I, the undersigned, City Clerk, in and for the City of Ketchum, Blaine County, Idaho, do hereby certify that at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_ 2022, this plat was duly accepted and approved.

\_\_\_\_\_  
Tara Fenwick, City Clerk, City of Ketchum

City Engineer Certificate

I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2022, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
Sherri Newland, City Engineer, City of Ketchum

City Planner Certificate

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2022, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
[insert name of planner], City of Ketchum

**The following plat certificate is only required for all new subdivisions or projects that require the expertise of a civil engineer.**

Project Engineer Certificate

I, the undersigned, project engineer for the [insert name of plat] certify that the subdivision is in accordance with the City of Ketchum Subdivision standards.

\_\_\_\_\_  
[Insert Engineer Name], [Insert Company Name]

**For questions or comments on the information provided above, please contact the Planning Department at [planningandzoning@ketchumidaho.org](mailto:planningandzoning@ketchumidaho.org) or call (208) 726-7801.**



**CLTA GUARANTEE**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY  
A CORPORATION, HEREIN CALLED THE COMPANY

**SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, AND SUBJECT TO THE FURTHER EXCLUSION AND LIMITATION THAT NO GUARANTEE IS GIVEN NOR LIABILITY ASSUMED WITH RESPECT TO THE IDENTITY OF ANY PARTY NAMED OR REFERRED TO IN SCHEDULE A OR WITH RESPECT TO THE VALIDITY, LEGAL EFFECT OR PRIORITY OF ANY MATTER SHOWN THEREIN.**

**GUARANTEES**

the Assured named in Schedule A against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

**Dated: September 30, 2022**

Signed under seal for the Company, but this endorsement is to be valid only when it bears an authorized countersignature.

Countersigned by:

\_\_\_\_\_  
Authorized Countersignature

\_\_\_\_\_  
TitleOne  
Company Name

\_\_\_\_\_  
271 1st Ave North  
PO Box 2365  
Ketchum, ID 83340  
\_\_\_\_\_  
City, State



\_\_\_\_\_  
Frederick H. Eppinger  
President and CEO

\_\_\_\_\_  
David Hisey  
Secretary

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the company for further information as to the availability and cost.

## GUARANTEE CONDITIONS AND STIPULATIONS

- 1. Definition of Terms** - The following terms when used in the Guarantee mean:
  - (a) "the Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
  - (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
  - (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
  - (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
  - (e) "date": the effective date.
- 2. Exclusions from Coverage of this Guarantee** - The Company assumes no liability for loss or damage by reason of the following:
  - (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
  - (b) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water; whether or not the matters excluded by (1), (2) or (3) are shown by the public records.
  - (c) Assurances to title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A)(C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
  - (d) (1) Defects, liens, encumbrances or adverse claims against the title, if assurances are provided as to such title, and as limited by such assurances.  
(2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records, and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of assurances provided.
- 3. Notice of Claim to be Given by Assured Claimant** - An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.
- 4. No Duty to Defend or Prosecute** - The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.
- 5. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate** - Even though the Company has no duty to defend or prosecute as set forth in Paragraph 4 above:
  - (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
  - (b) If the Company elects to exercise its options as stated in Paragraph 5(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
  - (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
  - (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.
- 6. Proof of Loss or Damage** - In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by an authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.
- 7. Options to Pay or Otherwise Settle Claims: Termination of Liability** - In case of a claim under this Guarantee, the Company shall have the following additional options:
  - (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

## GUARANTEE CONDITIONS AND STIPULATIONS

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price. Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5, and the Guarantee shall be surrendered to the Company of cancellation.

- (b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5.

- 8. Determination and Extent of Liability** - This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the exclusions stated in Paragraph 2.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- the amount of liability stated in Schedule A;
- the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 7 of these Conditions and Stipulations or as reduced under Section 10 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
- the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

**9. Limitation of Liability**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

- 10. Reduction of Liability or Termination of Liability** - All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 5 shall reduce the amount of liability pro tanto.

**11. Payment Loss**

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

- 12. Subrogation Upon Payment or Settlement** - Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

- 13. Arbitration** - Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules. A copy of the Rules may be obtained from the Company upon request.

**14. Liability Limited to This Guarantee; Guarantee Entire Contract**

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

- 15. Notices, Where Sent** - All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at P. O. Box 2029, Houston, TX 77252-2029.

**LOT BOOK GUARANTEE**  
**Issued By**  
**Stewart Title Guaranty Company**

**SCHEDULE A**

**File No.** 22463680  
**State:** ID  
**County:** Blaine

<u>Guarantee No.</u>	<u>Liability</u>	<u>Date of Guarantee</u>	<u>Fee</u>
G-0000715795778	\$1,000.00	September 30, 2022 at 7:30 a.m.	\$200.00

**Name of Assured:**  
Galena Engineering

The assurances referred to on the face page hereof are:

1. That, according to the Company's property records relative to the following described land (but without examination of those Company records maintained and indexed by name):

Parcel I

Lot 2, Block 56 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

Parcel II and III

Lots 3A and 4A, Block 56, KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 403336, records of Blaine County, Idaho.

2. The last recorded instrument purporting to transfer title to said land is:

Deed Type: Warranty Deed  
Grantors: 431-471 N. 1st Avenue, LLC, an Idaho limited liability company  
Grantees: Center of Ketchum LLC, a Washington limited liability company  
Recorded Date: March 29, 2021  
Instrument: 680819  
[Click here to view](#)

Affects Lots 2 and 3A

Deed Type: Warranty Deed  
Grantors: Harry Investments, LLC, an Idaho limited liability company  
Grantees: The Perry Building LLC, a Washington limited liability company  
Recorded Date: June 30, 2021  
Instrument: 684042  
[Click here to view](#)

Affects Lot 4A

3. There are no mortgages or deeds of trust which purport to affect title to said land, other than those shown below under Exceptions.
4. There are no (homesteads, agreements to convey, attachments, notices of non-responsibility, notices of completion, tax deeds) which purport to affect title to said land, other than shown below under Exceptions.



5. No guarantee is made regarding (a) matters affecting the beneficial interest of any mortgage or deed of trust which may be shown herein as an exception, or (b) other matters which may affect any such mortgage or deed of trust.
6. No guarantee is made regarding any liens, claims of liens, defects or encumbrances other than those specifically provided for above, and, if information was requested by reference to a street address, no guarantee is made that said land is the same as said address.

**EXCEPTIONS:**

1. NOTE: According to the available records, the purported address of the land referenced herein is:

131 W 4th St, Ketchum, ID 83340

431 N 1st Ave, Ketchum, ID 83340

471 N 1st Ave, Ketchum, ID 83340

2. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK00000560020](#)

Original Amount: \$5,363.44

Affects Lot 2

3. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK0000056003A](#)

Original Amount: \$5,418.68

Affects Lot 3A

4. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK0000056004A](#)

Original Amount: \$8,407.66

Affects Lot 4A

5. Taxes, including any assessments collected therewith, for the year 2022 which are a lien not yet due and payable.

6. The land described herein is located within the boundaries of the City of Ketchum and is subject to any assessments levied thereby.

7. Easements, reservations, restrictions, and dedications as shown on the official plat of [Ketchum Townsite](#).

8. Easements, reservations, restrictions, and dedications as shown on the official plat of [Ketchum: Block 56: Lots 3A and 4A](#).

9. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded December 26, 1917 as Instrument No. [38922](#), records of Blaine County, Idaho.

10. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded June 23, 1947 as Instrument No. [91864](#), records of Blaine County, Idaho.

11. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded July 1, 1947 as Instrument No. [91974](#), records of Blaine County, Idaho.

12. Right of way for ditches, tunnels, telephone, and distribution lines constructed by authority of the United States, as granted to the United States under the provisions of Section 58-604 Idaho Code.

13. All matters, and any rights, easements, interests or claims as disclosed by a Record of Survey recorded September 9, 1980 as Instrument No. [203470](#), records of Blaine County, Idaho.

14. All matters, and any rights, easements, interests or claims as disclosed by a Record of Survey recorded January 11, 2021 as Instrument No. [678114](#), records of Blaine County, Idaho.

Sun Valley Title  
By:

A handwritten signature in black ink, appearing to be 'NB' or similar initials, written in a cursive style.

Nick Busdon, Authorized Signatory

**JUDGMENT AND TAX LIEN GUARANTEE**

Issued By  
Stewart Title Guaranty Company

**SCHEDULE A**

**Amount of Liability:** \$1,000.00

**Fee Amount:** \$0.00

**Guarantee No.:** G-0000715795778

**Name of Assured:** Galena Engineering

**Date of Guarantee:** September 30, 2022

That, according to the indices of the County Recorder of Blaine County, State of ID, for a period of 10 years immediately prior to the date hereof, there are no

- \* Federal Tax Liens
- \* Abstracts of Judgment, or
- \* Certificates of State Tax Liens

filed, or recorded against the herein named parties, other than those for which a release appears in said indices and other than those shown under Exceptions.

The parties referred to in this guarantee are as follows:

Parcel I and II

Center of Ketchum LLC, a Washington limited liability company

Parcel III

The Perry Building LLC, a Washington limited liability company

Sun Valley Title  
By:



Nick Busdon, Authorized Signatory

SCHEDULE B

Exceptions:


NONE

**Instrument # 680819**

HAILEY, BLAINE, IDAHO  
03-29-2021 8:11:20 AM No. of Pages: 2  
Recorded for: TITLEONE - TWIN FALLS  
JOLYNN DRAGE Fee: \$15.00  
Ex-Officio Recorder Deputy: JB  
Electronically Recorded by Simplifile

Order Number: 21400671

**Sun Valley Title**

 A TitleOne Company

**Warranty Deed**

For value received,

**431-471 N. 1st Avenue, LLC, an Idaho limited liability company**

the grantor, does hereby grant, bargain, sell, and convey unto

**Center of Ketchum LLC, a Washington limited liability company**

whose current address is PO Box 7146 Ketchum, ID 83340

the grantee, the following described premises, in Blaine County, Idaho, to wit:

Lot 2, Block 56 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho

AND

Lot 3A, Block 56 of KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 403336, records of Blaine County, Idaho.

To have and to hold the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Order Number: 21400671

Warranty Deed - Page 1 of 2

Dated: March 18, 2021

431-471 N. 1st Avenue, LLC, an Idaho limited liability company

[Signature]  
By: Charles P. Stevenson, Jr., Sole Member

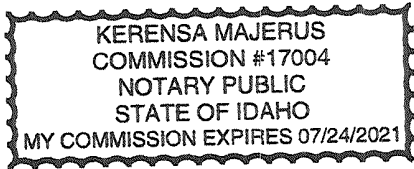
State of Idaho,

County of Blaine, ss.

On this 26 day of MARCH 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles P. Stevenson, Jr., known or identified to me to be a Sole Member of the limited liability company that executed the within instrument and acknowledged to me that he executed the same for and on behalf of said limited liability company and that such limited liability company executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]  
Notary Public for Idaho  
Residing In: Ketchum  
My Commission Expires: 7.24.21





**WARRANTY DEED**

FOR VALUE RECEIVED

Harry Investments, LLC, an Idaho Limited Liability Company,

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

The Perry Building LLC, a Washington limited liability company

the Grantee, whose current address is: c/o Alston, Courtnage & Bassetti LLP, 1420 Fifth Avenue, Suite 3650, Seattle, WA 98101-4011

the following described premises, to-wit:

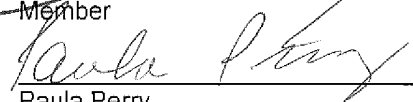
Lot 4A in Block 56 of KETCHUM: BLOCK 56: LOTS 3A AND 4A, according to the official plat thereof, recorded June 30, 1997 as Instrument No. 403336, records of Blaine County, Idaho.


**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated this 29 day of June, 2021.

HARRY INVESTMENTS, LLC

  
\_\_\_\_\_  
Scott Harder  
Member

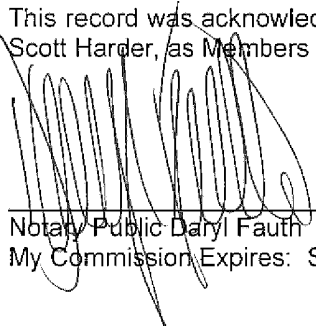
  
\_\_\_\_\_  
Paula Perry  
Member

  
\_\_\_\_\_  
Keith Perry

Member

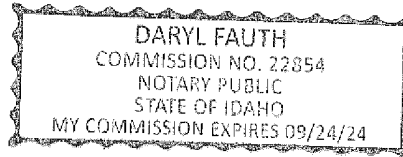
State of Idaho  
County of Blaine

This record was acknowledged before me on 29<sup>th</sup> day of June, 2021, by Keith Perry, Paula Perry, and Scott Harder, as Members of Harry Investments, LLC.



\_\_\_\_\_  
Notary Public Daryl Fauth  
My Commission Expires: September 24, 2024

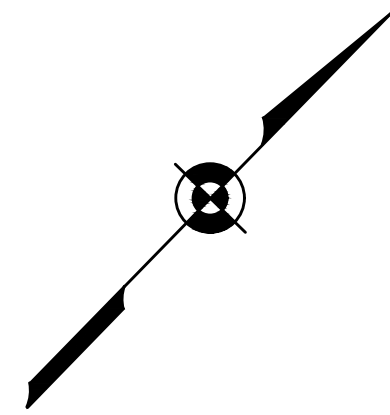
(STAMP)



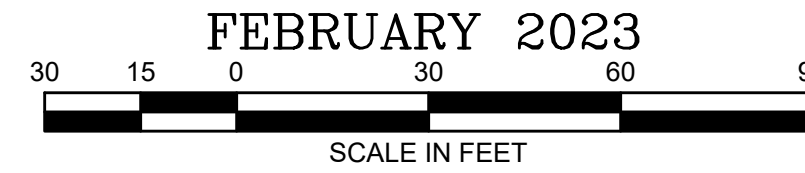


# A PLAT SHOWING LOT 2A, BLOCK 56, KETCHUM TOWNSITE

WHEREIN THE INTERIOR LOT LINES OF LOTS 2, 3A & 4A, BLOCK 56, KETCHUM TOWNSITE, ARE VACATED AS SHOWN HEREON  
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO



SCALE: 1" = 30'

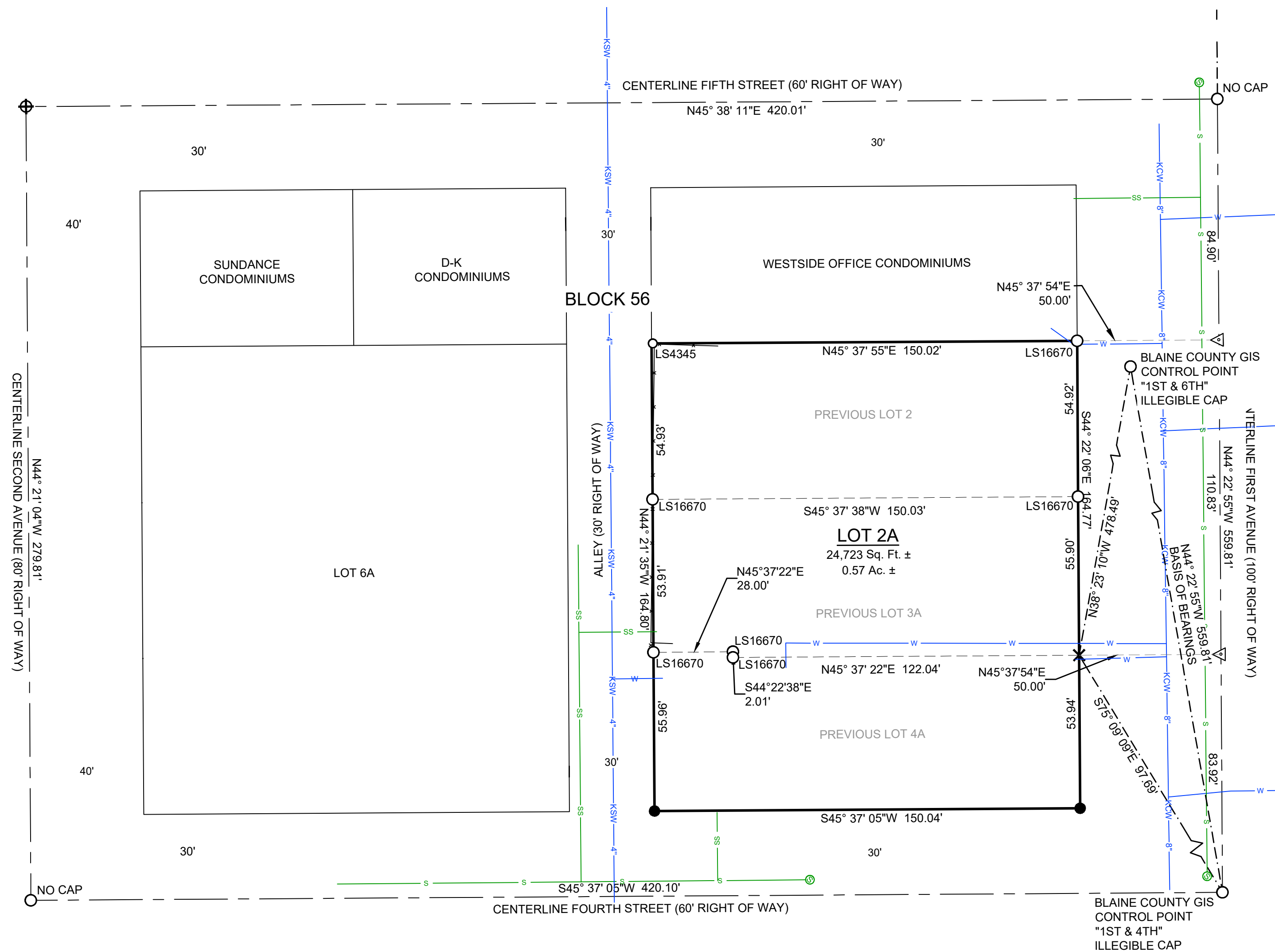


### LEGEND

- Property Line
- Lot Line to be Vacated
- Adjoiner's Lot Line
- Centerline of Right of Way
- Fence Line
- Survey Tie Line
- GIS Tie Line
- KCW 8" Ketchum City Water
- KSW 4" Ketchum SpringLine Water
- W Water Service Tie Line
- S Sewer Main
- SS Sewer Service
- Sewer Manhole
- Found Magnetic Nail
- Calculated Point, Not Set
- Found 1" Survey Marker
- Found 1/2" Rebar
- Found 5/8" Rebar
- Set 5/8" Rebar, P.L.S. 16670

### SURVEY NARRATIVE & NOTES

1. The purpose of this survey is to show the monuments found and set during the boundary retracement of Lot 2A, Block 56, Ketchum Townsite. The boundary shown is based on found centerline monuments, on the recorded plat of Ketchum: Block 56: Lots 3A and 4A, Instrument Number 403336 and the plat of the Village of Ketchum, Instrument Number 302962, both records of Blaine County, Idaho. All found monuments have been accepted. The missing monuments were reset by block breakdown and proportioning record distances between found monuments. Additional documents used during the course of this survey include the Record of Survey for Lots 2 & 3A, Block 56, Ketchum Townsite, Instrument Number 678114, the Record of Survey for D-K Condos, The N.E. 1/2 of Lots 5, Block 56, Ketchum Townsite, Instrument Number 694650, the plat of Ketchum, Block 56, Lot 6A, Instrument Number 438337 and the plat for D-K Condominiums, Instrument Number 195387, all records of Blaine County, Idaho.
2. The distances shown are measured. Refer to the above referenced documents for previous record data.
3. This survey does not purport to reflect any of the following which may be applicable to subject real property: natural hazards, encroachments, wetlands, ditches, easements, building setbacks, restrictive covenants, subdivision restrictions, zoning or any other land-use regulations.
4. A Title Commitment for Lot 2, Block 56, Village of Ketchum, Blaine County, Idaho and Lots 3A and 4A, Block 56, Ketchum: Block 56: Lots 3A and 4A, Blaine County, Idaho, have been issued by Stewart Title Guaranty Company, File Number 22463680, with a Date of Guarantee of September 30, 2022. Certain information contained in said title policy may not appear on this map or may affect items shown hereon. It is the responsibility of the owner or agent to review said title policy. All plottable encumbrances and easements listed in the title report are shown hereon. Review of specific documents is required, if further information is desired.
5. Zoning is CC-2, Community Core-Mixed Use Zone. Refer to City of Ketchum Zoning Ordinance for more specific information about this zone.
6. The owner/subdivider is The Perry Building L.L.C., c/o Alston, Courtnage & Bassetti L.L.P. 1420 Fifth Ave. Ste. 3650 Seattle, WA 98101-4011. The surveyor/representative is Mark E. Phillips, Galena Engineering, Inc., 317 N. River St., Hailey, Idaho 83333.



MARK E. PHILLIPS, P.L.S. 16670

LOT 2A, BLOCK 56,  
KETCHUM TOWNSITE

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

SHEET 1 OF 2  
Job No. 8059-02

**CERTIFICATE OF OWNERSHIP**

This is to certify that the undersigned is the owner in fee simple of the following described parcel of land:

A parcel of land located within Section 13, T.4N., R.17E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

- LOT 2, BLOCK 56, VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO
- LOT 3A, BLOCK 56, KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO
- LOT 4A IN BLOCK 56 OF KETCHUM: BLOCK 56: LOTS 3A AND 4A

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements.

I do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of units shown within this plat.

It is the intent of the owner to hereby include said land in this plat.

- LOT 2, BLOCK 56, VILLAGE OF KETCHUM, BLAINE COUNTY IDAHO
- LOT 3A, BLOCK 56, KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO

Center of Ketchum L.L.C., A Washington Limited Liability Company.  
By: Carson Palmer, Member/Manager

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss

On this \_\_\_\_ day of \_\_\_\_\_ 2023, before me, a Notary Public in and for said State, personally appeared Carson Palmer, known or identified to me to be a Member/Manager of the Center of Ketchum L.L.C., a Washington Limited Liability Company, and acknowledged to me that he executed the same in said Limited Liability Company name

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for said State  
Residing in \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

LOT 4A IN BLOCK 56 OF KETCHUM: BLOCK 56: LOTS 3A AND 4A

The Perry Building L.L.C., A Washington Limited Liability Company.  
By: Carson Palmer, Member/Manager

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss

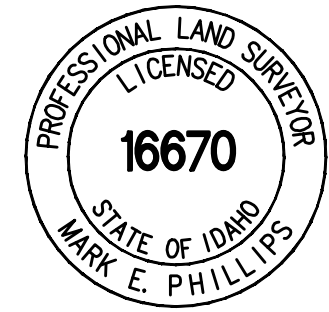
On this \_\_\_\_ day of \_\_\_\_\_ 2023, before me, a Notary Public in and for said State, personally appeared Carson Palmer, known or identified to me to be a Member/Manager of The Perry Building L.L.C., a Washington Limited Liability Company, and acknowledged to me that he executed the same in said Limited Liability Company name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for said State  
Residing in \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and Condominiums and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.



MARK E. PHILLIPS, P.L.S. 16670

**BLAINE COUNTY SURVEYOR'S APPROVAL**

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys.

\_\_\_\_\_  
Sam Young, P.L.S. 11577  
Blaine County Surveyor

**KETCHUM CITY COUNCIL CERTIFICATE**

I, the undersigned, City Clerk, in and for the City of Ketchum, Blaine County, Idaho, do hereby certify that at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2023, this plat was duly accepted and approved.

\_\_\_\_\_  
Lisa Enourato, Interim City Clerk, City of Ketchum

**KETCHUM CITY ENGINEER CERTIFICATE**

I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
Robyn Mattison, City Engineer, City of Ketchum

**KETCHUM CITY PLANNER CERTIFICATE**

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
Abby Rivin, Senior Planner, City of Ketchum

**BLAINE COUNTY TREASURER'S APPROVAL**

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

\_\_\_\_\_  
Blaine County Treasurer

\_\_\_\_\_  
Date

**BLAINE COUNTY RECORDER'S CERTIFICATE**

LOT 2A, BLOCK 56,  
KETCHUM TOWNSITE

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

SHEET 1 OF 2  
Job No. 8059-02

Attachment 5  
Application Materials & Plan Set:  
Condominium Subdivision  
Preliminary Plat  
Application File No. P22-045B



**City of Ketchum  
Planning & Building**

OFFICIAL USE ONLY
Application Number:
Date Received:
By:
Fee Paid:
Approved Date:
By:

**Subdivision Application**

Submit completed application to the Planning and Building Department electronically to [planningandzoning@ketchumidaho.org](mailto:planningandzoning@ketchumidaho.org). Once your application has been received, we will review it and contact you with the next steps. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the city website at: [www.ketchumidaho.org](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: The Perry MU			
Owner of Record: The Perry Building, L.L.C.			
Address of Owner: 100 Lindsay Circle, Ketchum, ID 83349			
Representative of Owner: Carson Palmer, Broderick Smith			
Legal Description: Lot 2A, Block 56, Ketchum Townsite RPK 0000056004A			
Street Address: 131 4th St. W, Ketchum, ID 83340			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 1			
Total Land Area: 24,723 SF (0.57 Acres)			
Current Zoning District: CC-2 (Community-Core Mixed)			
Proposed Zoning District: CC-2 (Community-Core Mixed)			
Overlay District: n/a			
TYPE OF SUBDIVISION			
Condominium <input checked="" type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: n/a			
Briefly describe the improvements to be installed prior to final plat approval: Construction of a three story mixed-use commercial and residential building, with underground parking garage.			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations One (1) copy of current title report and owner's recorded deed to the subject property One (1) copy of the preliminary plat All files should be submitted in an electronic format to <a href="mailto:planningandzoning@ketchumidaho.org">planningandzoning@ketchumidaho.org</a>			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe all City ordinances, laws and conditions imposed. Applicant agrees to defend, hold harmless and indemnify the City of Ketchum, city officials, agents and employees from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property, and losses and expenses caused or incurred by Applicant, its servants, agents, employees, guests and business invitees and not caused by or arising out of the tortuous conduct of city or its officials, agents or employees. Applicant certifies that s/he has read and examined this application and that all information contained herein is true and correct.

Applicant Signature \_\_\_\_\_

Date \_\_\_\_\_



**CLTA GUARANTEE**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY  
A CORPORATION, HEREIN CALLED THE COMPANY

**SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE, AND SUBJECT TO THE FURTHER EXCLUSION AND LIMITATION THAT NO GUARANTEE IS GIVEN NOR LIABILITY ASSUMED WITH RESPECT TO THE IDENTITY OF ANY PARTY NAMED OR REFERRED TO IN SCHEDULE A OR WITH RESPECT TO THE VALIDITY, LEGAL EFFECT OR PRIORITY OF ANY MATTER SHOWN THEREIN.**

**GUARANTEES**

the Assured named in Schedule A against actual monetary loss or damage not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

**Dated: September 30, 2022**

Signed under seal for the Company, but this endorsement is to be valid only when it bears an authorized countersignature.


Countersigned by:


\_\_\_\_\_  
Authorized Countersignature

\_\_\_\_\_  
TitleOne  
Company Name

\_\_\_\_\_  
271 1st Ave North  
PO Box 2365  
Ketchum, ID 83340  
\_\_\_\_\_  
City, State



  
\_\_\_\_\_  
Frederick H. Eppinger  
President and CEO

  
\_\_\_\_\_  
David Hisey  
Secretary

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the company for further information as to the availability and cost.

## GUARANTEE CONDITIONS AND STIPULATIONS

- 1. Definition of Terms** - The following terms when used in the Guarantee mean:
  - (a) "the Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
  - (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
  - (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
  - (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
  - (e) "date": the effective date.
- 2. Exclusions from Coverage of this Guarantee** - The Company assumes no liability for loss or damage by reason of the following:
  - (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
  - (b) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water; whether or not the matters excluded by (1), (2) or (3) are shown by the public records.
  - (c) Assurances to title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A)(C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
  - (d) (1) Defects, liens, encumbrances or adverse claims against the title, if assurances are provided as to such title, and as limited by such assurances.  
(2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records, and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of assurances provided.
- 3. Notice of Claim to be Given by Assured Claimant** - An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.
- 4. No Duty to Defend or Prosecute** - The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.
- 5. Company's Option to Defend or Prosecute Actions; Duty of Assured Claimant to Cooperate** - Even though the Company has no duty to defend or prosecute as set forth in Paragraph 4 above:
  - (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
  - (b) If the Company elects to exercise its options as stated in Paragraph 5(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
  - (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
  - (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.
- 6. Proof of Loss or Damage** - In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such Assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by an authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.
- 7. Options to Pay or Otherwise Settle Claims: Termination of Liability** - In case of a claim under this Guarantee, the Company shall have the following additional options:
  - (a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

## GUARANTEE CONDITIONS AND STIPULATIONS

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price. Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5, and the Guarantee shall be surrendered to the Company of cancellation.

- (b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 5.

- 8. Determination and Extent of Liability** - This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the exclusions stated in Paragraph 2.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

- (a) the amount of liability stated in Schedule A;
- (b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 7 of these Conditions and Stipulations or as reduced under Section 10 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or
- (c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

**9. Limitation of Liability**

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.

(c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

- 10. Reduction of Liability or Termination of Liability** - All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 5 shall reduce the amount of liability pro tanto.

**11. Payment Loss**

(a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

- 12. Subrogation Upon Payment or Settlement** - Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

- 13. Arbitration** - Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules. A copy of the Rules may be obtained from the Company upon request.

**14. Liability Limited to This Guarantee; Guarantee Entire Contract**

(a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.

(c) No amendment or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

- 15. Notices, Where Sent** - All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at P. O. Box 2029, Houston, TX 77252-2029.

**LOT BOOK GUARANTEE**  
**Issued By**  
**Stewart Title Guaranty Company**

**SCHEDULE A**

**File No.** 22463680  
**State:** ID  
**County:** Blaine

<u>Guarantee No.</u>	<u>Liability</u>	<u>Date of Guarantee</u>	<u>Fee</u>
G-0000715795778	\$1,000.00	September 30, 2022 at 7:30 a.m.	\$200.00

**Name of Assured:**  
Galena Engineering

The assurances referred to on the face page hereof are:

1. That, according to the Company's property records relative to the following described land (but without examination of those Company records maintained and indexed by name):

Parcel I

Lot 2, Block 56 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

Parcel II and III

Lots 3A and 4A, Block 56, KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 403336, records of Blaine County, Idaho.

2. The last recorded instrument purporting to transfer title to said land is:

Deed Type: Warranty Deed  
Grantors: 431-471 N. 1st Avenue, LLC, an Idaho limited liability company  
Grantees: Center of Ketchum LLC, a Washington limited liability company  
Recorded Date: March 29, 2021  
Instrument: 680819  
[Click here to view](#)

Affects Lots 2 and 3A

Deed Type: Warranty Deed  
Grantors: Harry Investments, LLC, an Idaho limited liability company  
Grantees: The Perry Building LLC, a Washington limited liability company  
Recorded Date: June 30, 2021  
Instrument: 684042  
[Click here to view](#)

Affects Lot 4A

3. There are no mortgages or deeds of trust which purport to affect title to said land, other than those shown below under Exceptions.
4. There are no (homesteads, agreements to convey, attachments, notices of non-responsibility, notices of completion, tax deeds) which purport to affect title to said land, other than shown below under Exceptions.



5. No guarantee is made regarding (a) matters affecting the beneficial interest of any mortgage or deed of trust which may be shown herein as an exception, or (b) other matters which may affect any such mortgage or deed of trust.
6. No guarantee is made regarding any liens, claims of liens, defects or encumbrances other than those specifically provided for above, and, if information was requested by reference to a street address, no guarantee is made that said land is the same as said address.

**EXCEPTIONS:**

1. NOTE: According to the available records, the purported address of the land referenced herein is:

131 W 4th St, Ketchum, ID 83340

431 N 1st Ave, Ketchum, ID 83340

471 N 1st Ave, Ketchum, ID 83340

2. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK00000560020](#)

Original Amount: \$5,363.44

Affects Lot 2

3. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK0000056003A](#)

Original Amount: \$5,418.68

Affects Lot 3A

4. Taxes for the year 2021 are paid in full.

Parcel Number: [RPK0000056004A](#)

Original Amount: \$8,407.66

Affects Lot 4A

5. Taxes, including any assessments collected therewith, for the year 2022 which are a lien not yet due and payable.

6. The land described herein is located within the boundaries of the City of Ketchum and is subject to any assessments levied thereby.

7. Easements, reservations, restrictions, and dedications as shown on the official plat of [Ketchum Townsite](#).

8. Easements, reservations, restrictions, and dedications as shown on the official plat of [Ketchum: Block 56: Lots 3A and 4A](#).

9. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded December 26, 1917 as Instrument No. [38922](#), records of Blaine County, Idaho.

10. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded June 23, 1947 as Instrument No. [91864](#), records of Blaine County, Idaho.

11. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded July 1, 1947 as Instrument No. [91974](#), records of Blaine County, Idaho.

12. Right of way for ditches, tunnels, telephone, and distribution lines constructed by authority of the United States, as granted to the United States under the provisions of Section 58-604 Idaho Code.

13. All matters, and any rights, easements, interests or claims as disclosed by a Record of Survey recorded September 9, 1980 as Instrument No. [203470](#), records of Blaine County, Idaho.

14. All matters, and any rights, easements, interests or claims as disclosed by a Record of Survey recorded January 11, 2021 as Instrument No. [678114](#), records of Blaine County, Idaho.

Sun Valley Title  
By:

A handwritten signature in black ink, appearing to be 'NB' or similar initials, written in a cursive style.

Nick Busdon, Authorized Signatory

**JUDGMENT AND TAX LIEN GUARANTEE**

Issued By  
Stewart Title Guaranty Company

**SCHEDULE A**

**Amount of Liability:** \$1,000.00

**Fee Amount:** \$0.00

**Guarantee No.:** G-0000715795778

**Name of Assured:** Galena Engineering

**Date of Guarantee:** September 30, 2022

That, according to the indices of the County Recorder of Blaine County, State of ID, for a period of 10 years immediately prior to the date hereof, there are no

- \* Federal Tax Liens
- \* Abstracts of Judgment, or
- \* Certificates of State Tax Liens

filed, or recorded against the herein named parties, other than those for which a release appears in said indices and other than those shown under Exceptions.

The parties referred to in this guarantee are as follows:

Parcel I and II

Center of Ketchum LLC, a Washington limited liability company

Parcel III

The Perry Building LLC, a Washington limited liability company

Sun Valley Title  
By:



Nick Busdon, Authorized Signatory

SCHEDULE B

Exceptions:


NONE

**Instrument # 680819**

HAILEY, BLAINE, IDAHO  
03-29-2021 8:11:20 AM No. of Pages: 2  
Recorded for: TITLEONE - TWIN FALLS  
JOLYNN DRAGE Fee: \$15.00  
Ex-Officio Recorder Deputy: JB  
Electronically Recorded by Simplifile

Order Number: 21400671

**Sun Valley Title**

 A TitleOne Company

**Warranty Deed**

For value received,

**431-471 N. 1st Avenue, LLC, an Idaho limited liability company**

the grantor, does hereby grant, bargain, sell, and convey unto

**Center of Ketchum LLC, a Washington limited liability company**

whose current address is PO Box 7146 Ketchum, ID 83340

the grantee, the following described premises, in Blaine County, Idaho, to wit:

Lot 2, Block 56 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho

AND

Lot 3A, Block 56 of KETCHUM: BLOCK 56: LOTS 3A AND 4A, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 403336, records of Blaine County, Idaho.

To have and to hold the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee; and subject to all existing patent reservations, easements, right(s) of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Order Number: 21400671

Warranty Deed - Page 1 of 2

Dated: March 18, 2021

431-471 N. 1st Avenue, LLC, an Idaho limited liability company

  
By: Charles P. Stevenson, Jr., Sole Member

State of Idaho,

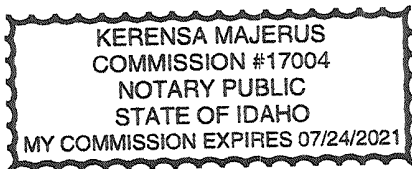
County of Blaine, ss.

On this 26 day of MARCH 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles P. Stevenson, Jr., known or identified to me to be a Sole Member of the limited liability company that executed the within instrument and acknowledged to me that he executed the same for and on behalf of said limited liability company and that such limited liability company executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for Idaho  
Residing In: Ketchum  
My Commission Expires: 7.24.21





**WARRANTY DEED**

FOR VALUE RECEIVED

Harry Investments, LLC, an Idaho Limited Liability Company,

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

The Perry Building LLC, a Washington limited liability company

the Grantee, whose current address is: c/o Alston, Courtnage & Bassetti LLP, 1420 Fifth Avenue, Suite 3650, Seattle, WA 98101-4011

the following described premises, to-wit:

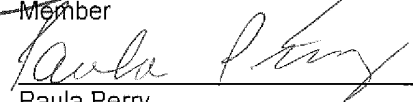
Lot 4A in Block 56 of KETCHUM: BLOCK 56: LOTS 3A AND 4A, according to the official plat thereof, recorded June 30, 1997 as Instrument No. 403336, records of Blaine County, Idaho.


**TO HAVE AND TO HOLD** the said premises, with their appurtenances unto the said Grantee, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except those to which this conveyance is expressly made subject to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; general taxes and assessments, including irrigation and utility assessments (if any) for the current year, which are not due and payable; and that Grantor will warrant and defend the same from all lawful claims whatsoever. Whenever the context so requires, the singular number includes the plural.

Dated this 29 day of June, 2021.

HARRY INVESTMENTS, LLC

  
\_\_\_\_\_  
Scott Harder  
Member

  
\_\_\_\_\_  
Paula Perry  
Member

  
\_\_\_\_\_  
Keith Perry

Member

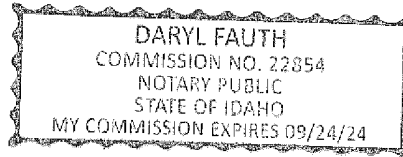
State of Idaho  
County of Blaine

This record was acknowledged before me on 29<sup>th</sup> day of June, 2021, by Keith Perry, Paula Perry, and Scott Harder, as Members of Harry Investments, LLC.



\_\_\_\_\_  
Notary Public Daryl Fauth  
My Commission Expires: September 24, 2024

(STAMP)







SILENT**WATER**  
R E A L E S T A T E

**CONDOMINIUM DECLARATION**

**FOR**

**THE PERRY**

**Ketchum, Idaho**

## NOTICE

THE FOLLOWING IS A VERY IMPORTANT DOCUMENT WHICH EACH AND EVERY POTENTIAL BUYER AND OWNER OF A CONDOMINIUM WITHIN THE PERRY SHOULD READ AND UNDERSTAND. THIS DOCUMENT DETAILS THE OBLIGATIONS, RESPONSIBILITIES AND PROHIBITIONS IMPOSED UPON ALL OWNERS AND UNITS LOCATED WITHIN THE PERRY.

THE PERRY IS A UNIQUE LIVING AND COMMERCIAL ENVIRONMENT. EACH POTENTIAL OWNER IS ADVISED TO MAKE FULL AND COMPLETE INQUIRY ABOUT THE PERRY BEFORE ACQUIRING A UNIT. EACH OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE UNITS WILL BE SUBJECT TO ASSESSMENTS LEVIED BY THE PERRY OWNERS' ASSOCIATION.

THE GRANTOR, AS DEFINED IN THIS CONDOMINIUM DECLARATION, EXPRESSLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, STATEMENTS OR INFORMATION NOT SET FORTH HEREIN OR IN ANY WRITTEN DOCUMENT EXECUTED BY THE GRANTOR.

POTENTIAL OWNERS ARE ADVISED TO REVIEW THIS CONDOMINIUM DECLARATION PRIOR TO ACQUIRING A UNIT.

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## CONDOMINIUM DECLARATION

### FOR

### THE PERRY

This Condominium Declaration for The Perry (this “**Declaration**”) is made effective as of the date that this Declaration is recorded in the real property records of Blaine County, Idaho (the “**Effective Date**”), by [\_\_\_\_\_], an Idaho limited liability company (“**Declarant**”).

#### ARTICLE 1 RECITALS

**1.1 Property Covered.** Declarant is the owner of that certain real property located in Ketchum, Blaine County, Idaho, legally described on Exhibit A attached hereto (the “**Property**”), as shown on the final plat for The Perry, a copy of which is attached hereto as Exhibit B (the “**Plat**”).

**1.2 Mixed Use.** Declarant intends to develop the Project as a mixed use condominium development including residential, commercial and parking uses, in accordance with this Declaration, the Plat, and the development approvals now or hereinafter obtained from the City of Ketchum and other governing authorities.

**1.3 Purpose.** The purpose of this Declaration is to provide for condominium ownership of the Project pursuant to Condominium Act, designate Common Area and Limited Common Area, create the Association as the management body to administer the Project pursuant to the Condominium Act, and to set forth the restrictions, covenants, limitations, easements, conditions, and equitable servitudes that apply to and are unique to the Project and this condominium ownership regime.

#### ARTICLE 2 DECLARATION

Declarant hereby declares that the Project and every Unit and portion thereof is and will be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved in accordance with this Declaration, which are hereby declared to be in furtherance of a general plan: (a) for the creation, maintenance, and sale of an ownership in fee simple of separate interests in Units and for co-ownership with others, as tenants-in-common, of Common Area and Limited Common Area, all pursuant to the Condominium Act; (b) to protect, enhance, and preserve the value, amenities, desirability and attractiveness of the Project; and (c) to ensure a well-integrated, high quality mixed use condominium development. This Declaration will: (i) run with the land and will be binding upon any Person having or acquiring any right, title, or interest in the Project or any Unit or portion thereof; (ii) inure to the benefit of the Project and any Unit or portion thereof; and (iii) inure to the benefit of, and be binding upon, Declarant and any Owner having or holding any right, title, or interest in any Unit or portion of the Project.

#### ARTICLE 3 ADDITIONAL DEFINITIONS

In addition to other defined terms in this Declaration and the exhibits attached hereto, the following terms will have the indicated meanings.

“**Applicable Laws**” means all applicable federal, state, and local laws, rules, regulations, ordinances, and orders relating to the use, occupancy, and/or ownership of the Project or any portion thereof.

“**Articles**” mean the Articles of Incorporation of the Association, a true, correct, and certified copy of which is attached hereto as Exhibit C and incorporated herein by this reference, as the same may be amended from time to time in accordance with the provisions thereof; provided, however, in order to be effective, the amendment must reference this Declaration, as amended, and be recorded in the real property records of Blaine County, Idaho.

“**Assessments**” mean the Regular Assessments, Special Assessments, and Limited Assessments, together with any late payment charges, interest, administrative fees, and costs (including without limitation attorneys’ fees) incurred in collecting the same.

“**Association**” means the The Perry Owners’ Association, Inc., an Idaho nonprofit corporation.

“**Association Rules**” means the rules and regulations relating to the Project that the Board may adopt, amend or repeal from time to time, as more particularly described in Section 8.7.3 hereof.

“**Bike Space**” means each of those bike storage areas, identified with signage, and located in the Bike Storage Area identified on the Plat.

“**Board**” means the board of directors of the Association.

“**Bylaws**” mean the bylaws of the Association, as the same maybe amended from time to time in accordance with the provisions thereof.

“**Commercial Assessments**” means a limited assessment by the Association to provide for the payment of all estimated expenses growing out of or connected solely to the Commercial Units.

“**Commercial Owner**” means any person or entity, including Declarant, at any time owning a Commercial Unit. The term “Commercial Owner” shall not refer to any Mortgagee, as herein defined unless such Mortgagee has acquired title pursuant to foreclosure or any other proceeding in lieu of foreclosure.

“**Commercial Unit**” means Units 1-R01, 1-R02, 1-R03 and 1-R04 depicted on the Plat as “Commercial.”

“**Common Area**” means: (a) all portions of the Project other than the Units, including all Limited Common Area; (b) all leases, licenses, use rights, or agreement rights for amenities or facilities owned or held by or for the benefit of the Association from time-to-time; and (c) any personal property owned or held by or for the benefit of the Association from time to time. Common Area may be established from time to time by Declarant or the Association on any portion of the Project by describing the area on the Plat, by granting or reserving it in a deed or other instrument, or by designating it as Common Area in this Declaration. In addition, the Association may acquire any Common Area that the Association deems necessary or beneficial to the Project.

“**Condominium**” means a separate ownership interest in a Unit together with an undivided tenant-in-common interest in the Common Area, expressed as the Percentage Ownership.

“**Condominium Act**” means the Condominium Property Act of the State of Idaho, Idaho Code Section 55-1501 *et seq.*, as it may be amended from time to time.

“**Condominium Documents**” means this Declaration, the Plat, the Articles, the Bylaws, the Association Rules, the Management Agreement and the Owner Maintenance Manual, as the same may be



amended from time to time according to their terms. The Condominium Documents also include any other procedures, rules, regulations or policies that the Board may adopt under the foregoing documents.

“**Financing Programs**” means any financing programs offered or supported by the Federal Housing Finance Agency (“**FHFA**”), Federal National Mortgage Association (“**FNMA**” or “**Fannie Mae**”), the Federal Home Loan Mortgage Corp (“**FMCC**” or “**Freddie Mac**”), the Government National Mortgage Association (“**GNMA**” or “**Ginnie Mae**”), the Federal Housing Administration (“**FHA**”), the Veterans Administration (“**VA**”), Idaho Housing and Finance Association (“**IHFA**”) or any similar federal, state or local governmental or quasi-governmental program.

“**Financing Rider**” means the document attached hereto as Exhibit F.

“**Limited Assessment**” means a charge against a particular Owner for an expense directly attributable to the Owner, equal to the cost incurred or estimated to be incurred by the Association in connection with corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Condominium in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners, as more particularly described in Section 9.5 herein.

“**Limited Common Area**” means those portions of the Common Area designated for the exclusive use of an Owner or Owners to the exclusion, limitation, or restriction of other Owners, including, but not limited to, those items identified on Exhibit G. Limited Common Area may be established from time to time by Declarant or the Association on any portion of the Project by describing the area on the Plat, by granting or reserving it in a deed or other document or instrument, or by designating it as Limited Common Area in this Declaration. The term Common Area as used in this Declaration will include Limited Common Area.

“**Management Agreement**” means any agreement and all amendments thereto entered into by the Association and the Management Company, providing for the management, maintenance, and operation of the Project, including, without limitation the Common Area, by the Management Company.

“**Management Company**” means the Person hired by the Association to manage the Project on the terms and conditions set forth in a Management Agreement.

“**Material Amendment**” means any amendment that adds, deletes or materially modifies any of the following provisions of this Declaration (provided, however, a Material Amendment does not include any amendment that is reasonably necessary, in the reasonable opinion of the Association, to comply with Applicable Law):

- (1) assessment basis (except as required by Idaho Code § 55-1505(1)(c) or its successor, which amendment may be done by the Board);
- (2) assessment liens (except as may be reasonably necessary or convenient to comply with Applicable Law for the creation, filing and enforcement of assessment liens);
- (3) any method of imposing or determining any charges to be levied against individual Unit owners;
- (4) reserves for maintenance, repair or replacement of Common Area improvements;
- (5) the maintenance obligations of the Association or Owners;
- (6) allocation of rights to use Common Areas;

- (7) any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on Units;
- (8) reduction of insurance requirements;
- (9) limiting the restoration or repair of Common Area improvements;
- (10) the addition, annexation or withdrawal of land to or from the Project;
- (11) voting rights of the Members;
- (12) restrictions affecting leasing or sale of a unit; or
- (13) any provision which is for the express benefit of mortgagees.

“**Minor Amendment**” means any amendment other than a Material Amendment.

“**Mortgage**” means any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

“**Mortgagee**” means any Person or any successor to the interest of the Person named as the mortgagee, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of an Owner’s interest in its Condominium, or successor to the interest of the Owner, is encumbered.

“**Occupant**” means any Person, other than an Owner, that resides in or otherwise occupies a Unit, including, without limitation, family members, guests, and Tenants.

“**Owner**” means the record owner, whether one or more Persons, holding fee simple title to a Unit, excluding Mortgagees, unless and until the Mortgagee has acquired fee simple title pursuant to foreclosure or other proceedings or obtains a deed to the Unit in lieu of foreclosure or other proceedings.

“**Parking Spaces**” means each of the [thirty-three (33)] vehicular parking spaces located in the underground parking garage shown on the Plat. Such Parking Spaces shall be Limited Common Area as designated and assigned by Declarant pursuant to deed or other recorded document or instrument.

“**Patio**” means each of the patios identified on the Plat. A patio includes the railings or fences thereon. Each Patio will be Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Patio P101 is Limited Common Area for the exclusive use of Unit 101, and so forth), to the exclusion of all others. Patios may not be conveyed separately from the Unit to which they are appurtenant, and any attempt to do so will be void.

“**Percentage Ownership**” means, for each Unit, the Unit’s respective Percentage Ownership in the Common Area for the Project, as set forth in Exhibit D as the same is amended from time to time. The Percentage Ownership is the percentage of ownership interest in the Common Area which is allocated to each Condominium as a whole for purposes of Assessments, tax assessment under Section 55-1514 of the Condominium Act, and liability as provided by Section 55-1515 of the Condominium Act.

“**Person**” means any individual, governmental unit or agency, entity (of any kind), estate, joint venture, partnership, trust, and any other legal formation or entity. Any reference to a Person includes the Person’s heirs, successors and permitted assigns.

“**Project**” means the entire Property, together with every building, improvement or structure thereon, and every easement or right appurtenant thereto.

“**Qualified Meeting**” means a meeting for a Material Amendment (or Extraordinary Action, if required by the Financing Rider). A Qualified Meeting must: (a) have at least twenty-five (25) days advance notice thereof to all members (at least seven (7) days’ advance notice is required in the case of a

meeting for other purposes); (b) be called by notice that states the purpose of the meeting and contains a summary of any Material Amendments or Extraordinary Actions proposed; (c) be called by notice that contains a copy of the proxy that can be cast in lieu of attendance at the meeting; and (d) have a quorum as set forth in the Bylaws of the Association.

**“Regular Assessment”** means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 9.3.

**“Residential Assessment”** means a limited assessment by the Association to provide for the payment of all estimated expenses growing out of or connected solely to the Residential Units.

**“Residential Owner”** means any person or entity, including Declarant, at any time owning a Residential Condominium. The term **“Residential Owner”** shall not refer to any Mortgagee, as herein defined unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

**“Residential Unit”** means singularly or collectively all Units that are not Commercial Units, namely Units U101-U111, Units U201-U208 and Units U301-U304, as depicted on the Plat.

**“Ski Lockers”** means each of those ski locker areas, identified with signage, and located in the Ski Storage Area identified on the Plat.

**“Special Assessment”** means that portion of the costs of the capital improvements, replacements, equipment purchases and replacements, or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration as more particularly described in Section 9.4.

**“Storage Unit”** means each of the storage units identified on the Plat. The Storage Units are contained within certain Parking Spaces and shall be part of the applicable Parking Space Limited Common Area as designated and assigned by Declarant pursuant to deed or other recorded document or instrument. A Storage Unit may not be conveyed separately from the Parking Space within which it is located.

**“Tenant”** means any Person leasing all or any part of a Condominium from any Owner.

**“Unit”** means the separate ownership interest component of a Condominium, as bounded by the unfinished interior surfaces of the perimeter: (a) walls (from the centerline of a wall between 2 Units; inside exterior face of the studs forming a wall for a wall between and Unit and interior Common Area; and from the inside face of the glazing or wall between a Unit and exterior Common Area); (b) floors; (c) ceilings; (d) windows (including window frames and window trim); and (e) doors (including door frames and door trim) of each Unit as shown the applicable Plat, together with the airspace so encompassed. The Unit includes all of the following within the boundaries of each Unit as shown on the applicable Plat: (i) all finishes and coverings on the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors, including without limitation paneling, wood, tile, paint, paper, carpeting, and texturing; (ii) all fixtures, improvements, hardware, and appliances; and (iii) all heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, and utility services located within and serving only the Unit. The following are not part of a Unit: (A) bearing walls; (B) structural columns; (C) floors; (D) roofs; (E) foundations; (F) elevator equipment and shafts; (G) central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other

central services that serve more than one Unit, except the outlets thereof when located within the Unit; and (H) pipes, ducts, flues, chutes, conduits, wires and other utility installations that serve more than one Unit, except the outlets thereof when located within the Unit. Provided, however, that a Unit will not include any of the structural components of the Project or utility or service lines located within a Unit that serve more than one Unit.

#### ARTICLE 4 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP

**4.1 Estates of an Owner of a Condominium.** The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in the Common Area equal to the Percentage Interest.

**4.2 Title.** Title to a Condominium may be held or owned by any Person and in any manner in which title to any other real property may be held or owned in the State of Idaho.

**4.3 No Further Division.** No Owner may divide, adjust, or further condominiumize the Owner's Unit (each a "**Condo Division**") without the prior written approval of the Board, the City of Ketchum, and any other governing authorities whose approval is required, and any Condo Division must comply with any condominium project amendment requirements of Blaine County, and otherwise comply with all Applicable Laws. Since any Condo Division will necessarily result in a reallocation of the Common Area for purposes of Section 4.1, Condo Division will thus require an amendment to Exhibit D of this Declaration setting forth the reallocation of Percentage Ownership.

**4.4 Inseparability of Condominiums.** No part of a Condominium, or of the legal rights comprising ownership of a Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to the Unit will always be conveyed, devised, encumbered, transferred, and otherwise affected only as a complete Condominium and will not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof will be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or this Declaration.

**4.5 Partition of Common Area Not Permitted.** The Common Area will be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.

**4.6 Taxes and Assessments.** Each Owner will execute any instruments and take any actions as may be reasonably requested by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium. If any taxes of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Project or any part thereof, the Association will pay the same and assess the same to the responsible Owner or Owners. Each Owner will pay the taxes and assessments assessed against the Owner's Condominium, or interest therein, and the Owner's interest in the Common Area, or any part of any or all of the foregoing. The Association reserves the right to protest any tax valuations or assessments by any taxing government agency and to pay for any costs associated with the protests. Each Owner agrees to reimburse the Association for any costs associated with the protests as related to that Owner's Unit.

**4.7 Owner's Rights with Respect to Interiors.** Subject to the terms and conditions of the Condominium Documents, including without limitation Article 7 of this Declaration, each Owner will have the exclusive right to maintain, finish, refinish, and decorate the interior surfaces of the walls, floors, ceilings, windows (including window frames and window trim), and doors (including door frames

and door trim) forming and within the interior boundaries of the Owner's Unit, including but not limited to the installation of carpet or other floor coverings, paint or wallpaper, cabinets, and plumbing and electrical fixtures.

## ARTICLE 5 EASEMENTS

**5.1 Easements for Encroachments.** If any part of the Common Area encroaches or will hereafter encroach upon a Unit or Units, an easement for the encroachment and for the maintenance of the same will and does exist. If any part of a Unit encroaches or will hereafter encroach upon the Common Area, or upon an adjoining Unit or Units, an easement for the encroachment and for the maintenance of the same will and does exist. The encroachments will not be considered encumbrances on the Common Area or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by settling, rising or shifting of the earth under the Project, or by changes in position caused by repair or reconstruction of the Project or any part thereof. Notwithstanding the foregoing, no Owner will be entitled to deliberately and intentionally encroach on the Common Area without the prior written approval of the Board, or on any other Unit without the prior written consent of the other Unit Owner.

**5.2 Easements of Access for Repair, Maintenance, and Emergencies.** Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners have the irrevocable right, to be exercised by the Association as their agent, of access to each Unit and to all Common Area from time to time during reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association will also have the right of access independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners will be an expense of all of the Owners; provided, however, that if the damage is the result of the negligence of an Owner or the Owner's Occupants, invitees, or licensees, then the Owner will be financially responsible for all of the damage. The damage will be repaired and the Unit will be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto will be collected by the Association as an Assessment pursuant to Article 9.

**5.3 Owner's Right to Ingress, Egress, and Support.** Each Owner will have the right to ingress and egress over, upon, and across the Common Area necessary for access to that Owner's Condominium, and will have the right to the horizontal and lateral support of the Owner's Condominium, and the rights will be appurtenant to and pass with the title to each Condominium. In exercising the rights granted in this Section, each Owner agrees to use reasonable efforts to avoid interference with the access to other Condominiums.

**5.4 Association's Right to Use of Common Area.** The Association will have the right to make use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to the Condominium Documents, including the right to grant utility easements, alter the Common Areas, and to construct and maintain maintenance and storage facilities in the Common Area for use by the Association.

**5.5 Declarant's Right Incident to Construction.** Declarant, and Persons it shall select, will have the express and unconditional right to ingress and egress over, upon and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Project and Units shown on the Plats or any amendment thereto and the completion of all Units for use and occupancy; provided, however, that none of the rights will be exercised by Declarant in a way that is expected to unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Condominium by that Owner or the Owner's Occupants, invitees, or licensees.

**5.6 Certain Easements Benefit.** The easements herein granted to an Owner for ingress and egress to and from the Owner's Condominium over, upon, and across the Common Area are hereby recognized to be a condition of approval the Project imposed by the City of Ketchum. The easements will not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of the City of Ketchum.

**5.7 Emergency Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of the approval of the Project imposed by the City of Ketchum. The easement will not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of the City of Ketchum. The Owners expressly acknowledge that the Association and the Ketchum City Fire Department will each have one master key capable of accessing all doors connected to the common security system or access system of the Project. The Owners expressly agree to notify the Association prior to re-keying any lock in the Project controlled by a common security or access system and agree to use a locksmith approved by the Board.

**5.8 Recorded Easements.** The Project, and any applicable portions thereof, will be subject to the easements shown on any recorded Plats affecting the Project, or any applicable portion thereof, and to any other easements of record or of use, now existing or hereafter created, including without limitation any storm drainage easements, street light easements, sanitary sewer easements, or any other public utility easements shown on the applicable Plat.

**5.9 Easements for Annual Inspection.** Any Person authorized by the Board will have the right (but not the obligation) of access to all Units on an annual basis for the purpose of inspecting the Units for compliance with the terms and conditions of the Condominium Documents.

**5.10 Easements Deemed Created.** Any conveyance of Condominiums hereafter made, whether by the Declarant or otherwise, will be construed to grant and reserve reciprocal easements as will give effect to Sections 5.1 through 5.9 above, even though no specific reference to the easements appear in the conveyance.

## **ARTICLE 6 DESCRIPTION OF CONDOMINIUM**

Every contract for the sale of a Condominium and every other instrument affecting title to the Condominium will describe that Condominium by the Unit shown on the applicable Plat with appropriate reference to the applicable Plat and to this Declaration, as each appears on the records of Blaine County, Idaho, substantially in the form of the following:

Unit \_\_\_ as shown on the final plat of \_\_\_\_\_,  
recorded in the real property records of Blaine County, Idaho, on  
\_\_\_\_\_, 202\_\_, as Instrument No. \_\_\_\_ - \_\_\_\_\_

(as amended and supplemented from time to time), and as each are further defined and described in that certain Condominium Declaration for The Perry recorded in the real property records of Blaine County, Idaho, on \_\_\_\_\_, 202\_\_, as Instrument No. \_\_\_\_-\_\_\_\_\_ (as amended and supplemented from time to time).

The description will be construed to describe the separate ownership interest in the identified Unit, together with the appurtenant undivided tenant-in-common interest in the Common Area (including its appurtenant Patio, Parking Space(s) and Storage Unit, as applicable), and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on the Ownership as described in the Condominium Documents or any amendments or supplements thereto, whether or not so specified in the instrument.

## ARTICLE 7 USE AND MAINTENANCE OF CONDOMINIUMS

**7.1 Residential Units.** The Residential Units will be used exclusively for single-family residential purposes and other uses incidental thereto as permitted by Applicable Law. Except for Home Occupations permitted pursuant to this Section, no Residential Unit will be used at any time for commercial or business activity. A “**Home Occupation**” will be any gainful occupation conducted in a Residential Unit by an Occupant thereof, provided that the home office or studio located thereon does not exceed five hundred (500) square feet in size and is located entirely within the Unit, and further provided that the Home Occupation is conducted in accordance with the other terms and limitations of the Condominium Documents and Applicable Law. A Residential Unit may be used for other Home Occupations only upon a written approval of the Association, which approval may be subject to requirements and conditions as the Association deems appropriate, and which Home Occupation must in conducted accordance with the other terms and limitations of the Condominium Documents and Applicable Law. No Home Occupation may: (a) involve highly combustible materials; (b) involve retail operations; (c) use power equipment or tools; (d) cause abnormal automotive or pedestrian traffic at the Project; (e) be, in the reasonable opinion of the Board, objectionable due to unsightliness, odor, dust, smoke, noise, glare, heat, vibration or similar disturbances; (f) involve dispatch activities where employees meet at the Project and are sent to other locations; (g) involve other uses that, in the reasonable opinion of the Board, would detract from the residential character of the Project. It will not be a violation of this Section for an Owner to lease its Condominium in accordance with Section 7.2. The use of a Condominium for a shelter home, as the same is defined in Idaho Code § 67-6530, whether or not operated for profit, will for the purposes of this Declaration be a commercial or business use to the fullest extent permitted by Applicable Law.

**7.2 Residential Leasing.** In order to foster and maintain the stable, residential character of the Residential Units in the Project and to preserve the value of the Project and the Condominiums, no Owner may lease, in whole or part, the Owner’s Residential Unit to any Person except as expressly permitted in this Section 7.2. For purposes of this Section 7.2, the term “lease” as applied to a Condominium will be deemed to include, without limitation, any rental, letting, licensing, subletting, demising or assignment of any interest, estate or right of use, enjoyment, occupancy or possession of any Condominium (or portion thereof) to any Person other than a Person who is a member of the Owner’s family. For purposes of this Section 7.2, a “member of the Owner’s family” will be defined as any individual who is related to the Owner by blood, marriage, or adoption. If an Owner leases a Residential Unit in violation of the restrictions set forth in this Section or otherwise fails to comply with this Section, the Owner will indemnify, defend and hold harmless the Association and the other Owners from and against any and all loss or damage arising from or related to the violation. The Association will be entitled to exercise all rights and remedies specified herein or otherwise as a result of the violation, including an action for injunctive relief and an action to evict any unauthorized occupant if allowable by law.

7.2.1 Leasing and Vacation Rentals. Except as provided in subsection 7.2.2, an Owner may lease its entire Residential Unit for any term, including short term vacation rentals, but only through a professional rental management company that has been approved by the Association. Owners are prohibited from self-managing rentals of Residential Units through online services such as AirBnB and VRBO, or in any other manner. Upon execution of any agreement with an Association-approved rental management company, the Owner shall notify the Association.

7.2.2 Workforce Housing Program. Declarant may, at its sole option, include (through lease, sale or operation) up to seven (7) Residential Units in a Workforce Housing Program. A “**Workforce Housing Program**” is any program operated by Declarant, an Association-approved manager, a governmental entity or any 501(c)(3) public charity whereby residential dwellings are leased to households where, at first occupancy, the gross income of all members of the household (i.e., any person who will occupy the dwelling) is not more than 140% of the then current average median income for Blaine County, Idaho, under Section 8 of the United States Housing Act of 1937, as amended (including adjustments for family size) (or any successor approved by Association). No Residential Unit that is part of a Workforce Housing Program may be further leased or used for a vacation rental under subsection 7.2.1.

7.2.3 No Animals in Rental Units. Except as required by Applicable Law or otherwise approved by the Board, no animals will be allowed in a leased Residential Unit.

7.2.4 Owner’s Responsibility. An Owner who leases a Residential Unit will be fully responsible for the actions and inactions of, and damage caused by, the occupants of the leased Residential Unit as if the actions, omissions or damages were caused by the Owner. Any Owner who leases a Residential Unit will comply with this Declaration and all Applicable Laws.

7.2.5 Leases Subject to Declaration. Each lease must (i) be in writing; (ii) provide that the lease will be subject in all respects to the Condominium Documents; and (iii) provide that any failure by the Tenant to comply with the terms of the Condominium Documents will be a default under the lease. Upon execution of any lease of a Residential Unit, the Owner (or operator of the Workforce Housing Program, as applicable) of the leased Residential Unit will provide the Association with a copy of the lease and the name and contact information of the Tenant.

7.3 Commercial Units. Commercial Units and their appurtenant Limited Common Areas are restricted to those office, commercial and retail uses permitted under applicable City of Ketchum ordinances subject to the restrictions set forth in this Article 7 or elsewhere in this Declaration. Commercial Units may be leased, provided each lease must (i) be in writing; (ii) provide that the lease will be subject in all respects to the Condominium Documents; (iii) provide that any failure by the Tenant to comply with the terms of the Condominium Documents will be a default under the lease; and (iv) be in compliance with Applicable Law. Upon execution of any lease of a Commercial Unit, the Owner of the leased Commercial Unit will provide the Association with the name and contact information of the tenant.

7.4 Obstructions of Common Area. Except to the extent installed or placed by the Association in a manner that is not expected to create a life safety issue, there will be no obstruction of the Common Area, nor will anything be stored on any part of the Common Area without the prior written consent of the Association. Nothing will be altered on, planted in, constructed on, or removed from the Common Area except upon the prior written consent of the Board.

7.5 Maintenance of Interiors and Limited Common Area. Except as otherwise set forth herein, or except as otherwise agreed by the Association, each Owner shall, at its sole expense, keep the interior of the Unit and the equipment, appliances, and appurtenances relating thereto, in a good and



sanitary condition, free of rodents, pests and mold, in good order, condition, repair and appearance in accordance with maintenance schedules contained in any preventative maintenance manual provided by the Declarant or the Association containing minimum maintenance or other standards applicable to the individual Units and/or the Limited Common Area appurtenant thereto (an “**Owner Maintenance Manual**”), and shall do all decorating and painting at any time necessary to maintain the good appearance and condition of the Unit. The requirements set forth in any Owner Maintenance Manual are in addition to the requirements of any warranty or other operating guidelines and instructions. Each Owner shall be responsible for the maintenance, repair or replacement of: the sliding deck doors and related door hardware and door jams; plumbing lines, hoses and fixtures; water heaters, fans, heating, cooling, or other equipment; fireplace flues (including required inspections and cleaning); and electrical fixtures or appliances which may be in, or are part of, the Owner’s Unit. The Association may, as a Common Area expense, provide for the inspection of any Unit or Limited Common Area, where the failure to maintain the same may cause damage to the Common Areas or any other Unit or cause unnecessary expenses, including water heaters, toilets, sinks, showers, bathtubs, deck drains, deck surfaces, flashing, membranes, other weatherproofing components, fireplace flues, and plumbing and electrical fixtures (referred to herein as “**High-Risk Components**”). The Association shall give written notice to the Occupant at least three days before entering, stating the items to be inspected and time of the inspection. The Association may impose any reasonable requirements for the purpose of mitigating the risk of damage from High-Risk Components including: (i) installation protective pans and alarms; (ii) imposing a schedule for inspections or replacement at specified times; (iii) establishing minimum standards for replacements of the High-Risk Components; (iv) imposing standards for those people performing any inspections, repairs or replacements; (v) requiring notice to the Board and the opportunity for the Board to supervise all work relating to the High-Risk Components; and (vi) provide the Board with any evidence the Board may reasonably request to confirm that the Owner has complied with its obligations regarding the High-Risk Components. Each Owner will notify the Association of any unsafe condition existing in, on, or around the Limited Common Area. In addition, nothing unsightly, in the reasonable opinion of the Board, will be kept on any exterior Limited Common Area (including, without limitation, all Patios).

**7.6 Window Washing.** Each Owner of a Commercial Unit shall be responsible for washing its own windows (interior and exterior). The Association shall be responsible for washing the exterior of all other windows in the Project, the cost of which shall be allocated to the Owners of the Residential Units. Each Owner of a Residential Unit is responsible for washing the inside of the windows for such Unit.

**7.7 Prohibition of Damage and Certain Activities.**

**7.7.1 Damage or Waste.** No damage to, or waste of, the Common Area or any part thereof will be committed by any Owner or the Owner’s Tenants, Occupants, invitees, or licensees, and each Owner will indemnify and hold the Association and the other Owners harmless against all loss resulting from any damage or waste caused by the Owner or the Owner’s Tenants, Occupants, invitees, or licensees. Not by way of limitation of the foregoing, each Owner will pay the cost to repair any damage caused to a Unit or Common Area as a result of the Owner’s moving in or out of the Unit.

**7.7.2 Trash Removal and Nuisances.** Each Owner shall be responsible for removing all trash and garbage from its Unit and depositing it promptly in proper receptacles as designated by the Association in accordance with such rules and regulations as the Board may adopt. No rubbish or debris of any kind will be placed or permitted to accumulate anywhere upon the Project or any portion thereof, except in such receptacles, and no odor will be permitted to arise from any portion of the Project so as to render, in the reasonable opinion of the Board, the Project or any portion thereof unsanitary, offensive, or detrimental to the Project, or to any other property in the vicinity of the Project. No exterior fires and no obstructions of pedestrian walkways will be permitted to exist at the Project. No business or Home

Occupation, no noise, vibrations, unsightliness or other nuisance will be permitted to exist or operate upon any portion of the Project in violation of Applicable Law or so as to be, in the reasonable opinion of the Board, offensive or detrimental to the Project or to its Owners or their Occupants or to other property in the vicinity Project. Without limiting the generality of any of the foregoing, no Owner will use or install or permit to be used or installed any whistles, bells or other sound devices, or flashing lights or search lights within the Project without the Board's approval. Owners shall keep music, subwoofers and other noises at a level so as not to be audible outside such Owner's Unit. No unsightly articles will be permitted to remain on any Condominium so as to be visible from any other portion of the Project. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, heat pumps, compressors, and containers will be kept in the containers and other areas designated for that purpose by Declarant or the Board. No clothing or fabric may be hung, dried, or aired in a way that is visible from the exterior of the Unit it in which it is hung, dried or aired. Window air-conditioning units are not allowed.

7.7.3 Violation of Law. Owners will not use or suffer or permit any Person to use any Condominium or any part thereof for any use or purpose in violation of Applicable Law.

7.7.4 Violation of Condominium Documents. Owners will not use or suffer or permit any Person to use any Condominium or any portion thereof, for any use or purpose in violation of any of the terms and conditions of the Condominium Documents.

7.7.5 Advertising. Except as allowed by Association Rules or by prior written approval of the Board, Owners will not display or sell merchandise or allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Residential Units. Owners of Commercial Units may use exterior Limited Common Areas appurtenant to their Units and, subject to Applicable Law and/or permitting, sidewalks, for commercial uses allowed under this Declaration. Owners further agree not to install any exterior lighting, shades or awnings, amplifiers or similar devices or use in or about the Project, or any advertising medium or promotional materials or facilities which may be distributed, heard or seen outside the Unit, such as flyers, flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts, or make any changes to the facade of the Project or operate any customer service windows without Board's prior written consent. Owners will not conduct or permit to be conducted any sale by auction in, upon or from the Units, whether the auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other solvency proceeding.

7.7.6 Increase in Insurance Rates. Except with the prior consent of the Association, no Owner may do or permit anything to be done in or about any Unit or Common area that would result in the cancellation of, or an increase in the rate of, the insurance on the Project. Any Owner taking or permitting any such action with Board approval will be solely responsible for the payment of any increase in insurance premiums.

7.7.7 Disruption. Owners will not do or permit anything to be done in or about the Unit or Common Area which will in any way obstruct or interfere with the rights of other Owners or Occupants in the Project, create undue noise and disruption, or injure or annoy them or use or allow the Unit to be used for an unlawful or objectionable purpose, nor will Owner cause, maintain or permit any nuisance in, on, or about the Project.

**7.8 Commercial Unit Restrictions.** In addition to the other restrictions set forth in this Section 7, Commercial Units shall be subject to the following requirements:

7.8.1 Commercial Units shall not be used for any of the following: copy center; medical laboratory; food processing; manufacturing activities; wholesale or retail sales of pornographic literature, photographs or movies; card room; dance hall, pool hall; video arcade or other similar form of amusement center; musical school or studio; adult motion picture theater; laundry; dry-cleaning (drop off and pick up facility is permitted), dyeing or rug cleaning plant; jail; hotel, apartment hotel or motel; bar or tavern (however, specialty bars which are compatible with high-end, mixed-use communities are permitted, such as a wine bar, mocha martini bar, or brew pub); package liquor store (however, specialty shops which are compatible with high-end, mixed-use communities are permitted such as a wine shop); taxidermy shop; retail pet shop or animal clinic (a pet supply store which does not sell live animals is permitted); work release center, drug rehabilitation center or social service agency; tattoo parlor or body piercing business (a beauty shop offering ear piercing services is permitted); church, synagogue, mosque or place of religious worship; any public meeting place or place of public assembly; mortuary, crematorium or funeral home; automobile, truck, trailer or recreational vehicle sales, leasing or display or body shop repair operation; pawn shop; or flea market.. No Commercial Unit may be used for restaurant or related uses which require grease traps or Type 1 hood/ventilation for cooking facilities. Unless the Board allows longer operating hours, the Commercial Units shall maintain hours of operation no earlier than 8:00 AM and no later than 10:00 PM

7.8.2 The delivery or shipment of merchandise, supplies, and fixtures to and from a Commercial Unit shall be accomplished in a manner that shall not unreasonably interfere with the quiet enjoyment or the security of the Residential Units.

7.8.3 The Owner of any Commercial Unit shall not allow or permit any continuing vibration or any offensive or obnoxious and continuing noise or any offensive or obnoxious and continuing odor to emanate from the Commercial Unit into the Residential Units or other Commercial Units, nor shall the Owner allow or permit any machine or other installation therein to constitute a nuisance or otherwise to unreasonably interfere with the safety or comfort of any of the Owners of other Units. Upon the failure of the Owner of any Commercial Unit to remedy any such noise, vibration or odor, then the Board may at its option either: (1) cure such condition at the Owner's cost and expense; or (2) pursue any other available legal or equitable remedy.

7.8.4 The Owner of any Commercial Unit shall bear the expenses relating to any changes in electrical, gas or water service necessitated by the use of the Unit.

7.8.5 The Owner of any Commercial Unit must screen the interior of the Unit from public view when those Units are vacant to keep those Units from appearing abandoned and to otherwise make those Units compatible with the nature of the community.

7.8.6 The Owner of any Commercial Unit, with appropriate permits from the City, may use the sidewalk adjacent to the Unit for outdoor seating, sidewalk sales, or similar uses relating to the business conducted at the Unit. The Owner shall be responsible for complying with all requirements of the City regarding its use and shall perform any clean up required by its use.

**7.9 No Hazardous Activities.** No activities will be conducted on the Project which are or might be unsafe or hazardous to any Person or property including, without limitation, any open fires (except in a contained in a Declarant or Board-approved barbecue or gas fireplace or fire pit) and/or the discharge of firearms.

**7.10 Over the Air Reception Devices.** All Owners who desire to use any device or antenna to receive over the air transmissions will be required to use one Declarant or the Association may install one common antenna or other device to receive over the air transmissions, which antenna or device will be

located on the Project in a location designated and approved by the Declarant or the Board (a “**Common Antenna**”). In event a Common Antenna is installed, all Owners who desire to use any antenna or device to receive over the air transmissions will be required to use the Common Antenna, subject to reasonable restrictions related thereto established by the Board. Notwithstanding the foregoing, no portion of this restriction will apply to the extent that it conflicts with any Applicable Law governing such antenna or devices. Those Owners using the Common Antenna will share the costs and expenses associated therewith in the manner reasonably determined by the Board.

In the event a Common Antenna has not been installed, Owners will be permitted to install small satellite dishes or other devices within the service well on the roof of the Project for cable services using the electrical conduit system located in the core of the Project, subject to the prior written approval of the Board. In the event that a satellite dish or other device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

**7.11 Energy Devices, Outside.** No energy production devices or generators of any kind (including without limitation solar energy devices and windmills), will be constructed or maintained on or in any portion of the Common Area without the prior written approval of the Board. In the event that the addition or use of such a device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

**7.12 Signs.** No signs of any kind, including, without limitation, “for sale,” “for lease,” “for rent,” and “open house” signs, holiday signs, social commentary signs, decorations, or banners, or political or commercial signs, will be displayed on or from any portion of the Project except as approved by the Board in its reasonable direction, except that political signs in support of or opposition to any candidate for office or a ballot measure may be displayed thirty (30) days prior to the date on which votes are cast for such candidate or ballot measure, and will be removed within two (2) days after any such date. Notwithstanding the foregoing, no portion of this restriction will apply to the extent that it conflicts with any Applicable Law governing signs, and, provided, further, Commercial Units may display signs identifying the businesses located therein as allowed under Applicable Law.

**7.13 Window Treatments.** No window or glass tinting or coverings will be permitted, including any appliques, decals, or other materials, that would be visible from the exterior of any Unit, or that would otherwise in any manner change the exterior appearance of any glass or window in terms of color, reflectivity, tint, or appearance, except as otherwise may be permitted by the Board. In the event replacement of any glass pane constituting Common Area will become necessary, such glass will be replaced by the Association; provided, however, an Owner may be required to pay for such replacement pursuant to Section 9.5. This paragraph will be interpreted in such manner as to favor and facilitate a uniform appearance of the Project from the exterior thereof. Each Unit will be equipped with MechoShades. No Owner may change the shades in its Unit, except to replace damaged or malfunctioning MechoShades with either the same shade or a substantially similar shade approved by the Board. Owners may install interior drapes, so long as the color and material of the drapes are either set forth as approved items in the Association Rules or are otherwise approved by the Board. Items including, but not limited to, paper shades, aluminum foil, newspaper, sheets, cardboard, reflective tint, paint, etc. are not permitted to be used as window covering.

**7.14 Water Beds.** No water beds are permitted in any Unit. Each Owner acknowledges that substantial damage to other Units and/or Common Areas may occur as a result of a violation of this restriction.

**7.15 Space Heaters.** No space heaters are permitted in any Unit. Each Owner acknowledges that substantial damage to other Units and/or Common Areas may occur as a result of a violation of this restriction.

**7.16 Appliances.** No appliances will be installed or maintained in a Unit that are inconsistent in terms of energy source or energy usage from those utility lines and hookups initially installed or made available by Declarant with respect to a Unit. By way of illustration, but not of limitation, if and to the extent that the Unit was originally equipped with a gas utility hookup for clothes dryers, stoves, ovens, or other appliances, no modifications will be permitted for the installation of electricity powered clothes dryers, stoves, ovens or other appliances, unless electricity powered clothes dryers, stoves, ovens or other appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. Likewise, if the Unit was originally equipped and/or designed for any electrical appliances, no modifications will be permitted for the installation of gas-powered appliances, unless gas powered appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. The Board reserves the right to designate specific Association Rules pertaining to the minimum design and performance characteristics of appliances to be installed in the Units. All installation and use of any appliances will comply with and not violate the terms of any warranty guidelines or manufacturers' guidelines or recommendations.

**7.17 Construction and Structural Alterations.** An Owner may make improvements or alterations to the interior of the Owner's Unit and the Limited Common Area appurtenant to such Unit, provided that such improvements or alterations: (a) do not impair the structural integrity, mechanical systems or Common Area of the Project; (b) are not to walls, doors, windows, or other portions of the Project that are visible from the outside of the Unit; and (c) do not otherwise penetrate any Common Area. To the extent an Owner desires to make an improvement or alteration in violation of any portion of the foregoing, the Owner will first obtain the prior written consent of the Board, which consent will not be unreasonably withheld or delayed. All improvements and alterations constructed pursuant to the terms of this Section 7.17 will comply with all Applicable Laws.

The Board may adopt work rules and work hours provided the same are reasonable, apply to all Owners, are enforced on a nondiscriminatory basis, and serve the primary purpose of ensuring safe and orderly construction, limiting disruption of Owners, Occupants and their invitees, and preventing damage to the Common Areas and Units. All work shall be done by licensed contractors and shall comply with all Applicable Laws. All work shall be done in a workmanlike manner and in accordance with a sound engineering design. All work affecting the structural portions shall be approved by a licensed structural engineer. All work affecting the weatherproofing systems shall be monitored during construction and upon completion approved by a qualified building enclosure inspector. All work which increases the load on shared utility systems and facilities, if any, shall be approved by a properly licensed and qualified engineer. Each Owner shall notify the Board of any work which will take longer than 180 days to complete, or will involve project costs in excess of \$250,000, and shall include with that notice evidence of compliance with the insurance requirements stated in Section 7.17.

**7.18 Sewer System Restrictions.** No Owner or other Person will deposit any glass, metal, seafood shells, diapers, clothing, rags, plastic, sanitary napkins, tampons, flammable material, oil, gas, grease, chemicals or other objects or materials other than natural human waste and generally accepted household cleaners into the sewer system either directly or through any Owner's waste disposal unit(s). The cost of any and all damage sustained by the sewer system caused by an Owner's deposit in the sewer system of any of the items listed above will be the sole responsibility of the Owner.

**7.19 Hard Surface Flooring.** No Owner will install any hard surface flooring (including tile or hardwood floors) or replace any flooring with any hard surface flooring without the prior written

consent of the Board. Such hard surface flooring or replacement flooring will meet the standards set forth by the Board as may from time to time be set forth in the Association Rules.

**7.20 No Smoking.** The Project is hereby designated as “smoke free,” and no smoking of any kind is allowed at the Project, including without limitation “vapor” smoking. Notwithstanding the foregoing, the Board may from time to time designate certain outdoor areas of the Project as “**Permitted Smoking Areas**,” in which event smoking will be allowed only in such designated areas. Neither Declarant nor the Association guarantees a smoke free environment at the Project or any portion thereof.

**7.21 Parking Restrictions.** Parking Spaces may be used only for the parking of operable vehicles in good condition and small boats, and then only in accordance with the Association Rules. No recreational vehicles, camper vans or similar vehicles may be stored in the Parking Spaces without the prior consent of the Board. Each Parking Space (which specifically exclude all handicapped parking spaces identified on each Plat) will initially be designated and assigned by Declarant pursuant to a deed or other recorded document or instrument, and once so designated and assigned, such Parking Space will be Limited Common Area appurtenant to, and for the exclusive use of, the Unit to which the Parking Space is designated and assigned, to the exclusion of all other Unit Owners. The Association will keep a list of the Parking Spaces so assigned and designated by Declarant. After being assigned and designated by Declarant, Parking Spaces will not be conveyed separate and apart from the Unit to which they are appurtenant, and any attempt to do so will be void *ab initio*; provided, however, that certain of the Parking Spaces may be assigned to the Association, which Parking Spaces may be used as permitted by the Association, which uses may include excess parking for Owners, visitor parking for guests, or for the exclusive use of a Unit (with or without rental payment), and the Association will have the further right to convey such spaces by deed to an Owner of a particular Unit, in which event such Parking Space will be Limited Common Area appurtenant to, and for the exclusive use of, the Unit to which the Parking Space is designated and assigned, to the exclusion of all other Unit Owners.

**7.22 Patio Restrictions.** Patios will not be used for storage purposes, including for the storage of pets, pet equipment, bicycles, boxes, storage sheds, and so forth, except that patio furniture will be permitted on Patio in accordance with this Section. Any plants or similar items kept on a Patio will be in accordance with the approved plant list or otherwise subject to approval by the Board, will be watered and maintained in good condition, and dead plants, leaves, and other items will be promptly removed and discarded. No over-watering of any plants located on a Patio (i.e., of such a nature to cause water run-off) will be permitted. Patio furniture as approved by the Board or that otherwise complies with the Association Rules will be permitted on the Patios. Patios will be kept in a clean and orderly fashion. Owners will not hang any items from the Patios or the railings thereon, and Residential Owners will not place any temporary lighting, whether electric, battery-operated, solar, or otherwise, on the Residential Owner’s Patio. Commercial Owners may put lighting on Patios, subject to compliance with Association Rules. No shelving, storage devices or apparatuses, or other improvements or alterations will be permanently affixed to any Patio, except upon the prior written approval of the Board. No charcoal grills are permitted on Patios or in any Unit.

**7.23 Storage Areas.** All storage areas (excluding Storage Units) made available by the Association to the Owners will be used only for the storage of non-combustible and otherwise non-hazardous items. To the extent such storage areas contain enclosed units, then Owners will only store items that will fit therein when the door to such enclosed area is closed, and such doors will remain closed at all times except when depositing or retrieving items therefrom.

**7.24 Bike Spaces.** Bike Spaces will be used by their respective Owners only for the storage of storage of bicycles. The right to use each Bike Space will be assigned to a Unit by the Association, and once so assigned, such Bike Space will be Limited Common Area appurtenant to, and for the exclusive

use of, the Unit to which the Bike Space is assigned, to the exclusion of all other Unit Owners. The Association will keep a list of the Bike Spaces so assigned. After being assigned by the Association, the right to use the assigned Bike Spaces will not be conveyed separate and apart from the Unit to which they are appurtenant, and any attempt to do so will be void *ab initio*. Unit owner may request a re-assignment of Bike Spaces by the Association, which the Association may grant with the consent of any affected Units.

**7.25 Animals/Pets.** No animals, livestock, or poultry of any kind will be raised, bred, or kept on or in any portion of the Project except that Household Pets (defined below) may be kept for an Owner's personal use provided that: (a) such Household Pets are not bred or maintained for any commercial purpose; (b) no more than two (2) of any combination of Household Pets may be kept in a Unit; and (c) all Household Pets must be properly restrained and controlled at any time they are within the Project. "**Household Pets**" means indoor domesticated dogs, indoor domesticated cats and indoor parrots, parquets and similar birds (but not any domestic birds, such as any type of chicken), and any other animal specifically approved by the Board to be a Household Pet. Any Household Pet which, in the reasonable opinion of the Board, is vicious or excessively noisy, or which damages or destroys property will be deemed a nuisance and will be removed from the Project upon the written request of the Board. An "excessively noisy" Household Pet is any Household Pet that habitually or frequently disturbs the sleep, peace, or quiet of any Occupant. Owners will contact the local animal control agency regarding noisy Household Pets prior to complaining to the Board about such animals. Any costs associated with responding to complaints relating to animals (including without limitation Household Pets), livestock, or poultry at the Project may be levied as a Limited Assessment against the Owner of the Unit in which such animals, livestock, or poultry are being kept. The Owner of the Unit where a Household Pet is kept, as well as the legal owner of the Household Pet (if not the Owner), will be jointly and severally liable for any and all damage and destruction caused by the Household Pet, and for any clean-up of any portion of the Project necessitated by such Household Pet. Household Pets will not be allowed on any Common Areas unless they are on a leash and accompanied by their owner or handler. The Owner of any Household Pet shall be responsible for any damage to person or property caused by the Household Pet and shall defend, indemnify and hold the Association and the Board harmless from all liability arising from or caused by the Household Pet. Subject to the requirements of Applicable Law, the Board may adopt rules and regulations prohibiting Household Pets over a particular size or weight, or Household Pets wholly or partially of breeds which the Board deems inappropriate for condominium living.

**7.26 Assistance Animals.** Notwithstanding anything to the contrary contained in this Section hereof, assistance animals are welcome in the Project in accordance with the Fair Housing Act (42 U.S.C. § 3601 *et seq.*, as amended) and the implementing regulations promulgated thereunder. An assistance animal will be as defined in the Fair Housing Act, which is currently any animal needed by a disabled individual to have an equal opportunity to use and enjoy a dwelling. Examples of assistance animals are guide animals, animals that alert people who are deaf, animals that pull a wheelchair, animals that alert and protect a guest who is having a seizure, animals that remind an individual with mental illness to take prescribed medications, animals that calm an individual with Post Traumatic Stress Disorder (PTSD) during an anxiety attack and animals that provide comfort or emotional support. Assistance animals in training are to be treated as assistance animals, even if the handler is not disabled. An assistance animal need not be licensed or certified by any government. Individuals with assistance animals will not be treated less favorably than other Occupants or charged fees that are not charged to other Occupants without animals. The Association will have the right, to the extent permitted under the Fair Housing Act, to prohibit or restrict any assistance animal that: (a) is out of control and the handler does not take effective action to control it; or (b) the animal's behavior poses a threat to the health or safety of others. The Owner of the Unit where an assistance animal is kept, as well as the legal owner of the assistance animal (if not the Owner), will be jointly and severally liable for any and all damage and destruction

caused by the assistance animal, and for any clean-up of any portion of the Project necessitated by such assistance animal.

**7.27 Right to Enjoy and Use Units.** Each Owner will be entitled to use and enjoy the Owner's Unit for its intended purpose and nothing herein is intended to impose or grant the authority to impose any restrictions, limitations or prohibitions which would deprive an Owner of the reasonable use and enjoyment of the Owner's Unit. Notwithstanding the foregoing, no Owner will be entitled to use the Owner's Unit for any uses not allowed under the Ketchum Municipal Code or otherwise limited by this Declaration or any other Condominium Documents.

## ARTICLE 8 THE PERRY OWNERS ASSOCIATION

**8.1 Creation and Designation of Association.** Declarant has incorporated the Association as a nonprofit corporation under the laws of the State of Idaho, and Declarant hereby designates the Association as the "management body" of the Project in accordance with the Condominium Act. The Association is charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, this Declaration (as it relates to the Association's management of the Project), and the other Condominium Documents, as each may be amended and/or supplemented from time to time according to their respective terms. Neither the Articles nor the Bylaws will, for any reason, be amended or otherwise changed or interpreted so as to conflict with this Declaration.

**8.2 Membership and Voting.** "Member" means each Person holding a membership in the Association, including Declarant. Every Owner of a Condominium is a Member of the Association and has one (1) membership for each Condominium in the Project owned by the Owner. If the Owner of the a Condominium will be more than one (1) Person, all such Persons will have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Condominium may not be split and will be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote will be cast, such Persons will not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Condominium. To this end, only one (1) vote is allocated to each Condominium, regardless of the number of Persons that hold an ownership interest in such Condominium. Memberships in the Association will be appurtenant to the Unit owned by the Owner. The memberships in the Association will not be transferred, pledged, assigned, or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer will be void and will not be reflected on the books of the Association. The Association will have two (2) classes of membership as follows:

**8.2.1 Owner Members.** "Owner Members" will be the Owners of the Units, with the exception of the Declarant for so long as the Declarant Member exists. Upon the Declarant Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to the number of votes allocated to each Owner's Unit, as identified on Exhibit D, representing that Owner's Percentage Ownership. Prior to the Declarant Member Termination Date, Owner Members are not entitled to vote.

**8.2.2 Declarant Member.** The "Declarant Member" is Declarant. Until the Transfer of Control Date (the "Initial Development Period"), the Declarant Member will be entitled to (a) to the exclusive power to appoint, remove and replace directors of the Association; and (b) three (3) votes for each Unit until the Unit is conveyed to an Owner Member. The Declarant Member will cease to exist upon the earlier to occur of the following: (a) one hundred twenty (120) days after Declarant has



conveyed seventy-five percent (75%) of the Units in the Project; (b) three (3) years after completion of the Project as evidenced by the first conveyance of an Unit to an Owner; or (c) the date that Declarant informs the Board that Declarant no longer wishes to exercise its rights as the Declarant Member (as applicable, the “**Transfer of Control Date**”).

**8.3 Member Meetings.** The Association will hold an annual meeting of the members and periodic special meetings of the members as set forth in the Condominium Documents.

**8.4 Proxies.** A membership in the Association will be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association will not be assigned, transferred, pledged, or alienated in any way except: (a) that an Owner may give a proxy pursuant to the Bylaws; and (b) upon the transfer of title to the Condominium and then only to the transferee of title to the Condominium. Any attempt to make a prohibited transfer of a membership will be void and will not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed by contract, or otherwise, liability for paying Assessments of any Owner.

**8.5 Board of Directors.** The business and affairs of the Association are managed by the Board. The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Declarant has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Declarant’s sole discretion, and to otherwise fill vacancies on the Board as they arise. After the Initial Development Period, the Owners have the right to elect and remove directors as provided in the Bylaws. After the Initial Development Period, any vacancy on the Board will be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

**8.6 Delegation of Authority.** The Board may at any time and from time-to-time delegate all or any portion of its powers and duties to committees, officers, employees, or to any Person to act as manager, including the Management Company.

**8.7 Powers of the Association.** The Association will have all the powers of a nonprofit corporation incorporated under the laws of the State of Idaho and all of the powers and duties set forth in the Condominium Documents, including the power to perform any and all acts which may be necessary to, proper for, or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:

8.7.1 Assessments. The power and authority to levy Assessments on the Owners of Condominiums and to enforce payment of such Assessments, including the power and authority to establish and fund via Assessments such operating and capital reserves as the Board deems necessary or prudent.

8.7.2 Right of Enforcement. The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action, including any legal action, to prevent, restrain, enjoin, enforce, or remedy any breach or threatened breach of the Condominium Documents. The power of enforcement includes:

8.7.2.1 The right to remove, alter, rebuild, or restore any improvements constructed, reconstructed, refinished, added, altered, or maintained in violation of the Condominium Documents. If such improvements are located in a Unit, the Board must first provide the Owner thereof with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed

thirty (30) days) to cure, and the Owner of the improvements must immediately reimburse the Association for all expenses incurred with such removal.

8.7.2.2 The right to enforce the obligations of the Owners to pay each and every Assessment or charge provided for in the Condominium Documents.

8.7.2.3 The right to perform any duty or obligation of an Owner under the Condominium Documents if such duty or obligation is not timely performed by the Owner. In such event, the defaulting Owner must immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association must provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than five (5) days and not to exceed thirty (30) days) to cure prior to exercising its power and authority hereunder.

8.7.2.4 The right to authorize variances from the requirements of this Declaration when required by Applicable Law (such as the Fair Housing Act) or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for the Owner to bear. The granting of a variance does not waive any element of the Declaration for any purpose except as to the particular Condominium and the particular provision covered by the variance. Approval of a variance does not affect the Owner's obligation to comply with the other elements of this Declaration or Applicable Law.

8.7.3 Association Rules. The power and authority to adopt, amend, and repeal the Association Rules as the Board deems reasonable and appropriate to govern the Project, including rules and regulations regarding: (a) the use of the Common Area; (b) imposition of fines for violations of the Condominium Documents (subject to Applicable Law, such as Idaho Code § 55-115); and (c) procedures in the conduct of business and affairs of the Association. Except when inconsistent with this Declaration, the Association Rules have the same force and effect as if they were set forth in and were made a part of this Declaration. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, will be mailed or otherwise delivered to each Owner.

8.7.4 Emergency Powers. The power and authority to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or other Condominium Documents, or in the event of any emergency involving potential danger to life or property and the power to take corrective action. Such entry will be made with as little inconvenience to the Owners as practicable and any damage caused thereby will be repaired by the Association, except as otherwise provided herein. Owners acknowledge that the Ketchum City Fire Department and the Association may have a master key to all locks in the Project. Owners further agree to notify the Board and employ a locksmith approved by the Board before any locks may be changed to preserve the system.

8.7.5 Common Area. The power and authority to manage, operate, maintain, repair, and replace the Common Area for the benefit of the Project and the Owners, and the power and authority to construct, install, maintain, repair, replace, and operate any improvements in the Common Area, any public right-of-way serving the Project or any other location deemed by the Board to benefit the Project, including any fences, signs or other improvements at Project entrances or otherwise in the vicinity of the Project, and any berms, retaining walls, fences, and other amenities within or abutting any Common Area.

8.7.6 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Project, and/or

for the preservation of health, safety, convenience and welfare of the Owners. The foregoing power includes, without limitation, the power to grant and convey to such third parties licenses, easements, and rights-of-way for the purpose of constructing, erecting, operating, or maintaining any of the following:

8.7.6.1 Lines, cables, wires, conduits, or other devices for the transmission of electricity, heating, power, telephone, television and data, other utility services and, meters and other facilities associated with the foregoing;

8.7.6.2 Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

8.7.6.3 Cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.

8.7.7 Property for Common Use. The power and authority to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a particular Condominium, tangible and intangible personal property and real property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property will be deemed to be owned by the Owners in the same proportion as their respective interest in the Common Area.

8.7.8 Amenity Agreements. The power and authority to enter into any lease, license, use, or other agreement as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Project. Without limiting the generality of the foregoing, and only by way of example, the Association may enter into such agreements with others for the use of any recreational amenities or facilities, including clubhouses and swimming pools, by the Owners on such terms as the Board deems reasonable or prudent.

8.7.9 Inspection. The power and authority to enter a Unit for the purpose of conducting a regular maintenance inspections.

8.7.10 Taxes. The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association, and any other property owned by the Association. In addition, the Association must pay all taxes, including income, revenue, corporate, or other taxes (if any) levied against the Association.

8.7.11 Entitlement Obligations. The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Project, including any requirements or obligations identified in such entitlements as the responsibility of community association or homeowners' association or management body, such as plat notes, development agreements, or conditions of approval.

8.7.12 Financing. The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any Financing Programs.

8.7.13 Estoppel Certificates. The power and authority to execute a written statement stating: (a) whether or not, to the knowledge of the Association, a particular Owner or Owner's Condominium is in default of the Condominium Documents; (b) the dates to which any Assessments have been paid by a particular Owner; and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or Mortgagee of the Owner's

Condominium, but only to the extent such prospective purchaser or Mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.

8.7.14 Improvements in Public Right-of-Way. The power and authority to enter into license and easement agreements with the City of Ketchum (or assume the duties and obligations under any such license agreement entered into by Declarant) to install, maintain, improve, irrigate, trim, repair, and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).

8.7.15 Implied Rights. Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by Applicable Law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights will include without limitation the right to acquire water meters for each Unit.

8.7.16 Use of Association Powers. Notwithstanding the foregoing, the Association will not take any action that would impair an Owner's right to enjoy and use his/her Unit as set forth herein, in particular Section 7.27.

8.7.17 Power to Levy Fines. The power to impose reasonable monetary fines which will constitute a lien upon the Unit owned or occupied by the Owner, Lessee, or other Person determined by the Board to be in violation of the Condominium Documents (each a "**Violation**"). Provided, however, the Association will not impose a fine on an Owner for a Violation unless: (a) the Board votes to impose the fine at any regular or special meeting of the Board or the Association (individually, a "**Levy Meeting**"); (b) the Owner is provided at least thirty (30) days advance notice of the Levy Meeting by personal service or certified mail at the last known address of the Owner as shown in the records of the Association; and (c) the Owner is given a reasonable opportunity to respond to the Violation during the Levy Meeting. Provided further, the Association will not impose a fine on an Owner if the Owner, prior to the Levy Meeting, begins resolving the Violation and continues to address the Violation in good faith until the Violation is fully resolved (the "**Remedial Period**"). For purposes of this Section, the phrase "address the violation in good faith until the Violation is fully resolved" means the Owner must resolve the Violation within thirty (30) calendar days of the Notice; provided, however, if the nature of the Violation is such that more than thirty (30) calendar days are required for its resolution, then the Owner must diligently prosecute the same to completion within sixty (60) calendar days. All such fines will be deemed to be a part of the Assessments to which the Owner's Unit is subject under this Declaration. In all events, no portion of such fines may be used to increase the compensation to the Board or agent thereof.

8.7.18 Common Parking Spaces. The power to manage and regulate the use of any Parking Spaces owned by the Association as Common Area in any manner the Association deems appropriate, including (a) the power to lease or sell the Parking Spaces to any Unit Owners; (b) the power to reserve or limit the spaces for guests, employees, disabled persons, charging station use or other users or uses. The Association may designate the Parking Spaces that are Common Area for the primary or exclusive use of parking and/or charging of electric vehicles. If the Association provides for electric vehicle charging, the Association may elect to have some or all of the cost of electricity be an Expense, and the Association may elect to charge some or all of the cost of electricity to the users thereof on such terms as the Association deems appropriate.

**8.8** Duties of the Association. In addition to the power delegated to it by the Condominium Documents, the Association or its agents will have the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

8.8.1 Operation and Maintenance of Common Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all improvements thereon (subject to exclusions in this Declaration **Error! Reference source not found.**), including parking areas, landscaping, drive lanes, common seepage beds and the exterior of the Project, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association, and will maintain the same in a good, clean, attractive and sanitary condition, order and repair. The Association shall obtain a capital reserve study at least every [\_\_\_\_] years and maintain sufficient reserves to offset major common area expenditures.

8.8.2 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area, the Association, or property owned by the Association and all such taxes will be paid or a bond insuring payment posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association will pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.

8.8.3 Water and Other Utilities. Acquire, provide and/or pay for water, storm drainage system maintenance, sewer, electric systems, garbage, disposal, refuse and rubbish collection and other necessary services for the Common Area and Units, except to the extent separately billed or separately metered, as may be determined by the Board from time to time in its discretion.

8.8.4 Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in Article 13 hereof.

8.8.5 Maintenance of Exteriors and Improvements. Maintain and repair the exterior surfaces of the Project and improvements in the Project. The exterior maintenance will include: painting, staining, repairing, replacing and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition consistent with similar properties in the location of the Project.

8.8.6 Inspection and Maintenance Guidelines. The Board will adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area, including, without limitation, the sewer system and drainage facilities. The Board periodically, and at least once every two (2) years, will review and update the inspection and maintenance guidelines. The Board will take all appropriate steps to implement and comply with the inspection and maintenance guidelines, and will keep records of such implementation and compliance.

8.8.7 Maintenance of Records and Right of Inspection. The Association will keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records will be available at the Association's regular offices for inspection and copying by any Owner at the Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Section 8.8.7. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

**8.9 Immunity and Indemnification.** Each Owner understands and agrees that: (a) Declarant and its members, managers, agents, and employees, and (b) the Association, its directors, officers, agents,

employees, and committee members (each individually a “**Released Party**”) will be immune from personal liability to the Owner, and the Owner hereby knowingly and voluntarily waives and releases each Released Party, for such Released Party’s actions or failure to act with respect to the Condominium Documents to the extent that such acts or failures to act do not constitute willful misconduct on the part of such Released Party. The Association will indemnify, defend, and hold each Released Party harmless from any action, expense, loss or damage caused by or resulting from such Released Party’s actions or failure to act with respect to the Condominium Documents; provided, however, the Association will not be obligated to indemnify, defend, and hold harmless any Released Party for their own gross negligence or willful misconduct. Further, except to the extent covered by insurance obtained by the Board, none of the Association, the Board, or the Declarant shall be held liable for: the failure of any utility or other service obtained and paid for by the Association; any injury or damage to person or property caused by the elements, or resulting from electricity, water, rain, snow, dust, or sand which may lead or flow from outside or from any parts of the Project, or from any of their pipes, drains, conduits, appliances, or equipment, or from any other place; or inconvenience or discomfort resulting from any action taken to comply with any law, ordinance, or orders of a governmental authority. No diminution or abatement of Assessments shall be claimed or allowed for any such liability or service failure, or for such injury or damage, or for such inconvenience or discomfort.

**8.10 Waiver of Consequential Damages.** Neither the Declarant nor the Association will be liable to any Owner for, and each Owner releases the Declarant and the Association from, any form of indirect, special, punitive, exemplary, incidental, consequential, or similar costs, expenses, damages, or losses.

## ARTICLE 9 ASSESSMENTS

**9.1 Covenant to Pay Assessments.** By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against the Owner or the Owner’s Condominium pursuant to the Condominium Documents. Assessments against a Condominium will be a continuing lien on such Condominium until paid, whether or not ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such personal obligation will remain with the Owner regardless of whether the Owner remains the owner of the Condominium. Delinquent Assessments related to a Condominium will not pass to the Owner’s successors in title unless expressly assumed by them. Such Assessments and charges, together with interest, costs and reasonable attorneys’ fees, which may be incurred in collecting the same, will be a charge on the Condominium and will be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment will be as set forth in this Declaration or as established by the Board from time to time.

**9.2 Rate of Assessment.** Except as otherwise provided herein, all Owners will be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their Percentage Ownership. Owners will be responsible for Limited Assessments levied by the Association, as set forth in Section 9.5.

### **9.3 Regular Assessments.**

**9.3.1 Purpose of Regular Assessments.** The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys’ fees and other professional fees, for the conduct of its affairs as provided in this Declaration (including without limitation Article 8 hereof) and other Condominium Documents, including without limitation the costs

and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, geothermal systems, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, and any deficit remaining from previous periods (collectively the “**Expenses**”). “**Expenses**” will also include and an amount to fund adequate reserves for repairs, replacement, maintenance, and improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis, and for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements, and any other expenses for which the Board, in its reasonable opinion, deems prudent to fund a reserve. If not already separately metered, the Board reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium will be fully responsible for the costs of providing utilities for the Owner’s individual use.

9.3.2 Computation of Allocation for Regular Assessments. Unless otherwise determined by the Board, the Association will compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments will take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association, unless a change in the Members or other circumstance makes its impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners will be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments will be completed in good faith and will be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year will be reduced by an amount which fairly reflects the fact that such period was less than one year. The Board will have the exclusive right to approve any Assessment under this Article 9.

Except as provided herein, Regular Assessments will be levied by the Association against Units in proportion to their respective Percentage Ownerships. Certain Expenses which exist only for the benefit of or only to serve a single Condominium or group of Condominiums (but not all Condominiums) will only be levied against the Owners thereof in proportion to their Percentage Ownerships, as among each other, as set forth on Exhibit D, and as to Parking Garage Assessments as set forth on Exhibit E.

9.3.3 Parking Garage Assessments. Any Owner of a Parking Space (and Storage Area, if applicable) shall be responsible in that Owner’s proportional share as shown on Exhibit E, attached hereto and incorporated herein, for all expense associated with the costs of operation, maintenance, inspection, management and repair of the parking garage.

9.4 Special Assessments. In the event that the Board will determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys’ fees and/or litigation costs, other professional fees, or for any other reason, the Board will determine the approximate amount necessary to defray such Expenses and levy a Special Assessment for such amount. The Board will, in its discretion, determine the schedule under which such Special Assessment will be paid. If such Special Assessment will affect more than one Condominium or group of Condominiums (but not all Condominiums), the Owners of the affected Condominiums will pay those costs associated solely with their Condominiums in proportion to their Percentage Ownerships, as among each other, as set forth on Exhibit D, while all Owners will share such costs associated with the Common Area in proportion to their respective Percentage Ownerships.

9.5 Limited Assessments. Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an

Owner: (a) for any fines (in accordance with Section 8.7.17 hereof), fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Condominium or any improvements therein into compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or the Owner's Tenants, Occupants, invitees, or licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit the Owner or Owner's Condominium, but less than all Owners or all Owners' Condominiums. If such Limited Assessment will affect more than one (1) Condominium, but not all Condominiums, the Owners of the effected Condominiums will pay those costs associated solely with their Condominiums in proportion to their percentage ownership, as among each other, while all Owners will share such costs associated with the Common Area in proportion to their respective Percentage Ownerships.

**9.6 Notice and Assessment Due Date.** Unless the Board establishes a different schedule for the payment of Regular Assessments, monthly installments of the Regular Assessments will be paid on or before the 1<sup>st</sup> of each month. The Board will, in its reasonable discretion, determine the schedule under Assessments (other than Regular Assessments) will be paid. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the Regular Assessment will be charged to the Owner. Each Assessment, other than a Regular Assessment, will become delinquent if not paid within ten (10) days after the date of notice thereof to the Owner. If all or any part of an Assessment is not paid within five (5) days after its due date, then: (a) the delinquent Owner will pay to the Association a late payment charge equal to 5% of the delinquent amount; and (ii) interest will accrue on the delinquent amount at the rate of twelve percent (12%) per annum until paid in full. In the event an Owner's payment is returned for any reason, the Owner will pay to the Association an administrative fee in an amount set by the Board and thereafter the Association will have the right to require future Assessments due from the Owner to be paid in the form of a cashier's check, certified check, or other form of immediately collectible funds acceptable to the Association in the Board's discretion.

**9.7 Transfer Assessments.** Upon the transfer of fee simple title to a Condominium to an Owner, and upon each subsequent transfer of the Condominium thereafter, the transferee will pay a transfer assessment to the Association in an amount determined by the Board from time to time (the "**Transfer Assessment**"). Each Transfer Assessment will be paid to the Association at the closing of the transfer of the Unit. The Transfer Assessments are to be used to pay for Expenses and are not be used for any purpose prohibited by law. Transfer Assessments are not be considered prepayment of any other type of Assessments, are in addition to the Owner's continuing obligation to pay all other types of Assessments, and are not refundable.

**9.8 Declarant's Exemption from Assessments.** During the first two (2) years following the date Assessments are first assessed against the Owners of Condominiums, Declarant will not be assessed any Regular Assessments or Special Assessments for any Condominiums owned by Declarant. If Declarant owns at least one Condominium during such period, Declarant will pay the shortfall, if any, in the operating Expenses of the Association; provided, however, such obligation will not exceed the amount that the Regular Assessments and Special Assessments that Declarant would otherwise be assessed as an Owner multiplied by the total number of Condominiums owned by Declarant on the date Regular Assessments or Special Assessments are assessed against the Owners of Condominiums. After the foregoing period, Declarant will be assessed Regular Assessments and Special Assessments for each Condominium owned by Declarant.



## ARTICLE 10 ENFORCEMENT OF ASSESSMENTS; LIENS

**10.1 Right to Enforce.** The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner will be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay (and agrees that the lien may include) reasonable attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against the Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section to enforce the liens created pursuant to this Section. A suit to recover a money judgment for an unpaid Assessment will be maintainable without foreclosing or waiving the lien hereinafter provided.

**10.2 Assessment Liens.** There is hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration will constitute a lien on such respective Condominium upon recordation of claim of lien with the Blaine County Recorder, which claim of lien will be the "notice of assessment" described in the Condominium Act. Each delinquency will constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such claim of lien may be foreclosed in any manner permitted by Applicable Law. Upon payment of such lien in full, the Association will prepare and record a release of such claim of lien.

**10.3 Method of Foreclosure.** To the extent permitted by law, such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other Person authorized to make the sale. Such sale will be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any other manner permitted by Applicable Law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

**10.4 Required Notice.** No action may be brought to foreclose the claim of lien provided for herein, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of such notice of claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s).

**10.5 Subordination.** Upon recordation of a claim of lien for delinquent Assessments in accordance with Applicable Law, such lien will be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for: (a) liens which, by law, would be superior thereto; and (b) the lien of a first priority Mortgage given and made in good faith and for value that is of record as an encumbrance against such Condominium prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Section 10.5, the sale or transfer of any Condominium will not affect the lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer,

nor will such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

## ARTICLE 11 RIGHTS TO COMMON AREAS

**11.1 Use of Common Area.** Every Owner will have a nonexclusive right and easement to use the Common Area (exclusive of Limited Common Area) and an exclusive or semi-exclusive right to use Limited Common Area designated for exclusive or semi-exclusive use by the Owner, which will be appurtenant to and will pass with the title to every Condominium, subject to the following provisions:

11.1.1 Assessments. The rights of the Association to levy Assessments as provided herein and the payment by an Owner of all such Assessments;

11.1.2 Voting. The right of the Association to suspend the voting rights and rights to use of, or interest in Common Area by an Owner for any period during which any Assessments or charges against the Owner's Condominium remains unpaid;

11.1.3 Dedication or Transfer. The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer will be effective unless an instrument is executed and recorded by the Association verifying that such dedication or transfer has been approved by: (i) the vote or written consent of Owners representing more than sixty-five percent (65%) of the total voting power in the Association, and (ii) more than sixty-five percent (65%) or more of all Mortgagees; and

11.1.4 Association Rules. The right of the Association to establish and enforce such Association Rules as the Association deems proper regarding the Project and use of Common Area.

**11.2 Delegation of Right to Use.** Any Owner may delegate in accordance with the respective Condominium Documents, the Owner's reasonable right to the use and enjoyment of the Common Area to the Owner's Tenants, Occupants, invitees, or licensees.

**11.3 Damages.** To the extent permitted by law, each Owner will be liable for expenses for corrective action necessitated by violation of the Declaration or Association Rules or for any damage to such Common Area which may be sustained by reason of the Owner's Tenants, Occupants, invitees, or licensees. In the case of joint ownership of a Condominium, the liability of the Owners will be joint and several. The cost of corrective action will be assessed as an Assessment against the Condominium and may be collected as provided herein for the collection of other Assessments.

## ARTICLE 12 MECHANIC'S LIEN RIGHTS

No labor performed or services or materials furnished with the consent of or at the request of an Owner or the Owner's agent, contractor or subcontractor will be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or against any other property of any other Owner, unless such other Owner has expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express written consent will be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Project if duly authorized by the Association will be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his/her Condominium from a lien against two or more Condominiums or any part thereof by payment of sums secured by such lien which is attributable to the Owner's Condominium.

## ARTICLE 13 INSURANCE

**13.1 Types of Insurance.** Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, a policy or policies and bonds necessary to provide (a) property insurance, (b) commercial general liability insurance, (c) fidelity insurance, (d) worker's compensation insurance to the extent required by Applicable Laws, (e) directors and officers liability insurance, and (f) such other insurance as the Board deems advisable. The Board shall review at least annually the adequacy of the Association's insurance coverage. Unless otherwise authorized by the Board, the Association will procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

13.1.1 Property Insurance. The property insurance shall, at a minimum, provide special cause of loss coverage in an amount equal to the full replacement cost of the Common Areas, the Limited Common Areas, the Units, and personal property of the Association. The property insurance shall also cover betterments and improvements including permanently-installed wall and floor coverings, equipment, fixtures (such as cabinets) and appliances, and replacements or upgrades of the same, in or serving the Units, whether installed by the Declarant, Owners, or their tenants, with an "Agreed Amount" or equivalent endorsement. Each Owner of a Unit shall promptly inform the Board in writing of any betterment or improvement intended as a permanent part of its Unit which cost in excess of \$5,000. The cost of any such increases in insurance may be assessed to the affected Owner as a Specially Allocated Expense as provided in Section 9.7 above. In addition, any fixtures, equipment or other property within the Units which are to be financed by a mortgage to be purchased by FNMA (regardless of whether or not such property is part of the Common Areas) must be covered by such policy. The Association's policy must provide for the recognition of any insurance trust agreement. The policy shall provide a separate loss payable endorsement in favor of the Mortgagee of each Unit. The Association or insurance trustee, if any, shall hold insurance proceeds in trust for the Owners and their Mortgagees, as their interests may appear. Each Owner and the Owner's Mortgagee, if any, shall be beneficiaries of the policy in accordance with the Allocated Interest allocated to the Owner's Unit. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. The name of the insured under such policy must be the Association for the use and benefit of the Owners. A loss payable shall be in favor of the Association as a trustee for each Owner and each Mortgagee of a Unit. The Association or such trustee shall hold any proceeds of insurance in trust for Owners and Mortgagees of a Unit, as their interests may appear. Each Owner and each Mortgagee of a Unit, if any, shall be beneficiaries of the policy in accordance with their Allocated Interests. Such policy shall contain a standard mortgagee clause or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in Blaine County, Idaho, which appropriately names FNMA if FNMA is a Mortgagee or Owner of a Unit.

13.1.2 Commercial General Liability Insurance. The liability insurance policy shall insure the Board, Association, Owners, Declarant, and Manager. The policy will cover all of the Common Areas in the Condominium with a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or of another Owner, and shall cover liability of the insureds for property damage and bodily injury and death of persons arising out of the operation, maintenance, and use of the Common Areas, host liquor liability, employers' liability insurance, automobile liability insurance, and such other risks as are customarily covered with respect to condominium projects of similar construction, location and use. The liability policy shall also cover any commercial space owned and leased by the Association, and any public ways of the Condominium. Coverage shall also include legal liability arising out of lawsuits related to employment contracts of the Association. The limits of liability shall be in amounts generally required by Mortgagees for projects of similar construction, location and use but shall be at least \$2,000,000 combined single limit for bodily injury and property damage per occurrence and \$3,000,000 general aggregate.

13.1.3 Workers Compensation and Employer's Liability Insurance. The Association will cause the Management Company to purchase and maintain workers compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by Applicable Law.

13.1.4 Fidelity Insurance. The required fidelity insurance shall afford coverage to protect against dishonest acts on the part of officers, directors, trustees, employees or the Association and Manager and all other persons who handle or are responsible for handling funds of or administered by, the Association. All such fidelity insurance shall name the Association as obligees and shall be not less than the estimated maximum of funds, including reserve funds, in custody of the Association at any time during the term of each policy, but, in no event, shall the aggregate amount of insurance be less than three months' aggregate Assessments including reserve funds. The policy shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

13.1.5 Boiler and Machinery coverage. If the Condominium has central heating or cooling, the Association shall maintain coverage at least equal to the lesser of \$2,000,000 per accident or the insurable value of the building(s) housing the boiler or machinery.

13.1.7 Other insurance. The Board of Directors may obtain other insurance it deems advisable.

13.1.8 Flood Insurance. The Association shall obtain flood insurance if the Project is located within an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"). Such insurance shall be obtained by the Association, as a Common Expense, under a "master" or "blanket" policy of flood insurance on the buildings and any other property covered by the required form of policy (herein "**insurable property**"), in an amount deemed appropriate by the Association, but not less than the following: The lesser of: (a) the maximum coverage available under the NFIP for all buildings and other insurable property within the Condominium to the extent that such buildings and other insurable property are within an area having special flood hazards; or (b) 100% of current replacement costs of all such buildings and other insurable property within such area.

Such policy shall be in a form which meets the criteria set forth in the most recent guidelines on the subject issued by the Federal Insurance Administrator.

**13.2 Form.** All insurance shall be obtained from insurance carriers that are generally acceptable for similar projects, authorized to do business in the state of Idaho, and meet the specific requirements of FNMA, so long as FNMA is a Mortgagee or Owner of a Unit, regarding the qualifications of insurance carriers. Notwithstanding any other provision herein, the Association shall continuously maintain in effect property, liability and fidelity insurance that meets the insurance requirements for condominium projects established by FNMA, so long as FNMA is a Mortgagee or Owner of a Unit, except to the extent such coverage is not available or has been waived in writing by them. Casualty insurance on the Project will be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies will specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Area) and which policy or policies will provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first priority Mortgagees of Owners which from time to time will give notice to the Association of such Mortgages, such proceeds to be used in accordance with this Declaration. Each policy will also provide that it cannot be canceled by either the

insured or the insurance company until after thirty (30) days' prior notice is first given to each Owner and to each first priority Mortgagee requesting such notice. The Association will furnish to each Owner and to Declarant a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance will provide that the insurance thereunder will be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance will provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, will not be invalidated or suspended and will remain in full force and effect.

The commercial general liability policy must name Declarant, the Management Company, and the Association as the insured, with the Association as trustee for the Owners, and will protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the Project.

**13.3 Owner's Additional Insurance.** Each Owner shall obtain additional property and liability insurance as is typically maintained by Owners of similar homes at his or her own expense; no Owner shall, however, maintain insurance coverage in any manner which would decrease the amount which the Board of Directors, or any trustee for the Board of Directors, on behalf of all of the Owners, will realize under any insurance policy which the Board of Directors may have in force on the Project at any particular time. Coverage amounts, terms and conditions are at the Owner's discretion but should, at a minimum, be enough to cover any obligation to reimburse the Association for the Association's property deductible. Each Owner shall file with the Board of Directors a Certificate of Insurance evidencing the coverage required by this Section within thirty (30) days after purchase of such insurance, and the Board of Directors shall immediately review its effect with its insurance broker, agent or carrier.

**13.4 Insurance Proceeds.** Insurance proceeds for damage or destruction to any part of the property shall be paid to the Board of Directors on behalf of the Association which shall hold such proceeds in trust for each Owner and their first Mortgage holders, as their interests may appear, and shall segregate such proceeds from other funds of the Association. The Association acting through its Board of Directors shall have the authority to settle and compromise any claim under insurance obtained by the Association, and the insurer may accept a release and discharge of liability made by the Board of Directors on behalf of the named insureds under the policy.

**13.5 Additional Provisions.** The Board of Directors shall, to the extent they are reasonably available, obtain insurance policies containing (or omitting, as indicated below) the following provisions:

13.5.1 Each Owner of a Unit is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association.

13.5.2 The policy shall not provide for contribution by or Assessment against Mortgagees or become a lien on the Project superior to the lien of a First Mortgage.

13.5.3 A provision that the liability of the insurer thereunder is primary and shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of, any other insurance obtained by or for any Owner or any Mortgagee;

13.5.4 Coverage shall not be prejudiced by (a) any act, omission or neglect of an Owner when such act or neglect is not within the scope of the Owner's authority to act on behalf of the Association, or (b) failure of the Association to comply with any warranty or condition regarding any portion of the Premises over which the Association has no control;

13.5.5 A waiver of subrogation by the insurer for any and all claims against the Association, the Owner of any Unit and/or their respective household members, agents, employees or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

13.5.6 A provision prohibiting the insurer from electing to restore damage in lieu of making a cash settlement without first obtaining the written approval of the Association or, if the Association is a party to an insurance agreement, the written approval of the trustee.

13.5.7 A provision that the insurer issuing the policy may not modify the amount or the extent of the coverage of the policy or cancel or refuse to renew the policy unless the insurer has complied with Applicable Law pertaining to the cancellation or non-renewal of contracts of insurance.

13.5.8 The standard mortgagee clause included with the Association's property insurance policy shall: (a) Provide that any reference to a mortgagee in the policy shall mean and include all Mortgagees of any Unit in their respective order of preference, whether or not named therein; (b) Provide that such insurance as to the interest of any such Mortgagee shall not be invalidated by any act or neglect of the Board or any persons under any of them; (c) Waive any provision invalidating such mortgage clause by reason of the failure of any such Mortgagee to notify the insurer of any hazardous use or vacancy, any requirement that such Mortgagee pay any premium thereon, and any contribution clause; and (d) Provide that, without affecting any protection afforded by such mortgage clause, any proceeds payable under such policy shall be payable to the Association or the insurance trustee.

13.5.9 An "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement," which increases coverage and policy limits to the same extent inflation causes the value of the dollar to decrease.

13.5.10 Each Owner appoints the Association as attorney-in-fact for the purpose of purchasing and maintaining the insurance provided for under this Article 13, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

#### **ARTICLE 14 CASUALTY, DAMAGE OR DESTRUCTION**

**14.1 Affects Title.** Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.

**14.2 Association As Agent.** All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with their Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner will constitute such appointment.

**14.3 General Authority of Association.** As attorney-in-fact, the Association will have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected will be available to the Association for the purpose of repair or reconstruction unless: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

**14.4 Estimate of Costs.** As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association will obtain estimates that it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

**14.5 Repair or Reconstruction.** As soon as practicable after receiving these estimates and subject to receiving all governmental approvals, the Association will diligently pursue to completion the repair or construction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner will be necessary in connection therewith. Such repair or reconstruction will be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications without the written consent of all affected Owners, and the location of the Units will be substantially the same as prior to damage or destruction.

**14.6 Funds for Reconstruction.** The proceeds of any insurance collected will be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Section 9.4 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments will be allocated and collected as provided in that Section. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

**14.7 Disbursement of Funds for Repair or Reconstruction.** The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 14.6 constitute a fund for the payment of costs of repair and reconstruction after casualty. It will be deemed that the first money disbursed in payment for the cost of repair or reconstruction will be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance will be distributed to the Owners requiring repair and/or reconstruction of the Owner's Unit in proportion to the contributions by the Owner pursuant to the assessments by the Association under Section 14.6 of this Declaration.

**14.8 Decision not to Rebuild.** If eighty percent (80%) or more of the Owners and more than fifty-one percent (51%) of the first priority Mortgagees agree not to rebuild, the Project will be sold. All insurance proceeds and all sale proceeds will be apportioned among the Owners in the same proportions as their respective Percentage Ownerships; and such apportioned proceeds will be paid into separate accounts, each such account representing one (1) Condominium. Each such account will remain in the name of the Association, and will be further identified by the Condominium designation and the name of

the Owner. From each separate account the Association, as attorney in fact, will use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens, and the balance remaining to each respective Owner.

## ARTICLE 15 CONDEMNATION

**15.1 Consequences of Condemnation.** If at any time or times during the continuance of the condominium ownership regime pursuant to this Declaration, all or any part of the Project will be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section will apply.

**15.2 Proceeds.** All compensation, damages, and other proceeds therefrom, the sum of which is hereinafter called the “**Condemnation Award**,” will be payable to the Association.

**15.3 Complete Taking.** In the event that all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto will terminate. The Condemnation Award will be apportioned among the Owners in the same proportions as their respective Percentage Ownerships, provided that if a standard different from the value of the Condominiums as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard will be employed to the extent it is relevant and applicable. On the basis of the principle set forth in this Section 15.3, the Association will, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled and pay such amounts as soon as practicable.

**15.4 Partial Taking.** In the event that less than all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime hereunder will not terminate. Each Owner will be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association will, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and will apportion the amounts so allocated among the Owners as follows:

15.4.1 Allocation to Common Area. The total amount allocated to taking of or injury to the Common Area will be apportioned among the Owners in the same proportions as their respective Percentage Ownerships;

15.4.2 Allocation to Condominiums. The total amount allocated to severance damages will be apportioned to those Condominiums which were taken or condemned as follows: (a) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within the Owner’s own Unit will be apportioned to the particular Unit involved; and (b) the total amount allocated to consequential damages and any other takings or injuries will be apportioned as the Board, in its reasonable opinion, determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association will employ such allocation to the extent it is relevant and applicable.

**15.5 Reorganization.** In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of the Owner’s apportioned proceeds, the Owner thereof automatically will cease to be a member of the Association. Thereafter the Association will re-allocate the ownership, voting rights and assessment ratio determined in accordance with this Declaration according to the same



principles employed in this Declaration at its inception and will submit such re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 20.1 hereof.

**15.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation will be governed by the procedures specified in Article 14 above.

#### **ARTICLE 16 DISCLAIMERS, WAIVERS, AND ACKNOWLEDGMENTS**

Without limiting any other provision in this Declaration, by acceptance of deed to a Condominium, each Owner will conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

16.1.1 That Declarant hereby disclaims any and all warranties, express and implied, including without limitation the implied warranty of habitability and the implied warranty of fitness for a particular purpose, and by acceptance of a deed to a Condominium, each Owner waives and releases Declarant with respect to any such warranties;

16.1.2 That the Project is or may be located adjacent to or nearby roadways and subject to levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; that Declarant hereby specifically disclaims any and all representations and warranties, express and implied, arising from or related to such roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; and each Owner hereby waives and releases Declarant from any and all claims arising from or related to roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic;

16.1.3 That construction and installation of improvements by Declarant or other Owners, or third parties, may involve the operation of noisy equipment, generate dust, and may impair or eliminate the view, if any, of or from any Unit and/or Common Areas; and each Owner hereby waives and releases Declarant from any and all claims arising from or relating to such construction and installation, view impairment or elimination including but not limited to, any claims for nuisance or health hazards;

16.1.4 That construction is an industry inherently subject to variations and imperfections, and items that do not materially affect safety or structural integrity will be deemed “**Expected Minor Flaws**” (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects; and that and each Owner hereby waives and releases Declarant from any and all claims arising from or relating to such Expected Minor Flaws; and

16.1.5 That creation of the Project will not create any presumption, or duty whatsoever of Declarant with regard to security or protection of Person or property within or adjacent to the Project; and each Owner hereby waives and releases Declarant from any and all claims arising from or related to such security or protection, or lack thereof.

16.1.6 That there are no understandings, representations, warranties or promises of any kind that have been made to induce the Owners from owning Units in the Project except as set forth in this Declaration or any other written valid and binding agreement between the Declarant and the Owners, that this Declaration or any other written valid and binding agreement (including without limitation the other Condominium Documents) between the Declarant and the Owners sets forth in full the entire

agreement between the parties and governing the Project, and the Owners have not relied on any verbal agreement, statement, representation, warranty or other promises that is not expressed in this Declaration or any other written agreement between the Declarant and the Owners. Except as may be set forth in any written agreement between Owner and Declarant, each Owner has acquired and accepted its Condominium Unit “as is, where is” with all faults.

## ARTICLE 17 RESOLUTION OF DISPUTES

**17.1 Agreement to Avoid Litigation.** Declarant, the Association and the Owners agree that it is in their best interests to provide a fair, impartial, and expeditious procedure for the resolution of disputes related to the Condominium Documents instead of costly, lengthy, and unpredictable litigation. Accordingly, Declarant, the Association (including its Board, officers, and committee members), each Owner and any party claiming a right or interest under the Condominium Documents (each, a “**Bound Party**”) agree to encourage the efficient resolution of disputes within the Project without the emotional and financial costs of litigation. Each Bound Party therefore covenants and agrees that all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Condominium Documents or the rights, obligations, or duties of any Bound Party under the Condominium Documents, or any disputes among the Bound Parties relating to the Common Area (each a “**Claim**” and collectively, “**Claims**”) will be subject to the provisions of Section 17.3 unless exempt under Section 17.2. All Claims will be subject to resolution pursuant to this Article 17 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with Applicable Law to comply with any notice or filing deadlines prior to resolution of the Claim.

**17.2 Exemptions.** None of the following Claims will be subject to this Article 17 unless all Bound Parties thereto agree to submit such Claim to the dispute resolution procedures set forth in this Article 17:

17.2.1 Any Claim by the Association against any Bound Party to enforce the obligation to pay any Assessment to the Association under the Condominium Documents;

17.2.2 Any Claim by Declarant or the Association to obtain injunction or equitable relief to enforce any provision of the Condominium Documents;

17.2.3 Any Claim between Owners where the Declarant or the Association are not a party thereto, which Claim would constitute a cause of action independent of the Condominium Documents;

17.2.4 Any Claim in which any indispensable party is not a Bound Party;

17.2.5 Any Claim against a Released Party that would be barred by Section 8.9;

17.2.6 Any Claim which otherwise would be barred by Applicable Law (such as, for example, the applicable statute of limitations); or

17.2.7 Any Claim arising out of or relating to the interpretation, application or enforcement of any purchase, sale or construction agreement with Declarant or any builder related to the construction of improvements within the Project, or the rights, obligations, or duties of any Bound Party under such agreements, it being understood that Applicable Law and the provisions of such agreements will control the resolution of any claims or disputes related thereto.

### **17.3 Dispute Resolution.**

17.3.1 Direct Discussions. Any Bound Party having a Claim against any other Bound Party will notify such party(ies) of the Claim, stating plainly and concisely the following: (a) the nature of the Claim; (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (c) the basic facts supporting the allegations in the Claim; (d) the other Persons involved in the Claim or with personal knowledge of the facts alleged; and (e) the claimant's proposed remedy, including the specific monetary amounts (if any) demanded. The Bound Parties to the Claim will make reasonable efforts to meet in person to resolve the Claim by good faith discussions and negotiations – it being understood that the best opportunity to achieve a fair and satisfactory resolution to a Claim is ordinarily through early discussions and negotiations held in good faith.

17.3.2 Dispute Resolution. If the Bound Parties to a Claim are unable to resolve the Claim through direct discussions within a reasonable time, either Bound Party may submit the Claim to the Board for assistance in resolving the Claim. In such event, the Board may, by notice to each Bound Party to the Claim within thirty (30) days of its receipt of a request for assistance, do any of the following. If the Board fails to notify the Bound Parties within thirty (30) days of its receipt of a request for assistance, the Board will be deemed to have elected to exempt the Claim from this Article 17.

17.3.3 Order the Bound Parties to continue direct discussions and negotiations for a period of up to thirty (30) days. If the Claim is not resolved in such period, any Bound Party may request the Board's further assistance to resolve the Claim;

17.3.3.1 Order the Bound Parties to mediate the Claim with an independent real estate attorney, real estate professional, or judge selected by the Board. The mediator will set the rules of the mediation. Any party to the mediation can invite additional parties to the mediation if the presence of such additional party is required for a complete resolution of any Claim. The parties will share the mediator's fee and any filing fees equally. Unless otherwise agreed, the mediation will be held within thirty (30) days of the order for mediation and will be held in a neutral location near the Project selected by the mediator. Agreements reached in mediation will be enforceable as settlement agreements in any court having jurisdiction thereof. If the mediation does not resolve the Claim, the Bound Parties may proceed to litigation of the Claim in any court of competent jurisdiction;

17.3.3.2 Order the Bound Parties to settle the Claim through arbitration by a single arbitrator conducted in accordance with the Idaho Uniform Arbitration Act (Idaho Code, Title 7, Chapter 9) except as otherwise provided herein. The arbitrator will be any independent real estate attorney or judge appointed by the Board. The arbitrator will set the rules of the arbitration. The arbitrator may, in its discretion, order parties to produce documents relevant to the dispute and may order written discovery and depositions (but with care to avoid burdensome discovery or depositions). The arbitrator will endeavor to hold the arbitration at mutually convenient times and locations; provided, however, the arbitrator will endeavor to complete the arbitration within forty-five (45) days after appointment of the arbitrator. The parties will bear their own attorneys' fees (if any) and share the arbitrator's fees equally; provided, however, the arbitrator may award costs, arbitrator's fees and attorneys' fees to the substantially prevailing party. The arbitrator's award will be final, and judgment may be entered upon it in accordance with Applicable Law in any court having jurisdiction thereof

17.3.3.3 If the Claim is within the jurisdiction of the Small Claims Department of the Magistrate Division (currently, monetary claims for \$5,000 or less), order a Bound Parties to file such Claim exclusively therein;

17.3.3.4 Elect to exempt the Claim from this Article 17, at which time the Bound Parties are free to exercise any right or remedy in accordance with Applicable Law.

17.3.4 Enforcing Resolutions. If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Article 17 and any Bound Party thereafter fails to abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Article 17. In such event, the Bound Party taking action to enforce the resolution will be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

## ARTICLE 18 INITIAL DEVELOPMENT PERIOD

**18.1 Project Management.** Each Owner recognizes that the Project will require a high level of knowledge, effort, judgment, diligence, and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Project volunteers. Accordingly, each Owner agrees that it is in the best interest of the Project for Declarant to have full management authority for the Project during the Initial Development Period, including the sole and exclusive right to appoint, remove, and replace directors of the Board, and to fill vacancies on the Board, at any time and from time-to-time in Declarant's sole discretion by virtue of its voting rights as the Declarant Member.

**18.2 Declarant Exemptions.** Declarant may, from time-to-time in Declarant's discretion and without first seeking or obtaining the approval of Association:

18.2.1 Make modifications or improvements to the Common Area as Declarant deems appropriate, and may also may modifications or improvements to any Unit prior to the conveyance thereof as Declarant deems appropriate;

18.2.2 Place or authorize signs of such size, design, and number as Declarant deems appropriate for the initial development of the Project, including signs to identify the Project, display information pertaining to the Project, display information or instructions to builders, advertise Condominiums for sale (including sale events and open houses), and to advertise Project elements or events;

18.2.3 Use or allow any third party to use any Condominium as a model home, sales office, or construction office; or

18.2.4 Place or authorize portable or temporary structures upon the Common Area of the Project, and otherwise allow the Common Area to be used as a construction storage yard.

**18.3 Assignment of Declarant's Rights.** Declarant may assign any or all of its rights under the Condominium Documents to any Person in a written instrument(s) that contains the assignee's acceptance of such assignment and agreement to assume any of Declarant's obligations pertaining to the rights assigned, which acceptance and assumption will be effective upon the recordation of such written instrument(s) recorded in the real property records of Blaine County, Idaho. Declarant will promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Declarant's obligations pertaining to the rights assigned and the obligations assumed.

## ARTICLE 19 TERM

The Declaration will be perpetual, subject only to termination at the removal of the Project from the Condominium Act in accordance with Applicable Law (i.e., Idaho Code Section 55-1510, or its successor provision), which termination must be separately approved and performed in the same manner as removal of the Project from the Condominium Act.

## ARTICLE 20 AMENDMENT

**20.1 Written Instrument; Recordation.** No amendment or termination of this Declaration will be effective unless in a written instrument, and will not take effect until the amendment or termination is recorded in the Blaine County Recorder's Office.

**20.2 By Declarant Prior to Conveyance of First Unit.** Prior to Declarant's conveyance of a Unit, Declarant may amend or terminate this Declaration by recording written instrument setting forth such amendment or termination in the Blaine County Recorder's Office.

**20.3 Material Amendments.** Except as other amendments are permitted under this Declaration, any Material Amendment to this Declaration must be by a written instrument setting forth such amendment, signed and acknowledged by the president and secretary of the Association certifying and attesting that the amendment has been approved at a Qualified Meeting by members entitled to cast at least sixty-seven percent (67%) of the votes of members present, in person or by proxy, and if Declarant votes at the Qualified Meeting, that the amendment has been approved by the vote of a majority of all members other than Declarant. The amendment will be effective upon the recordation thereof with the Blaine County Recorder's Office. Any Material Amendment which changes the rights of any specific class of members must also be approved by members entitled to cast at least fifty-one percent (51%) of the votes of all members of such class present, in person or by proxy, and voting at any Qualified Meeting, or at least fifty-one percent (51%) of the total authorized votes of all members of such class.

**20.4 Minor Amendments.** The Association may make a Minor Amendment to this Declaration by a written instrument setting forth such amendment, signed and acknowledged by the president and secretary of the Association certifying and attesting that the amendment has been approved by the vote or written consent of Members representing a majority of the total voting power in the Association.

**20.5 Financing Amendments.** Declarant and the Association will each have the power and authority, acting individually or collectively, to amend to this Declaration (including the Financing Rider) by a written instrument setting forth such amendment, if the amendment is necessary or convenient (in the reasonable opinion of Declarant or the Association) to allow Owners to take full advantage of, or secure the full availability of, any Financing Programs.

**20.6 Mortgagee Protection.** Any amendment that may have a material adverse nature to mortgagees must be approved by first priority Mortgage holders of Units that represent at least fifty-one percent (51%) of the voting power of Units that are subject to first priority Mortgages. Any Mortgage holder will be deemed to have given its implied approval of any amendment proposal if the Mortgage holder fails to submit a response to any written proposal for an amendment within sixty (60) days after the Mortgage Holder receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

**20.7 Effect of Amendment.** Any amendment of this Declaration approved in the manner specified in this Article 20 will be binding on all Owners, notwithstanding that some or all Owners may

not have voted for or consented to such amendment. Such amendment may add to and increase the covenants, conditions, restrictions, and easements applicable to the Project but will not prohibit or unreasonably interfere with the allowed uses of the Owner's Condominium which existed prior to the amendment.

## ARTICLE 21 FINANCING

**21.1 Financing Rider.** The Condominium Documents are subject to the provisions of the Financing Rider. To the extent that any provision of the other Condominium Documents conflict with, or are inconsistent with, the provisions of the Financing Rider, then the provisions of the Financing Rider will govern.

**21.2 Mortgage Protection.** The Association must provide notice of the following to any holder, insurer or guarantor of any first position Mortgage, The notice will delivered to the address for the holder, insurer or guarantor in the real property records of Blaine County, unless the holder, insurer or guarantor provides another address by notice to the Association. The Association need not send any notice to any holder, insurer or guarantor that is not of public record, or that has not provided its name, address and the Unit number or address of the Unit on which it has its first position Mortgage.

21.2.1 Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;

21.2.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;

21.2.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

21.2.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

## ARTICLE 22 NOTICES; REGISTRATION OF ADDRESSES

Each Owner must register the Owner's email address and mailing address with the Association, and update the addresses as frequently as necessary for the Association to always have the Owner's current addresses. All notices or demands intended to be served upon any Owner will be sent by United States Mail postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to provide the Association with a valid address, all notices will be sent to that Owner's address on record with the Blaine County Assessor's office. All notices or demands intended to be served upon the Association will be given by registered or certified mail, postage prepaid, to the address of the Association's registered agent on file with the Idaho Secretary of State. All notices or demands to be served on Mortgagees pursuant hereto will be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association. Unless the Mortgagee furnishes the Association such address, the Mortgagee will not be entitled to receive any of the notices provided for in this Declaration. Any notice referred to in this Section will be deemed given when deposited in the United States mail in the form provided for in this Section.

## ARTICLE 23 MISCELLANEOUS

### 23.1 Enforcement and Non-Waiver.

23.1.1 Right of Enforcement. Except as otherwise provided herein, any Owner, the Association, and Declarant will each have the right to enforce any or all of the provisions of this Declaration against any Condominium or any part or portion of the Project and against the Owners thereof. The failure of any Owner or Occupant to comply with Applicable Law pertaining to the ownership, use, or occupancy of any Condominium or other portion of the Project, or to comply with any provision of the Condominium Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Article 17) in Declarant, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Declaration, the substantially prevailing party will be entitled to recover any costs and attorneys' fees reasonably incurred therein

23.1.2 Non-Waiver. Failure of the Declarant or the Board to insist upon strict compliance with the Condominium Documents, or to exercise any right contained in such documents, or to serve any notice or to institute any action, will not be construed as a waiver or a relinquishment of the right to insist on compliance in the future with any term, covenant, condition or restriction. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, will not be a waiver of the breach. No waiver by the Board of any requirement will be effective unless expressed in a writing signed for by the Board.

**23.2 Interpretation.** The provisions of this Declaration will be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration will be construed and governed under the laws of the State of Idaho without regard to its conflicts of law principles. Any legal action to interpret or enforce this Declaration must be filed exclusively in the state or federal courts situated in Blaine County, Idaho. The interpretation of this Declaration will also be governed by the following:

23.2.1 Restrictions Construed Together. All of the provisions hereof will be liberally construed together to promote and effectuate the fundamental concepts of the development of the Project as set forth in the recitals to this Declaration.

23.2.2 Restrictions Severable. Notwithstanding the provisions of the foregoing Section 23.2.1, each of the provisions of this Declaration will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof will not affect the validity or enforceability of any other provision herein.

23.2.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular will include the plural and the plural the singular; and the masculine, feminine or neuter will each include the masculine, feminine and neuter. As used herein, the word "including" will be deemed to be followed by "but not limited to" unless otherwise indicated.

23.2.4 Captions. All captions, titles and the table of contents used in this Declaration are intended solely for convenience of reference and will not affect that which is set forth in any of the provisions hereof.

23.2.5 Board Interpretation. In the event that any provision of this Declaration is deemed ambiguous on any matter (by the Board or any court of competent jurisdiction), the Board's interpretation such provision will be given deference so long as the interpretation is not arbitrary, capricious or in direct conflict with the unambiguous express provisions of this Declaration.

**23.3 Owner's Obligations Continue**. All obligations of the Owner under and by virtue of the provisions contained in this Declaration will continue, notwithstanding that the Owner may have leased, rented or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium will have no obligation for Assessments or other obligations accruing after the Owner conveys such Condominium.

**23.4 Exhibits**. All exhibits attached hereto are incorporated herein as if set forth in full herein. However, in the event of any conflict between such exhibits and the text of the Declaration, the Declaration will control. Any reference to an exhibit (or a document in an exhibit) will mean the Exhibit or document as it is amended or supplemented from time to time.

*[end of text; signature page follows]*



This Declaration is executed effective as of the Effective Date.

**“Declarant”**

THE PERRY BUILDING LLC,  
an Idaho limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF IDAHO            )  
  ) ss.  
County of Blaine         )

This record was signed before me on September \_\_\_\_, 2022 by \_\_\_\_\_  
as [Manager] of The Perry Building LLC.

\_\_\_\_\_  
Notary Signature

**LENDER CONSENT  
(IF PROPERTY ENCUMBERED BY MORTGAGE PRIOR TO RECORDATION)**

The undersigned holder of a recorded security interest in the Property hereby consents to the recordation of the Plat and this Declaration.

[\_\_\_\_\_]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF IDAHO                    )  
  : ss.  
County of Blaine                 )

This record was signed before me on \_\_\_\_\_, 2022 by \_\_\_\_\_  
as \_\_\_\_\_ of [\_\_\_\_\_].

\_\_\_\_\_  
Notary Signature

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**EXHIBIT B**

**PLAT**

[ attach reduced size copies of the plat prior to recordation ]

**EXHIBIT C**  
**COPY OF ARTICLES OF INCORPORATION**

**EXHIBIT D**

**PERCENTAGE OF OWNERSHIP INTEREST IN THE COMMON AREA**

<b>Unit</b>	<b>Unit Type</b>	<b>Percentage Ownership in Common Area</b>	<b>Votes</b>
<b>1-R01</b>	<b>Commercial</b>		
<b>1-R02</b>	<b>Commercial</b>		
<b>1-R03</b>	<b>Commercial</b>		
<b>1-R04</b>	<b>Commercial</b>		
<b>U101</b>	<b>Residential</b>		
<b>U102</b>	<b>Residential</b>		
<b>U103</b>	<b>Residential</b>		
<b>U104</b>	<b>Residential</b>		
<b>U105</b>	<b>Residential</b>		
<b>U106</b>	<b>Residential</b>		
<b>U107</b>	<b>Residential</b>		
<b>U108</b>	<b>Residential</b>		
<b>U109</b>	<b>Residential</b>		
<b>U110</b>	<b>Residential</b>		
<b>U111</b>	<b>Residential</b>		
<b>U201</b>	<b>Residential</b>		
<b>U202</b>	<b>Residential</b>		
<b>U203</b>	<b>Residential</b>		
<b>U204</b>	<b>Residential</b>		
<b>U205</b>	<b>Residential</b>		
<b>U206</b>	<b>Residential</b>		

<b>Unit</b>	<b>Unit Type</b>	<b>Percentage Ownership in Common Area</b>	<b>Votes</b>
<b>U207</b>	<b>Residential</b>		
<b>U208</b>	<b>Residential</b>		
<b>U301</b>	<b>Residential</b>		
<b>U302</b>	<b>Residential</b>		
<b>U303</b>	<b>Residential</b>		
<b>U304</b>	<b>Residential</b>		





Storage Area		
<b>TOTAL</b>		<b>100%</b>

## EXHIBIT F

### FINANCING RIDER

The purpose of this Financing Rider is to set forth provisions that Declarant or the Association may (now or in the future) deem necessary or convenient (in the reasonable opinion of Declarant or the Association) to allow Owners to take full advantage of, or secure the full availability of, any Financing Programs. Capitalized terms not otherwise defined in this Financing Rider, and defined in the Declaration to which this Financing Rider is attached, will have the meaning set forth in the Declaration. To the extent that any provision of the other Condominium Documents conflict with, or are inconsistent with, the provisions of this Financing Rider, then the provision of this Financing Rider will govern.

**F.1 Compliance with Laws.** The Project has been created and exists in full compliance with the state law requirements of Idaho and all other Applicable Laws and regulations. To the extent the Condominium Documents conflict with any Applicable Laws and regulations, the Applicable Laws and regulations will govern.

**F.2 Limitations on Ability to Sell/Right of First Refusal.** Any limitations in the Condominium Documents on the ability of an Owner to sell a Unit (including rights of first refusal, if any) will not adversely impact the rights of a Mortgagee or its assignee to:

- (1) Foreclose or take title to a Condominium pursuant to the remedies in the Mortgage;
- (2) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor;  
or
- (3) Sell or lease a unit acquired by the Mortgagee or its assignee.

**F.3 Limitations on Amendments to Condominium Documents**

- (1) Any amendment to the Condominium Documents of a material adverse nature to Mortgagees must be agreed to by Mortgagees that represent at least fifty-one percent (51%) of the votes of Unit estates that are subject to Mortgages.
- (2) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs or for other reasons to be agreed to by Mortgagees that represent at least fifty-one percent (51%) percent of the votes of the Unit estates that are subject to Mortgages.
- (3) A Mortgagee will be deemed to have given implied approval when a Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a “return receipt” requested.

**F.4 Rights of Condominium Mortgagees and Guarantors.** The Association must provide each Mortgagee and guarantor of the Mortgage on any Unit in the Project timely written notice of:

- (1) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its Mortgage;
- (2) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the Mortgage;

- (3) A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (4) Any proposed action that requires the consent of a specified percentage of Mortgagees.

**F.5 First Mortgagee's Rights Confirmed.** No provision of the Condominium Documents gives a Unit owner or any other party priority over any rights of the first Mortgagee of the Unit pursuant to its Mortgage in the case of payment to the Unit owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Area.

**F.6 Unpaid Dues.** Any first Mortgagee who obtains title to a Unit pursuant to the remedies in the Mortgage or through foreclosure will not be liable for more than six (6) months of the Unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the Unit by the Mortgagee. If the Association lien priority includes costs of collecting unpaid dues, the lender will be liable for any fees or costs related to the collection of the unpaid dues.

**F.7 Fidelity Insurance.** The Association must maintain fidelity insurance for all of its officers, directors and employees, and all other persons handling or responsible for funds administered by the Association. The insurance coverage must be the greater of (a) three(3) months of aggregate assessments on all Units plus reserve funds; or (b) the minimum required by state law. If the Association engages a management company, the policy must demonstrate that they must meet the standard for both the Association and the management company. Fidelity insurance is insurance that protects the Association against employee dishonesty, crime or other fraudulent acts by one or more employees.

**F.8 Department of Veterans Affairs Financing.** To the extent that any provision of the Condominium Documents is inconsistent with the requirements of guaranteed or direct loan programs of the United States Department of Veterans Affairs, as set forth in chapter 37 of title 38, United States Code, or part 36 of title 38, Code of Federal Regulations (“**DVA Financing**”), such provision will not apply to any Unit that is: (a) encumbered by DVA Financing or; (b) owned by the Department of Veterans Affairs.

**F.9 Extraordinary Action Limitation.**

- (1) If required by Applicable Law or the requirements of any then current Mortgagee of a Mortgage under the Financing Programs, any Extraordinary Action of the Association must be approved at a Qualified Meeting by Members entitled to cast at least sixty-seven percent (67%) of the votes of Members present, in person or by proxy, and if Declarant votes at the Qualified Meeting, that the Extraordinary Action must be approved by the vote of a majority of all Owner Members present. The following Extraordinary Actions must be approved by Members entitled to cast at least sixty-seven percent (67%) of the total authorized votes of all Members, including at least a majority of the total authorized votes entitled to be cast by Owner Members: (x) dissolution of the Association except pursuant to a consolidation or merger; and (y) conveyance of all Common Areas.
- (2) “**Extraordinary Action**” includes: (1) merging or consolidating the Association (other than with another nonprofit entity formed for purposes similar to the Association); (2) determining not to require professional management if that management is required by the Condominium Documents, a majority of eligible Mortgagees or a majority vote of the Owners; (3) expanding the Association to include land not previously described as additional land which increases the overall land area of the Project or number of units by

more than ten percent (10%) percent; (4) abandoning, partitioning, encumbering, mortgaging, conveying selling or otherwise transferring or relocating the boundaries of Common Areas (except for (a) granting easements which are not inconsistent with or which do not interfere with the intended Common Area use; (b) dedicating common area as required by a public authority; (c) limited boundary-line adjustments made in accordance with the Condominium Documents; or (d) transferring Common Area pursuant to a merger or consolidation with a nonprofit entity formed for purposes similar to the Association); (5) using insurance proceeds for purposes other than construction or repair of the insured improvements; or (6) making capital expenditures (other than for repair or replacement of existing improvements) during any period of twelve (12) consecutive months costing more than twenty percent (20%) of the Association's annual operating budget).

## **EXHIBIT G**

### **Description of Limited Common Areas**

**A. Limited Common Areas Assigned to Each Commercial Unit:**

- (1) Storefront.
- (2) Area reserved for signage.
- (3) Unit Entry.
- (4) Right to use the sidewalk immediately outside each Commercial Unit to the extent allowed by City of Ketchum ordinances including for outdoor seating, displays or sales.
- (5) Awning.
- (6) Assigned parking spaces and storage rooms, if any.

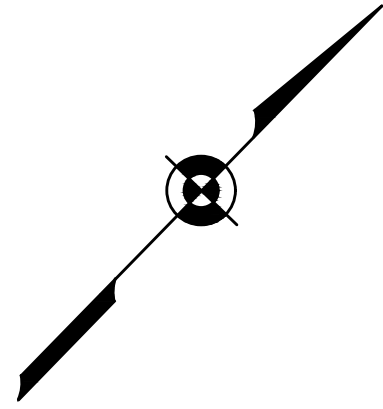
**B. Residential Limited Common Areas:**

- (1) Residential amenities on Level 1 including the residential entry, vestibule, and lobbies.
- (2) Electrical room and trash room on P1.
- (3) Stairs and corridors providing access to only the Residential Units.

**C. Limited Common Areas assigned to certain Residential Units:**

Parking spaces and storage rooms assigned to individual Units on Exhibit D.

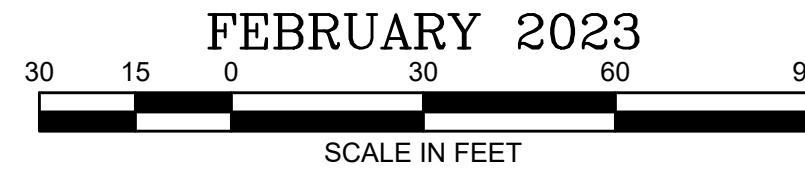
Decks, terraces, patios, or balconies designed to serve a single Unit.



SCALE: 1" = 30'

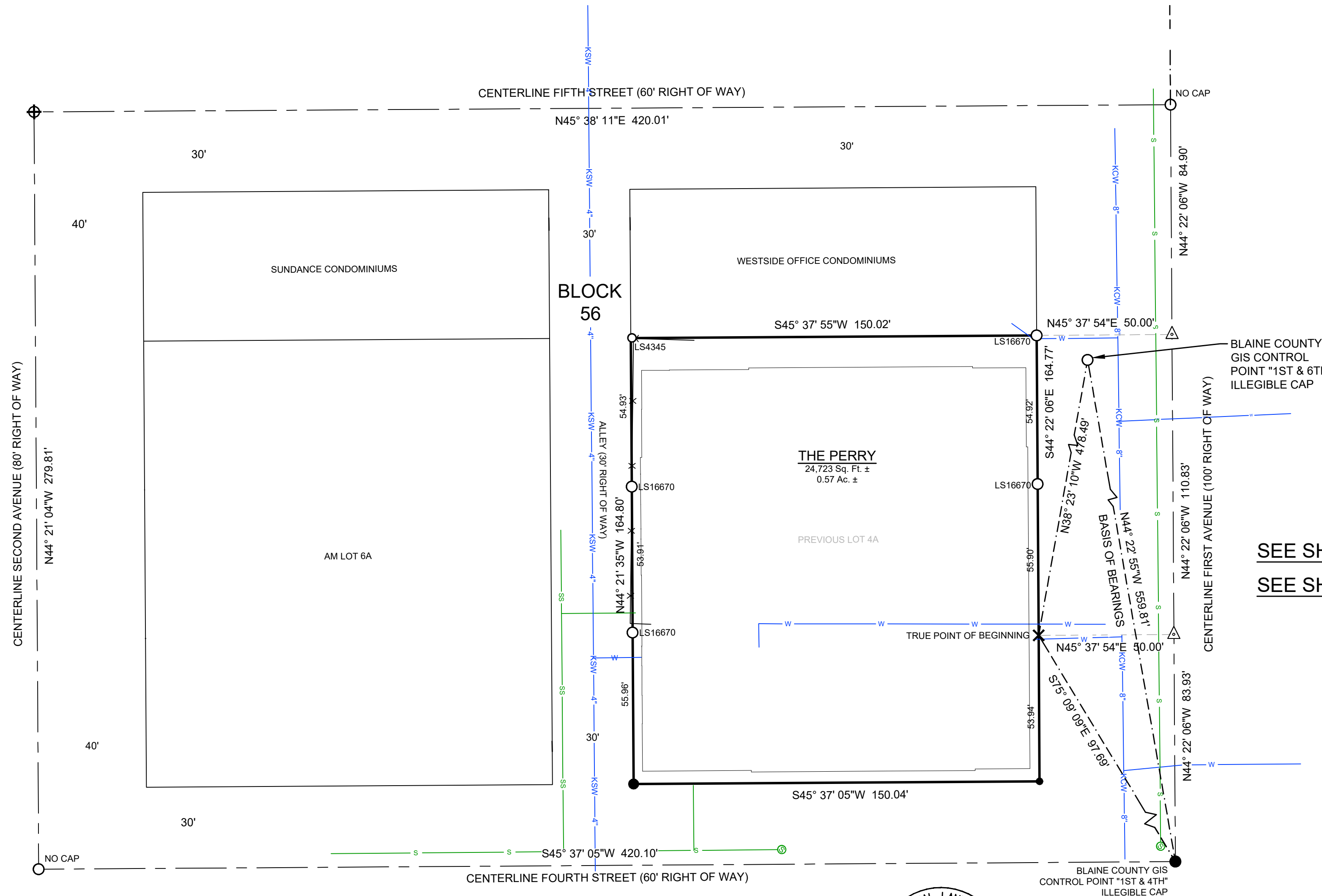
# A PLAT SHOWING THE PERRY

WHEREIN LOT 2A, BLOCK 56, KETCHUM TOWNSITE, IS CONVERTED INTO CONDOMINIUMS AS SHOWN HEREON  
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO



### LEGEND

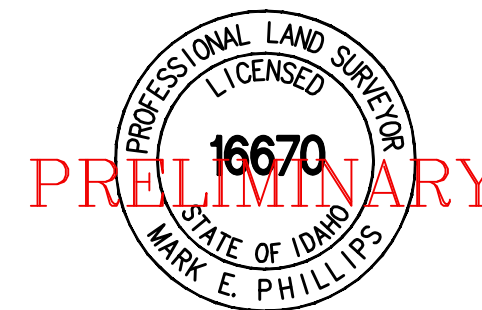
- Property Line
- Building Footprint
- Adjoiner's Lot Line
- Centerline of Right of Way
- Fence Line
- Survey Tie Line
- GIS Tie Line
- Ketchum City Water
- Ketchum Spring Line Water
- Water Service Tie Line
- Sewer Main
- Sewer Service
- Sewer Manhole
- Set Mag Nail
- Calculated Point, Not Set
- Found 1" Survey Marker
- Found 1/2" Rebar
- Found 5/8" Rebar
- Set 5/8" Rebar, P.L.S. 16670



**SEE SHEET 2 FOR SURVEY NARRATIVE & NOTES**  
**SEE SHEET 5 FOR VICINITY MAP**

HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

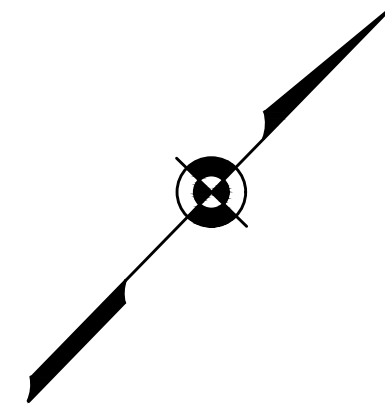
Date \_\_\_\_\_ South Central District Health Dept., EHS



MARK E. PHILLIPS, P.L.S. 16670

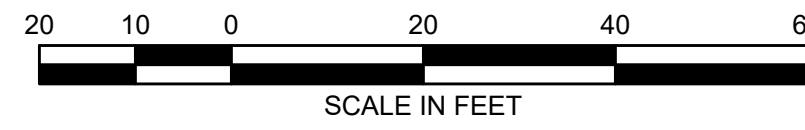
THE PERRY  
GALENA ENGINEERING, INC.  
HAILEY, IDAHO

SHEET 1 OF 6  
Job No. 8059-02



SCALE: 1" = 20'

# A PLAT SHOWING THE PERRY



## FIRST FLOOR

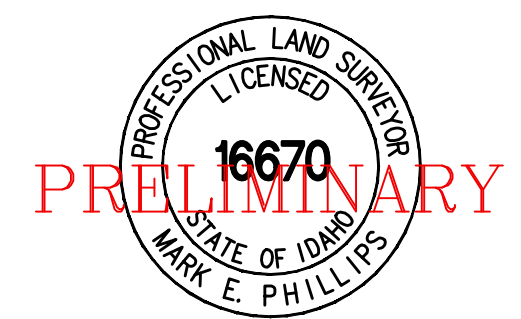
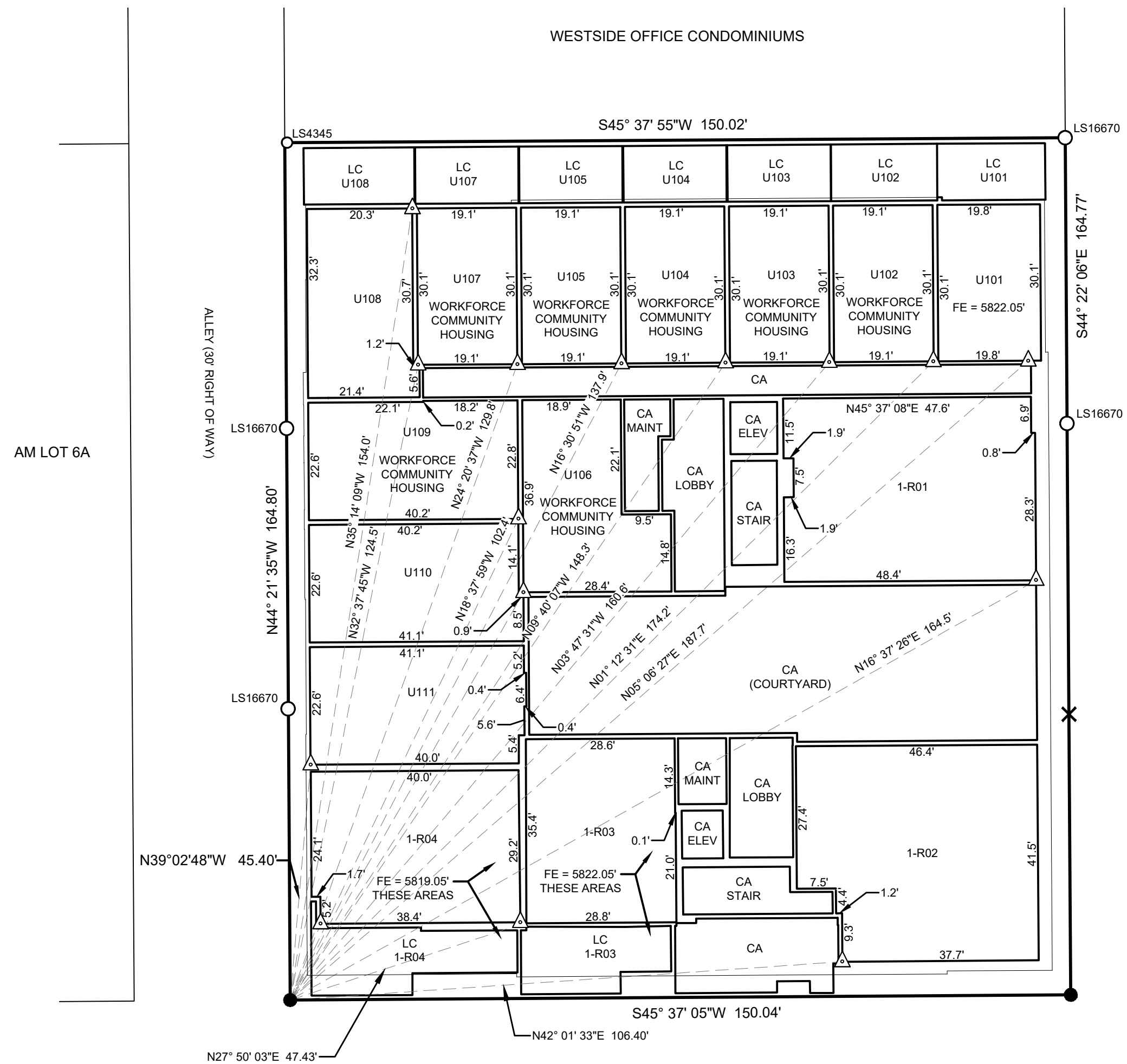
FE = 5825.30' (UNLESS OTHERWISE NOTED)  
CE = 5836.56

### LEGEND

	Property Line
	Adjoiner's Lot Line
	Building Footprint
	Unit Line
	Survey Tie Line
	Found 1/2" Rebar
	Found 5/8" Rebar
	Found Magnetic Nail & Chiseled X
	To Be Set 5/8" Rebar, P.L.S. 16670
	Calculated Point, Nothing Set
FE	Floor Elevation
CE	Ceiling Elevation
LC	Limited Common
CA	Common Area
MAINT	Maintenance Storage
ELEV	Elevator

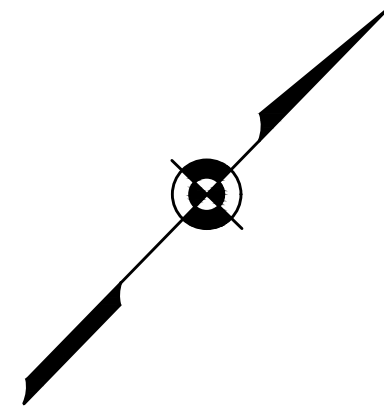
### SURVEY NARRATIVE & NOTES

- The purpose of this survey is to show the monuments found during the boundary retracement of Lot 4A, Block 56, Ketchum Townsite and convert said property into condominiums as shown hereon. The boundary shown is based on found centerline monuments, on the recorded plat of Ketchum: Block 56: Lots 3A and 4A, Instrument Number 403336 and the plat of the Village of Ketchum, Instrument Number 302962, both records of Blaine County, Idaho. All found monuments have been accepted. The missing monuments were reset by block breakdown and proportioning record distances between found monuments. Additional documents used during the course of this survey include the Record of Survey for Lots 2 & 3A, Block 56, Ketchum Townsite, Instrument Number 678114, the Record of Survey for D-K Condos, The N.E. 1/2 of Lots 5, Block 56, Ketchum Townsite, Instrument Number 694650, the plat of Ketchum, Block 56, Lot 6A, Instrument Number 438337 and the plat for D-K Condominiums, Instrument Number 195387, all records of Blaine County, Idaho.
- The distances shown are measured. Refer to the above referenced documents for previous record data.
- In interpreting the Declaration, Plat or Plats, and Deeds, the existing physical boundaries of the unit as originally constructed, or reconstructed in lieu thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, plat or plats, and/or deeds, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown in the declaration, plat or plats, and/or deeds, and the actual boundaries of the units in the buildings.
- Unless otherwise shown hereon, this survey does not purport to reflect any of the following which may be applicable to subject real property: natural hazards, encroachments, wetlands, ditches, easements, building setbacks, restrictive covenants, subdivision restrictions, zoning or any other land-use regulations.
- A Title Commitment for 471 North 1st Avenue, has been issued by Pioneer Title Co., File Number 251444, with a Commitment Date of December 3, 2020. Certain information contained in said title policy may not appear on this map or may affect items shown hereon. It is the responsibility of the owner or agent to review said title policy. Some of the encumbrances and easements listed in the title report are NOT plotted hereon.
- Property shown hereon is subject to terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens provided by applicable Condominium Law or the Condominium Declaration recorded under Instrument Number \_\_\_\_\_, records of Blaine County, Idaho. Consult the Condominium Declarations for the definition of common and limited common area.
- All area outside of units that is not designated as limited common is common area. areas of "common" or "limited common" are shown by diagram.
- Building ties are to the interior corners of unit walls. Elevation datum is NAVD 1988.
- Utility easements necessary to allow for access and maintenance of utilities serving units other than the unit they are located in are hereby granted by this plat.
- Zoning is CC-2, Community Core-Mixed Use Zone. Refer to City of Ketchum Zoning Ordinance for more specific information about this zone.
- The owner/subdivider is The Perry Building L.L.C. of 100 Lindsay Circle, Ketchum, ID 83349. The surveyor/representative is Mark E. Phillips, Galena Engineering, Inc., 317 N. River St., Hailey, Idaho 83333.
- All accessible area outside of units that is not designated as Limited Common is Common Area. Areas of "Common" or "Limited Common" are shown by diagram.
- Workforce community housing units are subject to FAR Exceedance Agreement, Instrument Number \_\_\_\_\_, and Deed Covenant, Instrument Number \_\_\_\_\_, both records of Blaine County.



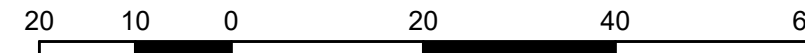
MARK E. PHILLIPS, P.L.S. 16670

THE PERRY  
 GALENA ENGINEERING, INC.  
 HAILEY, IDAHO  
 SHEET 2 OF 6  
 Job No. 8059-02



SCALE: 1" = 20'

# A PLAT SHOWING THE PERRY



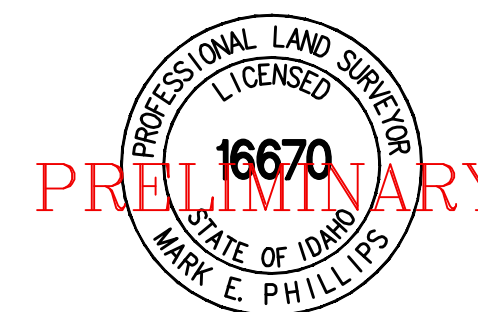
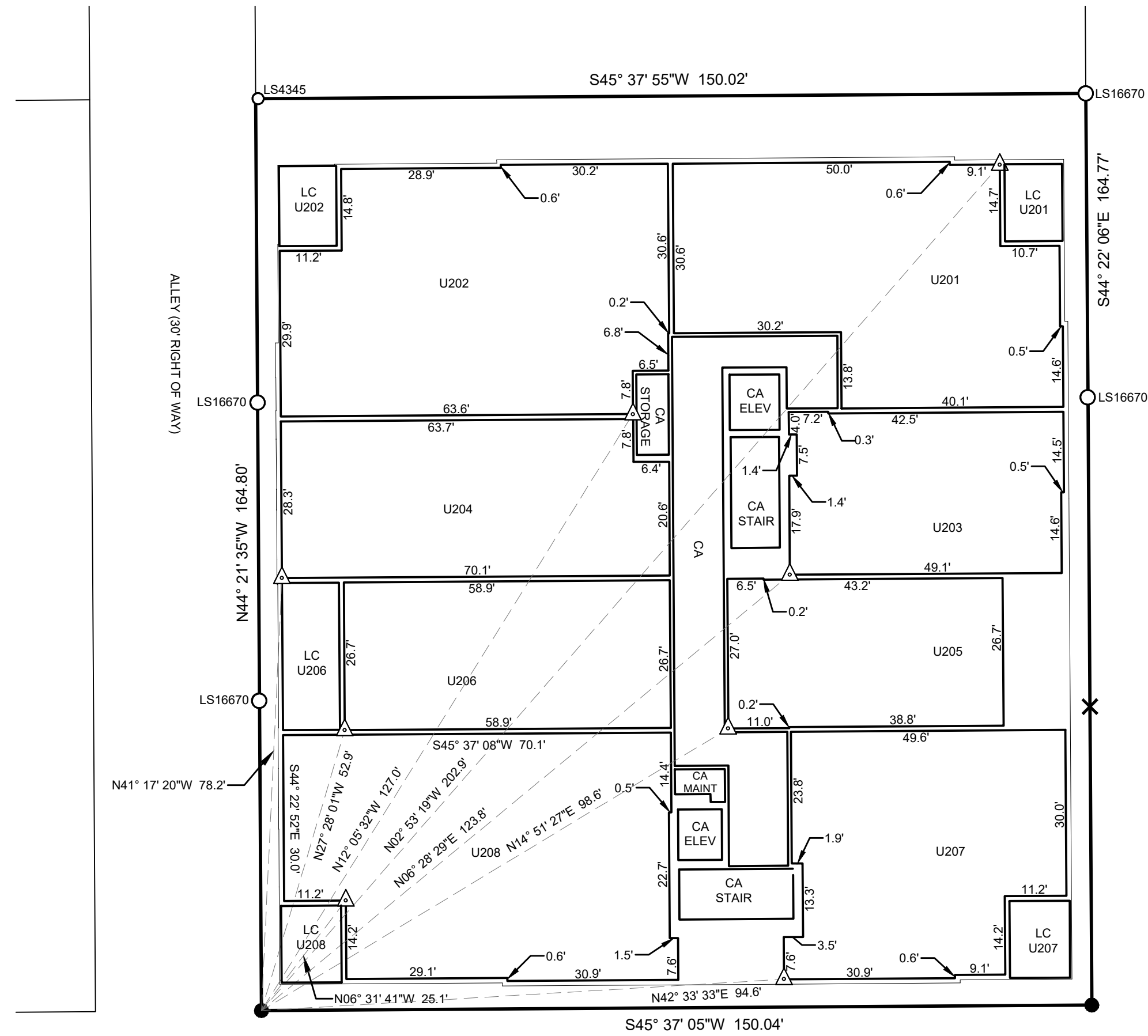
SCALE IN FEET

## SECOND FLOOR

FE = 5838.05'  
CE = 5848.73'

### LEGEND

- Property Line
- Adjoiner's Lot Line
- Building Footprint
- Unit Line
- Survey Tie Line
- Found 1/2" Rebar
- Found 5/8" Rebar
- Found Magnetic Nail & Chiseled X
- To Be Set 5/8" Rebar, P.L.S. 16670
- Calculated Point, Nothing Set
- FE Floor Elevation
- CE Ceiling Elevation
- LC Limited Common
- CA Common Area
- MAINT Maintenance Storage
- ELEV Elevator



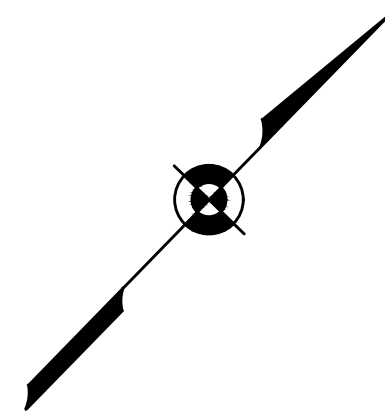
MARK E. PHILLIPS, P.L.S. 16670

THE PERRY

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

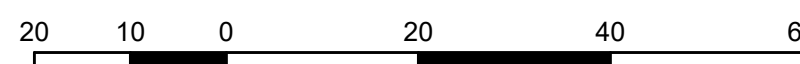
SHEET 3 OF 6  
Job No. 8059-02





SCALE: 1" = 20'

# A PLAT SHOWING THE PERRY



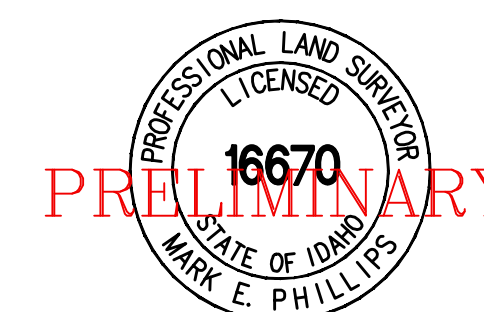
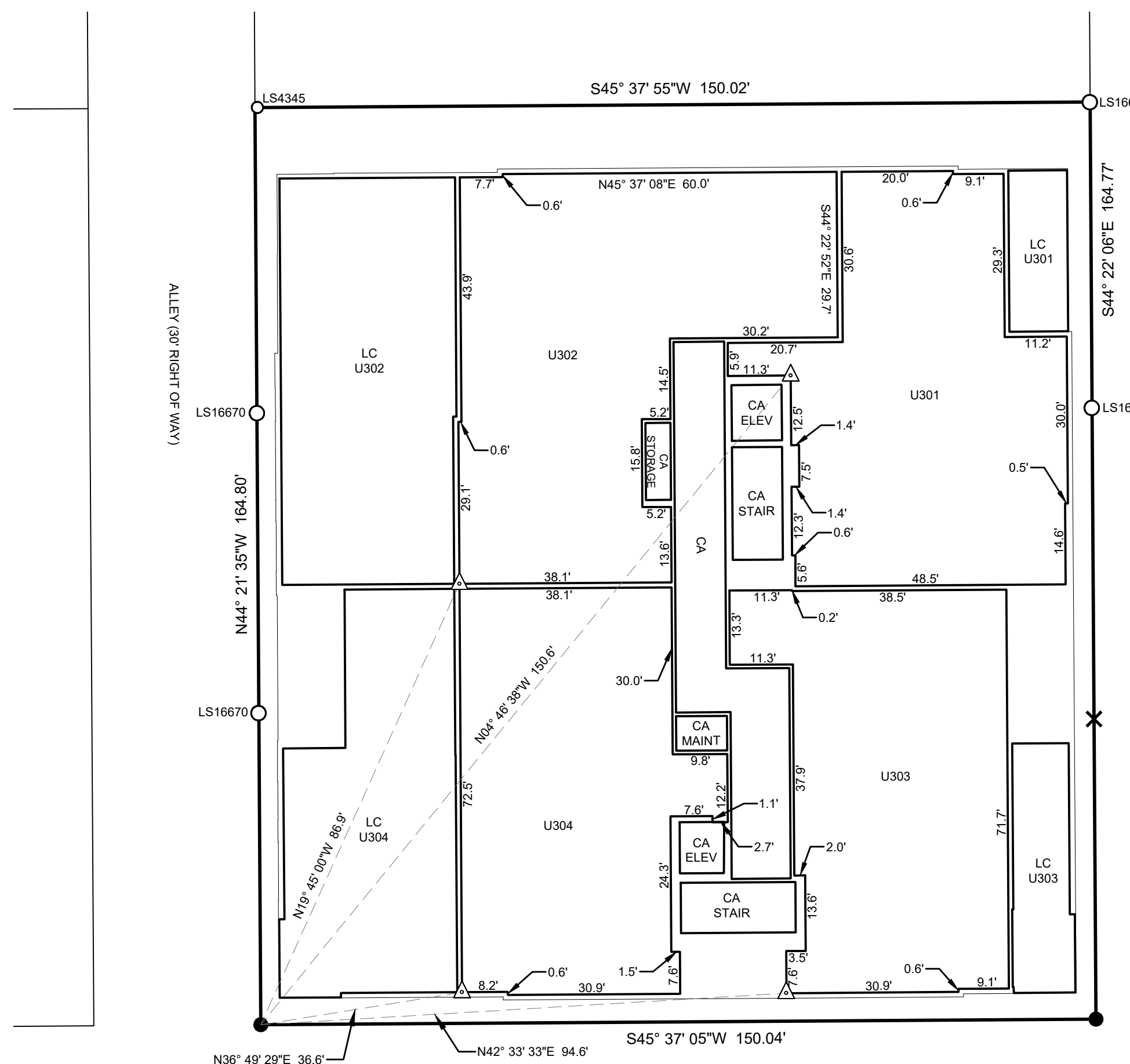
SCALE IN FEET

## THIRD FLOOR

FE = 5850.22'  
CE = 5861.05'

### LEGEND

- Property Line
- Adjoinder's Lot Line
- Building Footprint
- Unit Line
- Survey Tie Line
- Found 1/2" Rebar
- Found 5/8" Rebar
- Found Magnetic Nail & Chiseled X
- To Be Set 5/8" Rebar, P.L.S. 16670
- Calculated Point, Nothing Set
- FE Floor Elevation
- CE Ceiling Elevation
- LC Limited Common
- CA Common Area
- MAINT Maintenance Storage
- ELEV Elevator



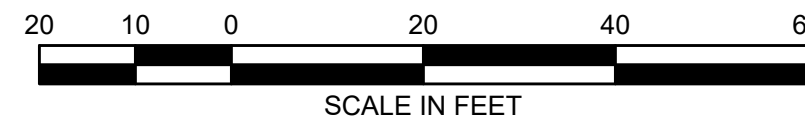
MARK E. PHILLIPS, P.L.S. 16670

THE PERRY

GALENA ENGINEERING, INC.  
HAILEY, IDAHO

SHEET 4 OF 6  
Job No. 8059-02

# A PLAT SHOWING THE PERRY



## PARKING

FE = 5810.63'  
CE = 5823.81' (UNLESS OTHERWISE NOTED)

SCALE: 1" = 20'

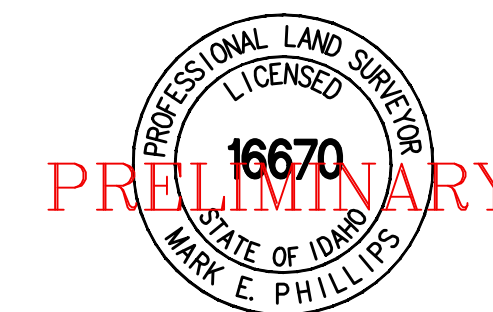


## LEGEND

- Property Line
- Adjoiner's Lot Line
- Building Footprint
- Unit Line
- Found 1/2" Rebar
- Found 5/8" Rebar
- ⊗ Found Magnetic Nail & Chiseled X
- Set 5/8" Rebar, P.L.S. 16670
- △ Calculated Point, Nothing Set
- FE Floor Elevation
- CE Ceiling Elevation
- LC Limited Common
- CA Common Area
- MECH Mechanical or Electrical Room
- ELEV Elevator



VICINITY MAP  
NOT TO SCALE



MARK E. PHILLIPS, P.L.S. 16670

THE PERRY  
GALENA ENGINEERING, INC.  
HAILEY, IDAHO  
SHEET 5 OF 6  
Job No. 8059-02

**CERTIFICATE OF OWNERSHIP**

This is to certify that the undersigned is the owner in fee simple of the following described parcel of land:

A parcel of land located within Section 13, T.4N., R.17E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

LOT 2A OF LOT 2A, BLOCK 56, KETCHUM TOWNSITE

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements.

I do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of units shown within this plat.

It is the intent of the owner to hereby include said land in this plat.

LOT 2A, BLOCK 56, KETCHUM TOWNSITE, BLAINE COUNTY IDAHO

\_\_\_\_\_  
The Perry Building L.L.C., A Washington Limited Liability Company.  
By: Carson Palmer, Member/Manager

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ }  
COUNTY OF \_\_\_\_\_ } ss

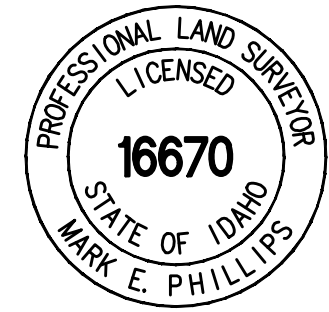
On this \_\_\_\_ day of \_\_\_\_\_ 2023, before me, a Notary Public in and for said State, personally appeared Carson Palmer, known or identified to me to be a Member/Manager of The Perry Building L.L.C., a Washington Limited Liability Company, and acknowledged to me that he executed the same in said Limited Liability Company name

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for said State  
Residing in \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and Condominiums and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.



**BLAINE COUNTY SURVEYOR'S APPROVAL**

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys.

\_\_\_\_\_  
Sam Young, P.L.S. 11577  
Blaine County Surveyor

**KETCHUM CITY COUNCIL CERTIFICATE**

I, the undersigned, City Clerk, in and for the City of Ketchum, Blaine County, Idaho, do hereby certify that at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2023, this plat was duly accepted and approved.

\_\_\_\_\_  
Lisa Enourato, Interim City Clerk, City of Ketchum

**KETCHUM CITY ENGINEER CERTIFICATE**

I, the undersigned, City Engineer in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
Robyn Mattison, City Engineer, City of Ketchum

**KETCHUM CITY PLANNER CERTIFICATE**

I, the undersigned, Planner in and for the City of Ketchum, Blaine County, Idaho, do hereby approve this plat on this \_\_\_\_ day of \_\_\_\_\_, 2023, and certify that it is in accordance with the City of Ketchum subdivision ordinance.

\_\_\_\_\_  
Abby Rivin, Senior Planner, City of Ketchum

**BLAINE COUNTY TREASURER'S APPROVAL**

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

\_\_\_\_\_  
Blaine County Treasurer

\_\_\_\_\_  
Date

**BLAINE COUNTY RECORDER'S CERTIFICATE**

THE PERRY  
GALENA ENGINEERING, INC.  
HAILEY, IDAHO  
SHEET 6 OF 6  
Job No. 8059-02

## Attachment 6

Draft City Council Findings of Fact,  
Conclusions of Law, and Decision:  
Lot Consolidation Preliminary Plat  
Application File No. P22-045A



**City of Ketchum  
Planning & Building**

IN RE: )  
)  
The Perry Building ) KETCHUM CITY COUNCIL  
Lot Consolidation Preliminary Plat ) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
File Number: P22-045A ) DECISION  
)  
Date: May 15, 2023 )  
)

**PROJECT:** The Perry Building

**APPLICATION TYPE:** Lot Consolidation Subdivision Preliminary Plat

**FILE NUMBER:** P22-045A

**ASSOCIATED APPLICATIONS:** Design Review (Application File No. P22-045C)  
Condominium Subdivision – Preliminary Plat (Application File No. P22-045B)  
Variance Request (Application File No. P22-045D)

**PROPERTY OWNER:** Carson Palmer and Broderick Smith, Managing Members, The Perry Building LLC

**REPRESENTATIVE:** Tiina Ritval (Architect), GGLO

**LOCATION:** 131 W 4th Street and 471 & 431 N 1st Avenue  
(Ketchum Townsite: Block 56: Lots 2, 3A, and 4A)

**ZONING:** Community Core – Subdistrict 2 – Mixed-Use Subdistrict (CC-2)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The City of Ketchum Planning and Zoning Commission (the “Commission”) considered The Perry Building project Lot Consolidation Subdivision Preliminary Plat Application File No. P22-045A during their meeting on March 14, 2023. The application was considered concurrently with Design Review Application File No. P22-045C, Variance Request Application File No. P22-045D, and Condominium Subdivision Preliminary Plat Application File No. P22-045B and the public hearings were combined in accordance with Idaho Code §67-6522. The Commission approved The Perry Building Design Review

and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications.

#### Public Hearing Notice & Public Comment

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on February 22, 2023. The public hearing notice was published in the Idaho Mountain Express on February 22, 2023. A notice was posted on the project site and the city's website on January 30, 2023. The building corners were staked and the story pole was installed on the project site on February 27, 2023.

#### **FINDINGS OF FACT**

The Ketchum City Council having reviewed the project record does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

The applicant is proposing to develop a new 53,756-gross-square-foot mixed-use building, called The Perry Building (the "project"), at the northwest corner of 4th Street and 1st Avenue (the "subject property") located within the Mixed-Use Subdistrict of the Community Core ("CC-2 Zone"). The project site is adjacent to: (a) the Westside Office Condominiums to the north on 1st Avenue, (b) the post office across the alley to the west, and (c) the Gail Severn Gallery building across 1st Avenue to the east. The 1st & 4th Mixed-Use Building is currently under construction across 4th Street south of the project site. The subject property is comprised of 3 lots within the original Ketchum townsite that was created in 1948. The corner lot is developed with an existing building that was originally constructed as a racquetball court in 1975 and was the home of Perry's Restaurant for 37 years and a variety of local businesses. The two interior lots are vacant.

Policy CD-1.3 of the comprehensive plan states that "Infill and redevelopment projects should be contextually appropriate to the neighborhood and development in which they occur. Context refers to the natural and manmade features adjoining a development site; it does not imply a certain style"(page 26). This area contains both smaller-scaled older buildings as well as new, larger-scaled developments like the mixed-use building currently under construction at the southwest corner of 1st Avenue and 4th Street. Older, historic buildings in the neighborhood are comprised of small one- and two-story rectangular structures. Gold Mine Consign, the Open Room, the commercial building located at 100 E 5th Street, and La Cabañita are all single-story structures approximately 1,500 square feet in size. Two existing nonconforming residences located at 140 E 5th Street and 460 N 1st Avenue are single-story buildings less than 1,000 square feet in size. This area of downtown is quickly transitioning through recent redevelopment projects that are changing the character of the neighborhood from smaller-scaled historic buildings to larger mixed-used developments.

The project proposes to consolidate 3 lots that were created by Ketchum's original townsite plat map in 1948. Blocks within the original townsite were historically platted into 55-foot-wide lots oriented towards the avenue rights-of-way that run north to south. The configuration of these townsite lots enriches Ketchum's urban fabric by providing opportunities to diversify the buildings along a block.

This variety in building type, age, design and size contribute to Ketchum’s authenticity. The comprehensive plan states, “New development in the downtown will continue the traditional lot and block pattern, oriented around sidewalks and pedestrian-friendly places” (page 64). The urban pattern created by the original townsite plat map is changing as Ketchum continues to grow with new infill and redevelopment projects.

The consolidated lot will have a total area of 24,723 square feet with 165 feet of frontage along 1<sup>st</sup> Avenue and 150 feet of frontage along 4<sup>th</sup> Street. The project employs a variety of design treatments to make the building more contextually compatible with the scale of the surrounding built environment and the traditional pattern of downtown development. The carves in building mass and varying roof-plane heights along 1st Avenue minimize the perceived size of the development.

The lot consolidation preliminary plat will remove the shared property lines separating lots 2, 3A, and 4A within block 56 of the original Ketchum townsite to establish the development parcel. The lot consolidation preliminary plat plan set is attached as Exhibit A. During city department review, staff reviewed the lot consolidation and condominium subdivision preliminary plat applications for conformance with the procedures for subdivision approval (KMC §16.04.030), subdivision development and design standards (KMC §16.04.040), and condominium requirements (KMC §16.04.070). Certain standards are not applicable for one of the following reasons:

- The standard applies to the establishment of new subdivisions creating multiple new lots that will form blocks around new streets, and not the subject property, which is comprised of three existing platted lots within the original Ketchum townsite.
- The standard applies to an action that will be taken at the final plat stage of the process.
- The City Engineer has determined that the standard does not apply.

The proposed lot consolidation and condominium preliminary plat applications comply with all applicable subdivision requirements and standards.

**FINDINGS REGARDING COMPLIANCE WITH PRELIMINARY PLAT REQUIREMENTS**

Preliminary Plat Requirements (Ketchum Municipal Code §16.04.030)				
Compliant			City Code	City Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Findings</i>	<i>The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on November 28, 2022. The applications were reviewed concurrently by planning staff and city departments. Staff review comments were provided to the applicant on February 1, 2023. The applications were deemed complete on February 17, 2023.</i>

☒	☐	☐	16.04.030.J	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.
			<i>Findings</i>	<i>The subdivision application was deemed complete on February 17, 2023.</i>
☒	☐	☐	16.04.030.J.1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following: The scale, north point and date.
			<i>Findings</i>	<i>This standard is met as shown on Sheet 1 of the preliminary plat.</i>
☒	☐	☐	16.04.030.J.2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Findings</i>	<i>As shown on Sheet 1 of the preliminary plat, the plat is titled "Lot 2A, Block 56, Ketchum Townsite" which is not the same as any other subdivision in Blaine County, Idaho.</i>
☒	☐	☐	16.04.030.J.3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Findings</i>	<i>The name of the owner and surveyor is shown on Sheet 1 of the plat. The plat was prepared by Mark E. Phillips of Galena Engineering.</i>
☒	☐	☐	16.04.030.J.4	<b>Legal description of the area platted.</b>
			<i>Findings</i>	<i>The legal description of the area platted is shown on page 1 of the preliminary plat.</i>
☒	☐	☐	16.04.030.J.5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Findings</i>	<i>The preliminary plat shows adjacent properties within block 56 of the original Ketchum townsite, including Lot 6A, the Sundance Condominiums, D-K condominiums, and the West Side Office Condominiums.</i>
☒	☐	☐	16.04.030.J.6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Findings</i>	<i>Existing site conditions, including topography, are included on the project plans submitted with Design Review Application File No. P22-045C.</i>
☒	☐	☐	16.04.030.J.7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Findings</i>	<i>Sheet 1 of the preliminary plat shows the location of the adjacent streets and block 56 alley. The property does not contain any public or private easements. The corner lot is developed with an existing building that was originally constructed as a racquetball court in 1975 and was the home of Perry's Restaurant for 37 years that is proposed to be demolished. The project plans submitted with Design Review Application File No. P22-045C</i>



				<i>showed the scaled location of the existing building. The two interior lots are vacant.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.J.8</b>	<b>Boundary description and the area of the tract.</b>
			<i>Findings</i>	<i>Sheet 1 provides the boundary description of the area. The total area of Lot 2A is 24,723 as noted on the preliminary plat map.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.J.9</b>	<b>Existing zoning of the tract.</b>
			<i>Findings</i>	<i>Plat note #5 on Sheet 1 of the preliminary plat specifies the existing zoning of the subject property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.030.J.10</b>	<b>The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.</b>
			<i>Findings</i>	<i>The preliminary plat shows the location and property lines for consolidated Lot 2A. No new streets or blocks are being proposed with this application.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.J.11</b>	<b>The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.</b>
			<i>Findings</i>	<i>This standard is not applicable as there is no requirement or proposal for land dedicated to public use. The condominium subdivision preliminary plat for the project shows the land that will be dedicated for common use of all future property owners.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.J.12</b>	<b>The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.</b>
			<i>Findings</i>	<i>This standard does not apply as this preliminary plat proposes to consolidate two existing lots within the original Ketchum townsite. No utility, drainage, or right-of-way improvements are proposed or required for the lot consolidation preliminary plat application. The project plans submitted with Design Review Application File No. P22-045C show the proposed utility, drainage, or right-of-way improvements proposed for the project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.J.13</b>	<b>The direction of drainage, flow and approximate grade of all streets.</b>
			<i>Findings</i>	<i>This standard does not apply as no new streets are proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.030.J.14</b>	<b>The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.</b>
			<i>Findings</i>	<i>This standard does not apply as no new drainage canals or structures are proposed.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.15	All percolation tests and/or exploratory pit excavations required by state health authorities.
			<i>Findings</i>	<i>This standard does not apply as no additional tests are required.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.16	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			<i>Findings</i>	<i>This standard does not apply to the subdivision application for the lot consolidation. The applicant has provided a draft copy of the articles of incorporation, bylaws, and declarations with the condominium subdivision preliminary plat application submittal.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.17	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.
			<i>Findings</i>	<i>Sheet 1 of the preliminary plat includes a vicinity map.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.18	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			<i>Findings</i>	<i>The subject property is not within a floodplain, floodway, or avalanche zone district.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	<i>A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25% and is not adjacent to an intersection.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.20	Lot area of each lot.
			<i>Findings</i>	<i>Sheet 1 of the preliminary plat shows the area of Lot 1A.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.21	Existing mature trees and established shrub masses.
			<i>Findings</i>	<i>The existing site survey on page 11 of the project plans shows 5 existing trees on the subject property. These trees are proposed to be removed to accommodate the mixed-use development. The City Arborist conducted a site inspection on January 25, 2023 and determined that the existing trees are not healthy or mature, and therefore, do not require replacement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.

			<i>Findings</i>	<i>The applicant submitted a title commitment issued by Stewart Title Guarantee Company, and a warranty deed with the preliminary plat application.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.23	Three (3) copies of the preliminary plat shall be filed with the administrator.
			<i>Findings</i>	<i>The City of Ketchum received digital copies of the preliminary plat at the time of application.</i>

**FINDINGS REGARDING COMPLIANCE WITH SUBDIVISION DEVELOPMENT & DESIGN STANDARDS**

Subdivision Development & Design Standards (Ketchum Municipal Code §16.04.040)				
Compliant			City Code	City Standards
Yes	No	N/A		
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.A	<p><b>Required Improvements:</b> The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.</p> <p><i>Findings</i></p> <p><i>This standard is not applicable as this project combines three lots within the original Ketchum townsite. No improvements are proposed or required for the lot consolidation.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	<p><b>Improvement Plans:</b> Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.</p> <p><i>Findings</i></p> <p><i>This standard is not applicable as this project combines three lots within the original Ketchum townsite. No additional improvements are proposed or required for the lot consolidation.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	<p>Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of</p>

				<p>the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</p>
			<i>Findings</i>	<i>This standard is not applicable as this project combines three lots within the original Ketchum townsite. No additional improvements are proposed or required for the lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	<p><b>As Built Drawing:</b> Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<i>Findings</i>	<i>This standard is not applicable as this project combines three lots within the original Ketchum townsite. No additional improvements are proposed or required for the lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.E	<p><b>Monumentation:</b> Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>

			<i>Findings</i>	<i>The applicant shall meet the required monumentation standards prior to recordation of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p><b>Lot Requirements:</b></p> <p>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</p> <p>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</p> <p>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</p> <p>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</p> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of</p>

				<p>twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
			<i>Findings</i>	<p><i>Standard #1 has been met as the size, width, depth, shape, and orientation of Lot 2A comply with the dimensional standards required in the Community Core Zone. Pursuant to Ketchum Municipal Code §17.12.040, lots in the Community Core Zone must have a minimum size of 5,500 square feet and minimum width of 55 feet average. The consolidated lot will have a total area of 24,723 square feet with 165 feet of frontage along 1st Avenue and 150 feet of frontage along 4th Street. Standard #2 is not applicable is not located in the floodplain and does not contain land with slopes of 25%. Standard #3 through #6 are not applicable as the preliminary plat consolidates two existing lots and no new lots will be created.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p><b>G. Block Requirements:</b> The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</li> <li>4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</li> </ol>
			<i>Findings</i>	<p><i>N/A. This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. This application does not create a new block.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.H	<p><b>Street Improvement Requirements:</b></p> <ol style="list-style-type: none"> <li>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</li> <li>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable</li> </ol>

			<p>ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</p> <p>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</p> <p>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</p> <p>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</p> <p>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</p> <p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p> <p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p>
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			<p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-</p>
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				family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.
			<i>Findings</i>	<i>This standard is not applicable as this application proposes to combine three existing lots within the Ketchum townsite. This proposal does not create a new street, private road, or bridge.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.
			<i>Findings</i>	<i>This standard is not applicable as this project combines three existing lots within the original Ketchum townsite. The project proposes alley improvements, including grading and resurfacing the alley with asphalt. These improvements are shown on the project plans submitted with Design Review Application File No. P22-045C.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p>

				<p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			<i>Findings</i>	<i>This standard is not applicable as no easements are proposed or required for this project. The project does not create a new private street. This property is not adjacent to Warm Springs Road. The property does not border a watercourse, drainageway, channel, or stream.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.K	<p><b>Sanitary Sewage Disposal Improvements:</b> Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. Sewer system improvements are not required for this lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.L	<p><b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision</p>

				<p>according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.</p>
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum Townsite. Water system improvements are not required for this lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	<p><b>Planting Strip Improvements:</b> Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.</p>
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. Planting strip improvements are not required for this project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.N	<p><b>Cuts, Fills, And Grading Improvements:</b> Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> </ol> </li> </ol>

			<p>e. Location of all street and utility improvements including driveways to building envelopes.</p> <p>f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements.</p> <p>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</p> <p>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</p> <p>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <p>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</p> <p>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods).</p> <p>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</p> <p>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</p> <p>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</p>
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			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. No grading improvements are proposed or required for the lot consolidation. The grading improvements are shown the project plans submitted with Design Review Application File No. P22-045C.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.O</b>	<b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. No drainage improvements are proposed or required for the lot consolidation. The drainage improvements are shown on the project plans approved with Design Review Application File No. P22-045C.</i>
			<b>16.04.040.P</b>	<b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. No utility improvements are proposed or required for the lot consolidation. The drainage improvements are shown on the project plans approved with Design Review Application File No. P22-045C.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.Q</b>	<b>Off Site Improvements:</b> Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to,

				bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.
			<i>Findings</i>	<i>This standard is not applicable as this project proposes to combine three existing lots within the original Ketchum townsite. Off-site improvements are not required or proposed with this project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.R	<b>Avalanche And Mountain Overlay: All improvements and plats (land, planned unit development, townhouse, condominium) created pursuant to this chapter shall comply with City of Ketchum Avalanche Zone District and Mountain Overlay Zoning District requirements as set forth in Title 17 of this Code.</b>
			<i>Findings</i>	<i>N/A as this property is not located within the Avalanche Zone or Mountain Overlay.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.S	<b>Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.</b>
			<i>Findings</i>	The existing site survey on page 11 of the project plans shows 5 existing trees on the subject property. These trees are proposed to be removed to accommodate the mixed-use development. The City Arborist conducted a site inspection on January 25, 2023 and determined that the existing trees are not healthy or mature, and therefore, do not require replacement.

### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Lot Consolidation Subdivision Preliminary Plat application for the development and use of the project site.
2. The City Council has authority to review and approve the applicant’s Lot Consolidation Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Lot Consolidation Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.

5. The Perry Building Lot Consolidation Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

#### DECISION

**THEREFORE**, the Ketchum City Council **approves** this Lot Consolidation Preliminary Plat Application File No. P22-045A this Monday, May 15, 2023 subject to the following conditions of approval.

#### CONDITIONS OF APPROVAL

1. The lot consolidation preliminary plat is subject to all conditions of approval associated with Design Review Application File No. P22-045C.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

Findings of Fact **adopted** this 15<sup>th</sup> day of May 2023.

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Neil Bradshaw, Mayor  
City of Ketchum

## Attachment 7

Draft City Council Findings of Fact,  
Conclusions of Law, and Decision:  
Condominium Subdivision  
Preliminary Plat  
Application File No. P22-045B





**City of Ketchum  
Planning & Building**

IN RE: )  
)  
The Perry Building ) KETCHUM CITY COUNCIL  
Condominium Subdivision Preliminary Plat ) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
File Number: P22-045B ) DECISION  
)  
Date: May 15, 2023 )  
)

**PROJECT:** The Perry Building

**APPLICATION TYPE:** Condominium Subdivision – Preliminary Plat

**FILE NUMBER:** P22-045B

**ASSOCIATED APPLICATIONS:** Design Review (Application File No. P22-045C)  
Lot Consolidation – Preliminary Plat (Application File No. P22-045A)  
Variance Request (Application File No. P22-045D)

**PROPERTY OWNER:** Carson Palmer and Broderick Smith, Managing Members, The Perry Building LLC

**REPRESENTATIVE:** Tiina Ritval (Architect), GGLO

**LOCATION:** 131 W 4th Street and 471 & 431 N 1st Avenue  
(Ketchum Townsite: Block 56: Lots 2, 3A, and 4A)

**ZONING:** Community Core – Subdistrict 2 – Mixed-Use Subdistrict (CC-2)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The City of Ketchum Planning and Zoning Commission (the “Commission”) considered The Perry Building project Condominium Subdivision Preliminary Plat Application File No. P22-045B during their meeting on March 14, 2023. The application was considered concurrently with Design Review Application File No. P22-045C, Variance Request Application File No. P22-045D, and Lot Consolidation Preliminary Plat Application File No. P22-045A and the public hearings were combined in accordance with Idaho Code §67-6522. The Commission approved The Perry Building Design Review and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications.

## Public Hearing Notice & Public Comment

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on February 22, 2023. The public hearing notice was published in the Idaho Mountain Express on February 22, 2023. A notice was posted on the project site and the city's website on January 30, 2023. The building corners were staked and the story pole was installed on the project site on February 27, 2023.

### **FINDINGS OF FACT**

The Ketchum City Council having reviewed the project record does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

The applicant is proposing to develop a new 53,756-gross-square-foot mixed-use building, called The Perry Building (the "project"), at the northwest corner of 4th Street and 1st Avenue (the "subject property") located within the Mixed-Use Subdistrict of the Community Core ("CC-2 Zone"). The project site is adjacent to: (a) the Westside Office Condominiums to the north on 1st Avenue, (b) the post office across the alley to the west, and (c) the Gail Severn Gallery building across 1st Avenue to the east. The 1st & 4th Mixed-Use Building is currently under construction across 4th Street south of the project site. The subject property is comprised of 3 lots within the original Ketchum townsite that was created in 1948. The corner lot is developed with an existing building that was originally constructed as a racquetball court in 1975 and was the home of Perry's Restaurant for 37 years and a variety of local businesses. The two interior lots are vacant.

As proposed, the project includes 5,929 square feet of retail space on the ground-level with frontage along both 4<sup>th</sup> Street and 1<sup>st</sup> Avenue and 23 multi-family dwelling units. Seven of these multi-family dwelling units will be deed-restricted as community housing rentals. The community housing units are one- and two-bedroom apartments ranging in size from 624 to 976 square feet located on the ground floor. The 16 market-rate multi-family dwelling units range in size from 648 to 3,751 square feet.

The seven community housing units are exempt from providing parking pursuant to KMC §17.125.040.C.1a. 5,500 square feet of the retail space is also exempt from providing parking pursuant to KMC §17.125.040.C.1c. One parking space is required for the remaining 429 square feet of retail. 22 parking spaces are required for the market-rate multi-family dwelling units. The project is required to provide 23 total parking space on site to satisfy the retail and multi-family residential parking demand pursuant KMC §17.125.040.B. As shown on page 26 of the project plans, 29 spaces are proposed to be provided on site within the parking garage accessed from the alley to satisfy the demand.

The project proposes to construct improvements to the public rights-of-way adjacent to the subject property, including: (a) grading and resurfacing the alley with asphalt, (b) installing a new heated, paver 8-foot-wide sidewalk along 1st Avenue, (c) installing a new heated, paver 12-foot-wide sidewalk along 4th Street, (d) constructing new curb and gutter with drainage facilities, and (e)

providing new streetlights and street trees. The snowmelt system proposed for the new sidewalks will require a right-of-way encroachment permit approved by the Ketchum City Council. All final right-of-way improvements will be reviewed and approved by the City Engineer and Streets Department to ensure compliance with city standards prior to issuance of a building permit for the project.

The condominium subdivision preliminary plat application will subdivide the building into 4 commercial condominium units, 7 community housing condominium units, 16 multi-family dwelling condominium units, common area, and limited common area. The condominium subdivision preliminary plat plan set is attached as Exhibit A. During city department review, staff reviewed the lot consolidation and condominium subdivision preliminary plat applications for conformance with the procedures for subdivision approval (KMC §16.04.030), subdivision development and design standards (KMC §16.04.040), and condominium requirements (KMC §16.04.070). Certain standards are not applicable for one of the following reasons:

- The standard applies to the establishment of new subdivisions creating multiple new lots that will form blocks around new streets, and not the subject property, which is comprised of three existing platted lots within the original Ketchum townsite.
- The standard applies to an action that will be taken at the final plat stage of the process.
- The City Engineer has determined that the standard does not apply.

The proposed lot consolidation and condominium preliminary plat applications comply with all applicable subdivision requirements and standards.

**FINDINGS REGARDING COMPLIANCE WITH PRELIMINARY PLAT REQUIREMENTS**

Preliminary Plat Requirements (Ketchum Municipal Code §16.04.030)				
Compliant				
Yes	No	N/A	City Code	City Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Findings</i>	<i>The Planning and Building Department received the final design review, variance request, lot consolidation preliminary plat, and condominium subdivision preliminary plat applications on November 28, 2022. The applications were reviewed concurrently by planning staff and city departments. Staff review comments were provided to the applicant on February 1, 2023. The applications were deemed complete on February 17, 2023.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.
			<i>Findings</i>	<i>The subdivision application was deemed complete on February 17, 2023.</i>

☒	☐	☐	16.04.030.J.1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following: The scale, north point and date.
			<i>Findings</i>	<i>This standard is met as shown on Sheet 1 of the preliminary plat.</i>
☒	☐	☐	16.04.030.J.2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Findings</i>	<i>As shown on Sheet 1 of the preliminary plat, the plat is titled "The Perry" which is not the same as any other subdivision in Blaine County, Idaho.</i>
☒	☐	☐	16.04.030.J.3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Findings</i>	<i>The name of the owner and surveyor is shown on Sheet 1 of the plat. The plat was prepared by Mark E. Phillips of Galena Engineering.</i>
☒	☐	☐	16.04.030.J.4	Legal description of the area platted.
			<i>Findings</i>	<i>The legal description of the area platted is shown on page 1 of the preliminary plat.</i>
☒	☐	☐	16.04.030.J.5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Findings</i>	<i>The preliminary plat shows adjacent properties within block 56 of the original Ketchum townsite, including Lot 6A, the Sundance Condominiums, and the West Side Office Condominiums.</i>
☒	☐	☐	16.04.030.J.6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Findings</i>	<i>Existing site conditions, including topography, are shown on the project plans submitted with Design Review Application File No. P22-045C.</i>
☒	☐	☐	16.04.030.J.7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Findings</i>	<i>Sheet 1 of the preliminary plat shows the location of the adjacent streets and block 56 alley. The property does not contain any public or private easements. The corner lot is developed with an existing building that was originally constructed as a racquetball court in 1975 and was the home of Perry's Restaurant for 37 years that is proposed to be demolished. The project plans submitted with Design Review Application File No. P22-045C showed the scaled location of the existing building. The two interior lots are vacant.</i>
☒	☐	☐	16.04.030.J.8	Boundary description and the area of the tract.
			<i>Findings</i>	<i>Sheet 1 provides the boundary description of the area. The total area of Lot 2A is 24,723 as noted on the preliminary plat map.</i>
			16.04.030.J.9	Existing zoning of the tract.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Findings</i>	<i>Plat note #10 on Sheet 2 of the preliminary plat specifies the existing zoning of the subject property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.10	The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.
			<i>Findings</i>	<i>The preliminary plat shows the locations and lot lines for the master lot and lot lines of condominium units. No new streets or blocks are being proposed with this application.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.11	The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.
			<i>Findings</i>	<i>The plat shows all common area elements within the condominium subdivision. Plat note #12 states, "All accessible areas outside of units that is not designated as limited common is common area."</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.12	The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed drainage and right-of-way improvements proposed for the project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.13	The direction of drainage, flow and approximate grade of all streets.
			<i>Findings</i>	<i>This standard does not apply as no new streets are proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.14	The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.
			<i>Findings</i>	<i>This standard does not apply as no new drainage canals or structures are proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.15	All percolation tests and/or exploratory pit excavations required by state health authorities.
			<i>Findings</i>	<i>This standard does not apply as no additional tests are required.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.16	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			<i>Findings</i>	<i>The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.17	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.

			<i>Findings</i>	<i>Sheet 5 of the preliminary plat includes a vicinity map.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.18	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			<i>Findings</i>	<i>The subject property is not within a floodplain, floodway, or avalanche zone district.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.J.19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	<i>A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25% and is not adjacent to an intersection.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.20	Lot area of each lot.
			<i>Findings</i>	<i>The preliminary plat shows the area of the overall lot and the area of each condominium unit.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.21	Existing mature trees and established shrub masses.
			<i>Findings</i>	<i>The existing site survey on page 11 of the project plans shows 5 existing trees on the subject property. These trees are proposed to be removed to accommodate the mixed-use development. The City Arborist conducted a site inspection on January 25, 2023 and determined that the existing trees are not healthy or mature, and therefore, do not require replacement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			<i>Findings</i>	<i>The applicant submitted a title commitment issued by Stewart Title Guarantee Company, and a warranty deed with the preliminary plat application.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.J.23	Three (3) copies of the preliminary plat shall be filed with the administrator.
			<i>Findings</i>	<i>The City of Ketchum received digital copies of the preliminary plat at the time of application.</i>

**FINDINGS REGARDING COMPLIANCE WITH SUBDIVISION DEVELOPMENT & DESIGN STANDARDS**

Subdivision Development & Design Standards (Ketchum Municipal Code §16.04.040)				
Compliant				
Yes	No	N/A	City Code	City Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	<p><b>Required Improvements:</b> The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.</p>
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed utility, drainage, or right-of-way improvements proposed for the project. The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	<p><b>Improvement Plans:</b> Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.</p>
			<i>Findings</i>	<i>This standard is not applicable to the preliminary plat application.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	<p>Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the</p>

				amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.
			<i>Findings</i>	<i>This standard is not applicable to the preliminary plat application.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.
			<i>Findings</i>	<i>This standard is not applicable to the preliminary plat application.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.E	<p>Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
			<i>Findings</i>	<i>The applicant shall meet the required monumentation standards prior to recordation of the final plat.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.F	<p>Lot Requirements:</p> <ol style="list-style-type: none"> <li>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</li> <li>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates</li> </ol>



			<p>corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</p> <p>a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</p> <p>b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</p> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
		<i>Findings</i>	<i>This standard is not applicable as no new lots are created with the condominium subdivision. The development parcel, Lot 2A, is created by Lot Consolidation Subdivision Preliminary Plat Application File No. P22-045A.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.G</b> G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:

				<ol style="list-style-type: none"> <li>1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features.</li> <li>4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</li> </ol>
			<i>Findings</i>	<i>This standard is not applicable as no new lots or blocks are proposed with the condominium subdivision preliminary plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p><b>Street Improvement Requirements:</b></p> <ol style="list-style-type: none"> <li>1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;</li> <li>2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified;</li> <li>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</li> <li>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</li> <li>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</li> <li>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds</li> </ol>

			<p>it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</p> <p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p> <p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p>
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			<p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.</p>
			<p><i>Findings</i></p> <p><i>The project plans submitted with Design Review Application File No. P22-045C show the right-of-way improvements proposed for the project. The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.I</b></p> <p><b>Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</b></p>
			<p><i>Findings</i></p> <p><i>The project proposes alley improvements, including grading and resurfacing the alley with asphalt. These improvements are shown on the</i></p>

				<p><i>project plans submitted with Design Review Application File No. P22-045C. . The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.J	<p><b>Required Easements:</b> Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <ol style="list-style-type: none"> <li>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</li> <li>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</li> <li>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</li> <li>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</li> <li>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</li> <li>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</li> </ol>

			<i>Findings</i>	<i>This standard is not applicable as no easements are proposed or required for this project. The project does not create a new private street. This property is not adjacent to Warm Springs Road. The property does not border a watercourse, drainage way, channel, or stream.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.K	<p><b>Sanitary Sewage Disposal Improvements:</b> Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed sewer improvements for the project. The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer and Wastewater Department.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.L	<p><b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.</p>
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed water service improvements for the project. The construction design plans will be submitted with the building permit</i>

				<i>application for the mixed-use development for review and approval by City Departments, including the City Engineer and Utilities Department.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.
			<i>Findings</i>	<i>This standard does not apply as this application does not create a new subdivision. There are no incompatible uses adjacent to the proposed condominium subdivision.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.N	<p>Cuts, Fills, And Grading Improvements: Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> <li>1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application.</li> <li>2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> <li>a. Proposed contours at a maximum of five foot (5') contour intervals.</li> <li>b. Cut and fill banks in pad elevations.</li> <li>c. Drainage patterns.</li> <li>d. Areas where trees and/or natural vegetation will be preserved.</li> <li>e. Location of all street and utility improvements including driveways to building envelopes.</li> <li>f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements.</li> </ol> </li> <li>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</li> <li>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or</li> </ol>

			<p>hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</p> <p>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <ul style="list-style-type: none"> <li>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</li> <li>b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods).</li> <li>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</li> <li>d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope.</li> <li>e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.</li> </ul>
			<p><i>Findings</i></p> <p><i>This standard does not apply as this application does not create a new subdivision. The preliminary plat proposed to subdivide the mixed-use building into condominium units. There are no incompatible uses adjacent to the proposed condominium subdivision.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>16.04.040.O</b></p> <p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the</p>



				<p>preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed drainage improvements for the project. The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer and Streets Department.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p><b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			<i>Findings</i>	<i>The project plans submitted with Design Review Application File No. P22-045C show the proposed utility improvements for the project. The construction design plans will be submitted with the building permit application for the mixed-use development for review and approval by City Departments, including the City Engineer and Utilities Department.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	<p><b>Off Site Improvements:</b> Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.</p>
			<i>Findings</i>	<i>The proposed condominium development does not create substantial additional traffic; therefore, no off-site improvements are required.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.R	<p><b>Avalanche And Mountain Overlay:</b> All improvements and plats (land, planned unit development, townhouse, condominium) created pursuant to this chapter shall comply with City of Ketchum Avalanche Zone District and Mountain Overlay Zoning District requirements as set forth in Title 17 of this Code.</p>
			<i>Findings</i>	<i>N/A as this property is not located within the Avalanche Zone or Mountain Overlay.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<b>16.04.040.S</b>	Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<i>Findings</i>	<i>The existing site survey on page 11 of the project plans shows 5 existing trees on the subject property. These trees are proposed to be removed to accommodate the mixed-use development. The City Arborist conducted a site inspection on January 25, 2023 and determined that the existing trees are not healthy or mature, and therefore, do not require replacement.</i>

**FINDINGS REGARDING COMPLIANCE WITH CONDOMINIUM PLAT REQUIREMENTS**

**Condominium Plat Requirements (Ketchum Municipal Code §16.04.070)**

Compliant				
Yes	No	N/A	City Code	Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.B</b>	The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed bylaws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control and maintenance of all common areas, recreational facilities and open space.
			<i>Findings</i>	<i>The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.D</b>	All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit.
			<i>Findings</i>	<i>As shown on Sheet 5 of the preliminary plat, the open parking area within the garage is designated as common area and the private garages are designated as limited common elements and specifically referenced to a unit number.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.E</b>	Adequate storage areas shall be provided for boats, campers and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit.
			<i>Findings</i>	The applicant addressed storage in their response to the completeness review comments stating: <i>Adequate storage is provided as follows:</i> <ul style="list-style-type: none"> <li>• <i>Interior Storage Space within residential units: Residential units were thoughtfully designed with an abundance of internal storage space options per the floor plans.</i> <ul style="list-style-type: none"> <li>○ <i>L1 Units: Interior closet @ entry to each unit for storage. Large closet in primary bedrooms. Patio areas provide additional storage options for bicycles and other recreational equipment.</i></li> <li>○ <i>L2 Units: Large closets throughout all units.</i></li> </ul> </li> </ul>

				<ul style="list-style-type: none"> <li>○ L3 Units: Large closets throughout all units.</li> <li>● Interior Storage space within detached storage areas: <ul style="list-style-type: none"> <li>○ PARKING STALL STORAGE SYSTEM: L1 &amp; L2 units may install “Urban Storage Unit” like systems on the wall adjacent to their parking stall(s). The Developer has successfully utilized these types of systems on other residential projects.</li> <li>○ L3 LIMITED COMMON AREA STORAGE: L3 Units own storage rooms within the parking garage for ski and cycle storage, among other items.</li> <li>○ SKI LOCKER ROOM: Designated ski storage room on level P1.</li> <li>○ BICYCLE ROOM: Designated bike storage on level P1.</li> <li>○ ABOVE STALL STORAGE: Given the higher than typical parking garage ceiling height, the Developer is planning for systems that allow occupants to store items above their parking stall.</li> </ul> </li> </ul>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.F	<b>A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.</b>
			<i>Findings</i>	Rooms designated for maintenance equipment and supplies have been noted on the preliminary plat as well as the floor plans submitted with Design Review Application File No. P22-045C.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.G	<b>The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area usable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access.</b>
			<i>Findings</i>	<i>The preliminary plat designates the balconies as limited common area assigned to a specific dwelling unit. The terrace in front of the stairwell and elevator feature along 4<sup>th</sup> Street is designated as common area. The covered courtyard is designated as common area. The terraces in front of the two retail spaces fronting 4<sup>th</sup> Street are designated as limited common area designated to the commercial retail units.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.H	<b>All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions.</b>
			<i>Findings</i>	<i>The project has been reviewed for compliance with all other section of the subdivision standards. The project conforms with all subdivision regulations as discussed above.</i>

### CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Condominium Subdivision Preliminary Plat application for the development and use of the project site.
2. The City Council has authority to review and approve the applicant’s Condominium Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Condominium Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.
5. The Perry Building Condominium Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

### DECISION

**THEREFORE**, the Ketchum City Council **approves** this Condominium Subdivision Preliminary Plat Application File No. P22-045B this Monday, May 15, 2023 subject to the following conditions of approval.

### CONDITIONS OF APPROVAL

1. The condominium subdivision preliminary plat is subject to all conditions of approval associated with Design Review Application File No. P22-045C.
2. Failure to record a Final Plat within two (2) years of Council’s approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

Findings of Fact **adopted** this 15<sup>th</sup> day of May 2023.

---

Neil Bradshaw, Mayor  
City of Ketchum



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: May 15, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to review and adopt the Construction Management Plan Enforcement and Contractor Parking Policy.

Recommended Motion:

I move to approve the Construction Management Plan Enforcement Policy and Contractor Parking Policy and make the policy effective as of June 15, 2023.

Reasons for Recommendation:

- The City of Ketchum has seen an increase in construction within the community core over the past few years. Each development has an approved Construction Management Plan (CMP) reviewed and approved as part of a building permit application which stipulates construction management for all construction related activities or needs including requirements for contractor parking and allowed use of public rights-of-way, among others.
The city is experiencing an increase in instances where CMPs are not being adhered to, which impacts local businesses, residents, visitors, and city maintenance operations.
Much of the city’s on-street parking inventory is being occupied by contractors working on developments within the community core, limiting available parking for businesses. Additionally, temporary closures of city streets are occurring for construction activities without required permits.
The Ketchum Municipal Code 15.06.040 allows the issuance of a Stop Work Order when CMPs are not adhered to, however, some CMP violations are not egregious enough to warrant a stop work order.
The recommended policy provides a clear process and increasing infraction system to encourage compliance with approved CMPs.

Policy Analysis and Background (non-consent items only):

CMP Enforcement
As noted above, not all CMP violations warrant a Stop Work Order on a job site. However, the city does not have an alternative enforcement protocol to encourage compliance. The draft CMP Enforcement Policy included as Attachment 1 outlines the proposed policy. As graphically shown in Attachment 2, the policy is structured as a “three strikes you’re out” approach.
Infraction #1 – Infraction and fine issued, set time for remedy of violation.
Infraction #2 – Infraction and fine issued, set time for remedy of violation.
Infraction #3 & Stop Work Order – Infraction, Stop Work Order, and find issued. Job site must shut down until all violations are remedied and fines are paid.

The Planning and Building Department will work jointly with the Community Service Officers to deploy the policy and bring construction projects into compliance with their CMPs. With any change in policy, it is beneficial to provide some lead time before the new policy goes into effect. Staff recommends an effective date of June 15, 2023. This would provide staff an opportunity to conduct outreach to the construction projects in process and provide them time to adjust their plans for the remainder of the construction timeframe.

*Contractor Parking Locations*

As noted above, the city receives frequent feedback from business owners that critical parking for patrons is being occupied by contractors working on job sites in the downtown. The Ketchum Municipal Code states that “For projects with greater than 15 vehicles daily at the job site, an alternative parking site shall be identified in the construction activity plan”. However, due to the type of construction in the community core, job sites can’t accommodate the 15 vehicles permitted. Additionally, contractors represent to staff that off-site parking locations are not widely available in the Community Core or the Light Industrial District.

In an effort to manage contractor parking within the community core, staff recommend that contractor parking not be permitted in time-limited parking spaces but permitted in non-time limited parking spaces. This strikes a balance where some parking in downtown is permitted, but less impactful on local businesses and visitors.

Sustainability Impact:

None OR state impact here: Approval of the policy does not limit the city’s ability to reach its sustainability goals outlined in the Sustainability Action Plan.

Financial Impact:

None OR Adequate funds exist in account:	None
--	------

Attachments:

- |                   |
|-------------------|
| 1. Draft Policy   |
| 2. Policy Graphic |



## CONSTRUCTION MANAGEMENT ENFORCEMENT POLICY

Revised: 5/9/2023

### Policy Statement

The mission of the Planning & Building Department and its Community Service team is to safeguard the health, safety and general welfare of the public within the City of Ketchum. They are also tasked with preserving the quality of life and contributing to the economic development of the town. Through education and enforcement of the adopted construction codes and standards, compliance can be achieved.

The Construction Management Enforcement Policy is used to achieve three major goals:

1. Minimize the impact of construction on the community's residents, visitors, and businesses,
2. Ensure Compliance with adopted codes and standards and provide safe construction practices within the community, and;
3. Provide a deterrent and achieve accountability for not properly complying with codes and standards.

### Departments Affected

Planning & Building Department  
Streets Department  
Clerk's Office/Community Service Officers (CSO)

### Purpose

To establish policy regarding how Infraction Notices and Stop Work Orders, in conjunction, are utilized, issued, resolved and/or penalized.

### Procedures

The following enforcement procedures only pertain to projects that have a valid Building Permit issued by the City of Ketchum.

- A. When an initial complaint or violation is reported or found, an **Infraction Notice** may be issued by the CSO.
  - a. If reported by a member of the community, a CSO will perform an investigation into the complaint. This may include a site visit, phone calls, or any other research necessary to verify the complaint and gather evidence. A check of the building permit

tracking software and other relevant documents must be conducted to ensure there is in fact a violation.

- b. If a violation is found during a routine inspection by any City of Ketchum staff, evidence will be gathered, and the **Infraction Notice** may be issued immediately.
- B. The **Infraction Notice** shall be delivered to the property owner, authorized owner's representative or the person performing the work. If no one is available for personal delivery, the notice shall be placed in plain view at the site of violation and a notification via email or phone call shall be given notifying the applicable parties that an **Infraction Notice** was issued.
- C. **Infraction Notices** do not require that the entire construction site be shutdown. Instead, they require that the violation be remedied within a clearly stated time frame (one-hour, same day, twenty-four hours etc.) and/or require obtaining applicable permits.
- D. The owner or authorized owner's representative are required to remedy the infraction within the stated time period and pay a \$300 fine.
- E. If no adequate response occurs within the stated time frame, a **Second Infraction Notice** will be issued for the same violation.
- F. **Second Infraction Notices**, for the same violation or for a new violation will follow the same procedures as the first notice, stated above.
- G. The issuance of the **Third** and **Final Infraction Notice**, for previous violations or a new violation, will be issued in conjunction with a **Stop Work Order** issued by the City and a fine of \$400 (cumulative \$1,000 for the three infraction notices) will be assessed.
- H. Upon this issuance the entire construction site must be completely shut down and no further activity shall occur.
- I. A violation notice will also be placed in the City of Ketchum's building permit file. This notice effectively "locks" the parcel number and no permits, inspections or other application associated with the parcel can be completed until the violation has been resolved.
- J. The owner or authorized owner's representative are required to contact the Planning and Building Department within two business days of the issued order to receive instructions on how to comply and rescind the order.
- K. If no response is received within the allotted timeframe a certified letter will be mailed to the property owner of record per Blaine County records. The certified letter will detail the violation(s) and instructions on how to comply. The property owner will have ten business days from date of certified letter to respond accordingly.
- L. If no response is received, a citations/summons may be issued, and the property owner may be subject to other penalties as prescribed by law.
- M. Compliance is achieved by the owner or owner's representative remedying all violations, resubmitting a new construction management plan that directly addresses said violations and payment of the \$1,000 **Stop Work Order** fine.
- N. If and when compliance is achieved, the City will rescind the **Stop Work Order** and release the project.
- O. These procedures can be easily understood and informally stated as: **First Infraction Notice** (Strike #1), **Second Infraction Notice** (Strike #2), **Third Infraction Notice** (Strike #3) (You're Out!) **Stop Work Order**.



# Construction Management Enforcement Policy

May 9, 2023

## Infraction #1

- **Strike 1**
- Does not require entire site be shutdown
- Remedy within stated timeframe (one-hour, same day, 24 hours etc.)
- Pay \$300 fine
- No adequate response within stated time frame? Infraction #2 issued

## Infraction #2

- **Strike 2**
- Does not require entire site be shutdown
- Remedy within stated timeframe (one-hour, same day, 24 hours etc.)
- Pay \$300 fine (\$600 cumulative)
- No adequate response within stated time frame? Infraction #3/Stop Work Order issued

## Stop Work Order

- **Strike 3, You're Out!**
- Issued in conjunction with Infraction #3. Entire construction site must be completely shut down
- Pay \$400 fine (\$1,000 cumulative)

Sun Valley Economic Development  
March 2023

**Describe any activities taken this month to advance your industry targeting objectives (Objective A)**- launched online survey to collect additional data for both Hospitality & Tourism and Construction & Trades TPM collaborative; started compiling needs assessment for both collaboratives; continued planning for summer vocational youth camps for construction & trades, culinary and entrepreneurship in June; all day strategic planning exercise for early youth education childcare to develop goals and actions.

**Describe any activities taken this month to advance your business outreach objectives (Objective B)** –direct outreach to 21 local business organizations; main business concerns remain lack of local talent/workforce housing; restructured membership proposition launched online and via newsletter; rebranding forums and summit educational series into 3 medium sized community roundtables; 1<sup>st</sup> Q RT scheduled for April 25 to discuss State of Blaine economy and LOT for Housing & Air; started data analysis on demographics, sales trends, occupancy stats and building permits for this RT’s.

**Describe any activities taken this month to advance your main street and entrepreneurship activities (Objective C)** – provided regional commuting analysis and other data to Ketchum as inputs for upcoming parking study; also provided input on consultant selection for commercial office market study.

**Describe any activities taken this month to advance your placemaking objectives (Objective D)** – na.

**Describe any activities taken this month to advance your professional development objectives (Objective E)** – planning for city-to-city Driggs/Victor tour to share best practices.

**Describe any other activities taken this month that fall outside of your workplan objectives-** Updated SVED website pages for accomplishments, membership and events; interviewed several intern candidates for summer



**SUN VALLEY  
ECONOMIC  
DEVELOPMENT**

# SVED Community Roundtable

1Q 2023

The Kneadery

# - THE - KNEADERY

EST. 1974



**KETCHUM, IDAHO**



**SUN VALLEY CULINARY**  
INSTITUTE

A circular graphic with a white center and an orange border. The center contains the Sun Valley Economic Development logo, the text "COMMUNITY ROUNDTABLE", and a red circle with "1st TQ". The outer ring is composed of several images: a man and woman at a bar, a woman in a red hat and yellow jacket with a snowboard, a group of people in a field, and a building under construction. An orange wedge on the right side of the circle contains the text "TOPICS: Demographics, Construction Activities, Sales Trends & LOT".

**SUN VALLEY ECONOMIC DEVELOPMENT**

**COMMUNITY ROUNDTABLE**

**1<sup>st</sup> TQ**

**TOPICS:**  
Demographics,  
Construction  
Activities,  
Sales Trends  
& LOT

**Sun Valley Economic Development  
Community Roundtable**

# Agenda for Today

**Welcome / Intros** : Guy Cherp, SVED Board Chair & Cox Communication

**Roundtable 1**: State of Blaine Part A Harry Griffith, moderator

**Roundtable 2**: LOT for Housing & Air, Wendy Jaquet moderator

**Speaker**: Idaho Legislative Update, Ned Burns

**Raffle**

**Networking**

# Recent SVED Focus Areas

Childcare Assessment & Grants

Vocational Education Assessment & Training

Culinary Institute expansion

Collaborative Programs:

- Baldy Forest Health
- Blaine Co. Sustainability Plan
- Outfitters Guides Management Plan
- Ketchum Housing Committee
- Ketchum Technical Advisory Group



**Check out SVED's  
2023 Strategic Plan at**

**[www.sunvalleyeconomy/  
what-we-do/](http://www.sunvalleyeconomy/what-we-do/)**

# Membership Opportunities

- Support your community's future
- Easy to join
- Tangible benefits
- Invest today



## ANNUAL MEMBER BENEFITS

\$10,000+  
**DIAMOND**  
ANALYSIS/CONSULTING **40 HOURS**  
EVENT TICKETS **12**  
NEWSLETTER **LOGO**  
WEBSITE **LOGO/LINK**

\$750+  
**BRONZE**  
ANALYSIS/CONSULTING **2 HOURS**  
EVENT TICKETS **3**  
NEWSLETTER **LISTING**  
WEBSITE **LISTING**

\$5,000+  
**PLATINUM**  
ANALYSIS/CONSULTING **20 HOURS**  
EVENT TICKETS **10**  
NEWSLETTER **LOGO**  
WEBSITE **LOGO/LINK**

\$250  
**COMMUNITY**  
NEWSLETTER **RECOGNITION**  
EVENT TICKETS **2**

\$2,500+  
**GOLD**  
ANALYSIS/CONSULTING **10 HOURS**  
EVENT TICKETS **8**  
NEWSLETTER **LISTING**  
WEBSITE **LOGO/LINK**

\$125  
**INDIVIDUAL**  
EVENT TICKETS **1**

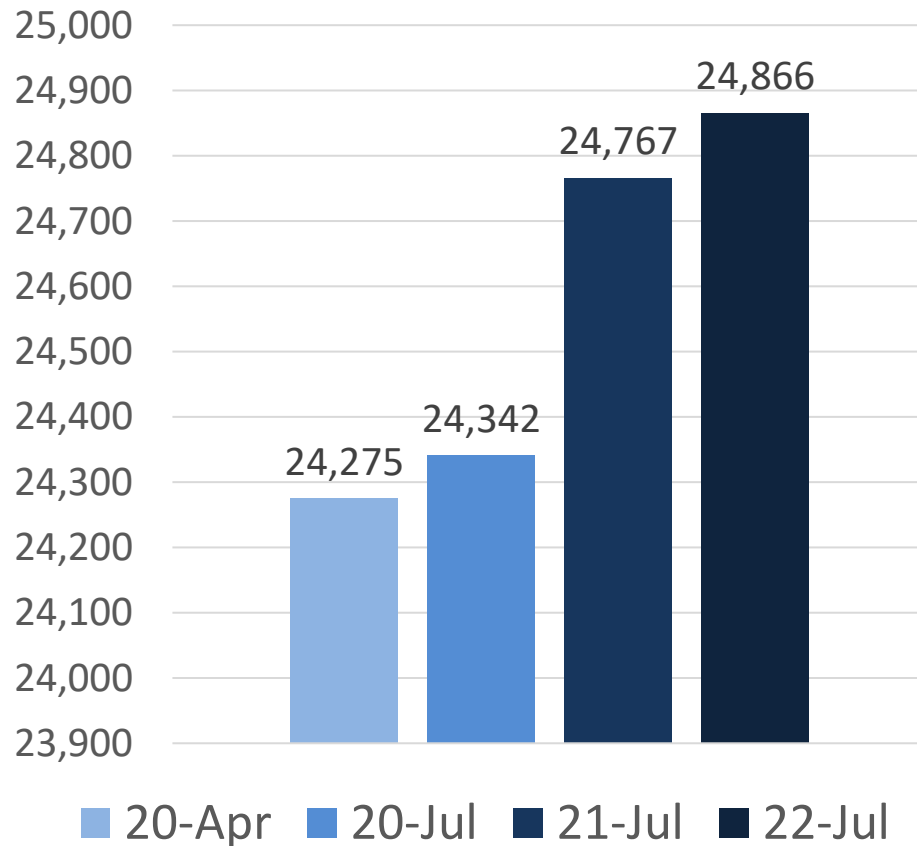
\$1,500+  
**SILVER**  
ANALYSIS/CONSULTING **5 HOURS**  
EVENT TICKETS **6**  
NEWSLETTER **LISTING**  
WEBSITE **LISTING**

**INVEST IN OUR  
COMMUNITY  
BY BECOMING A  
SVED MEMBER**  
208-721-7847  
harry@SunValleyEconomy.org  
*SPECIAL SPONSORSHIP PACKAGES  
AND IN-KIND DONATIONS WELCOME*

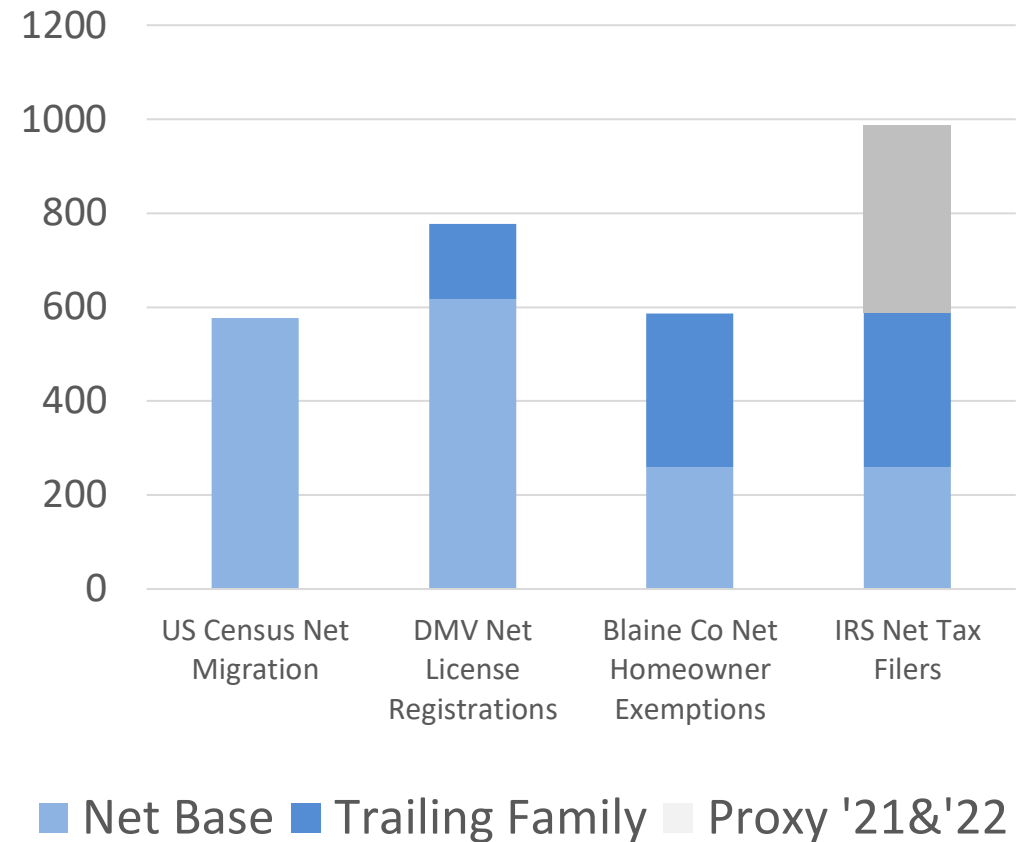


# Demographics – Under reported Population Growth

Blaine Co. Population Growth (US Census Data)



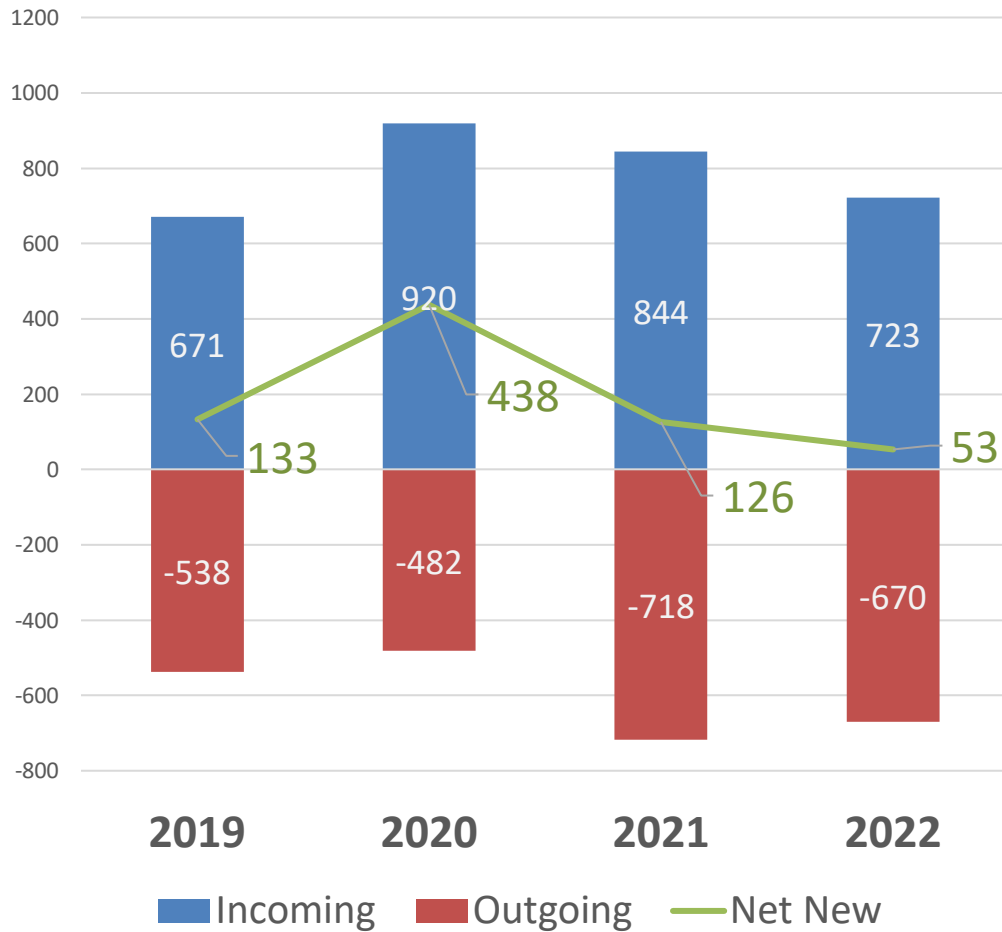
Blaine Co Net Migration Metrics - 3 Yrs Totals 2020-2022



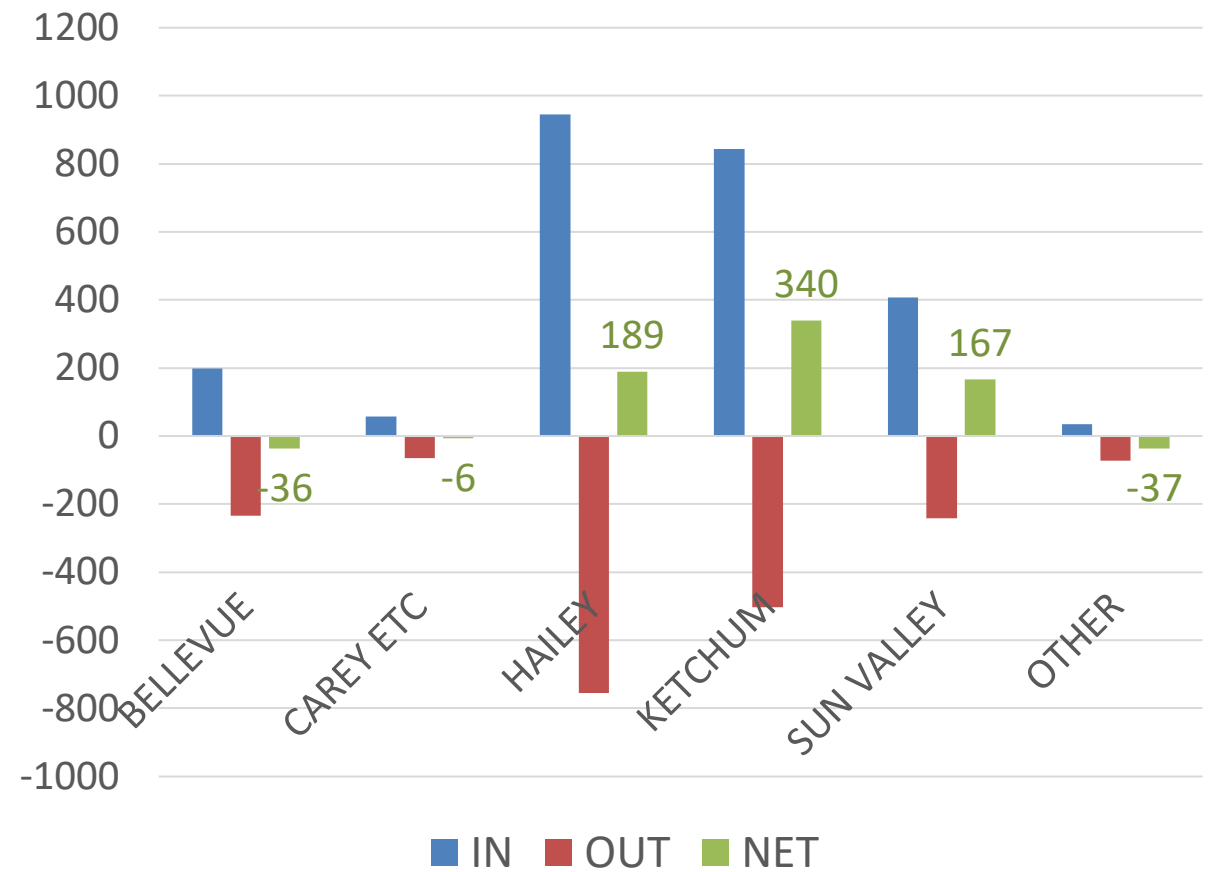


# Demographics –Recent Population Growth Slowing

Blaine Co Driver License Migration

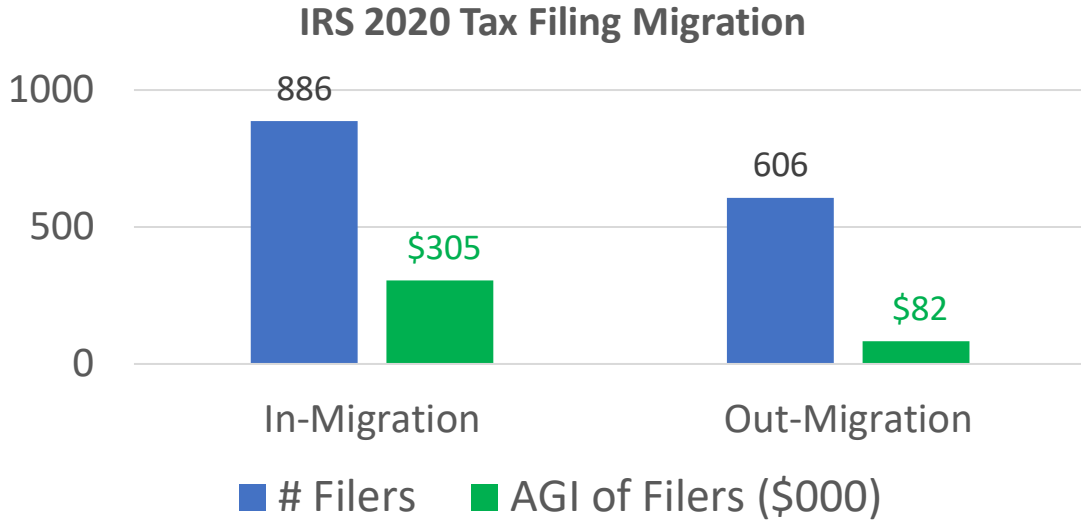


Blaine Co Drivers License Migration (3 Yrs '20-'22)

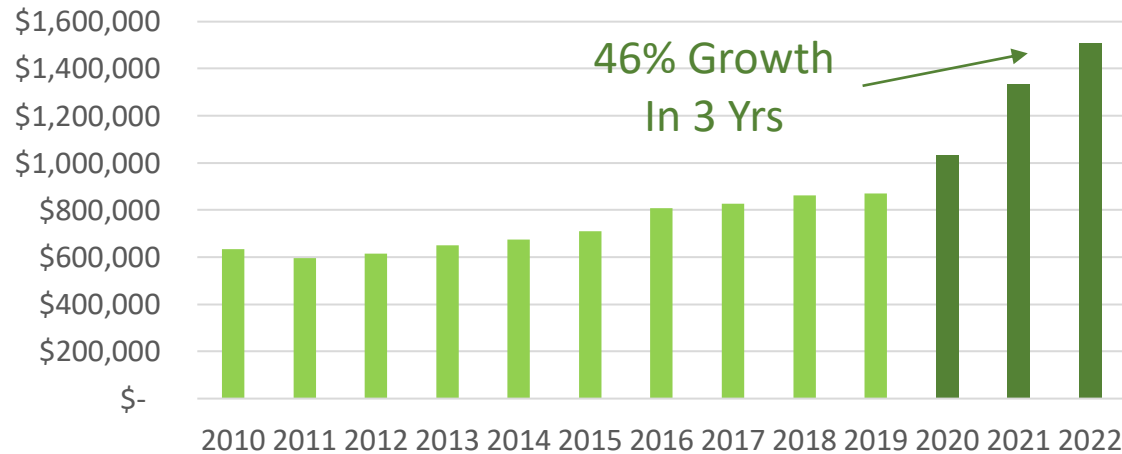


# Demographics – Increasing Gaps

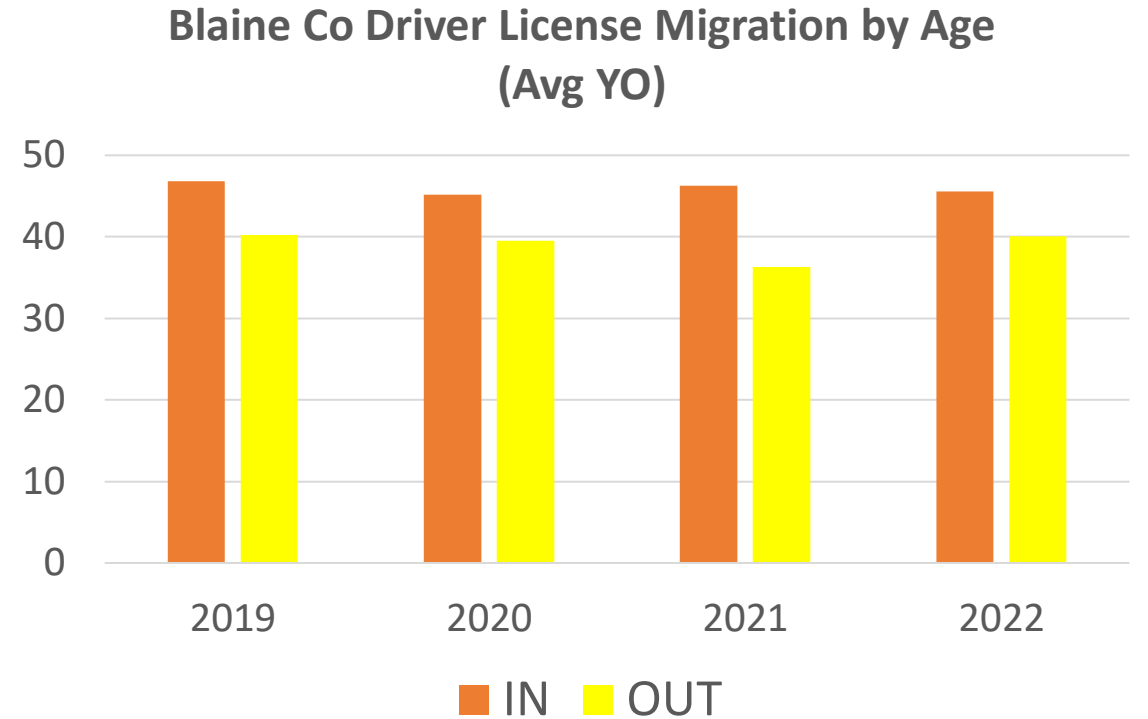
## Wealthier



## FDIC Insured Banking Deposits Held in Blaine Co (\$000)

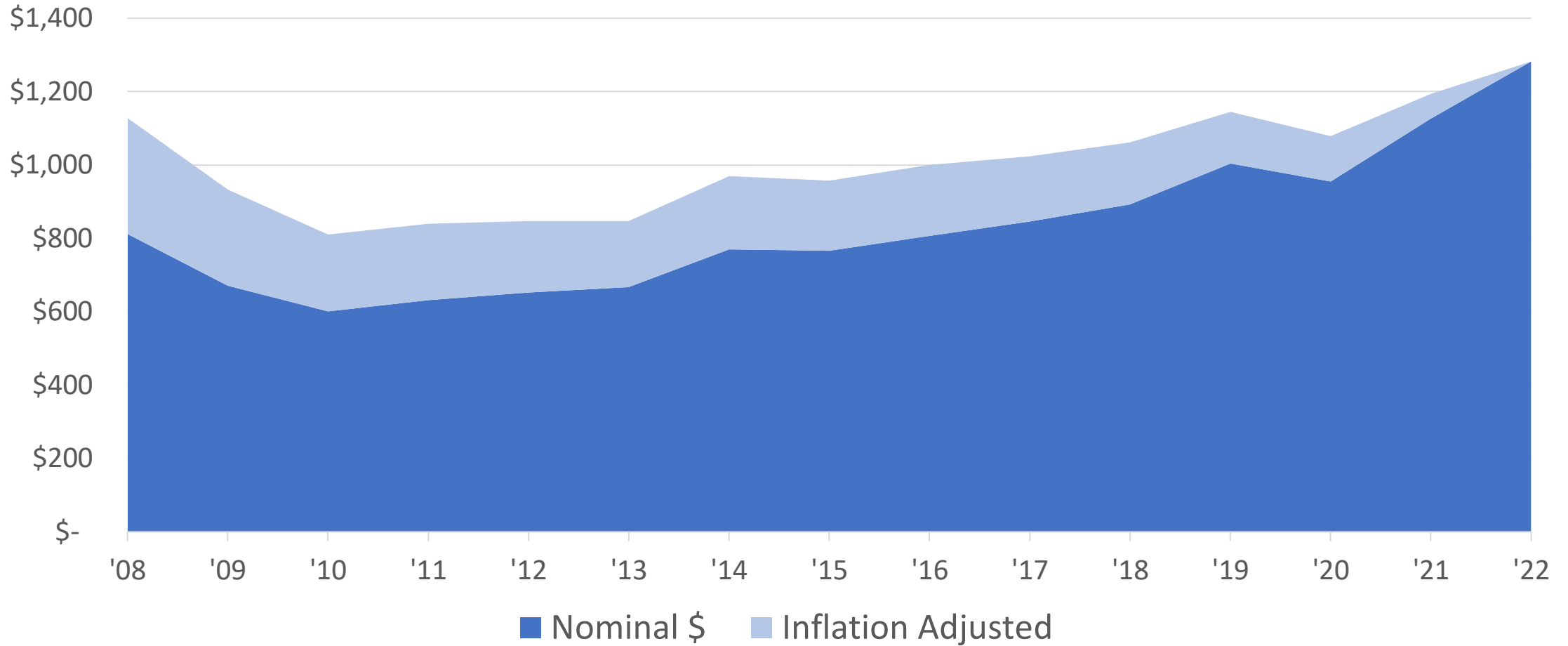


## Older

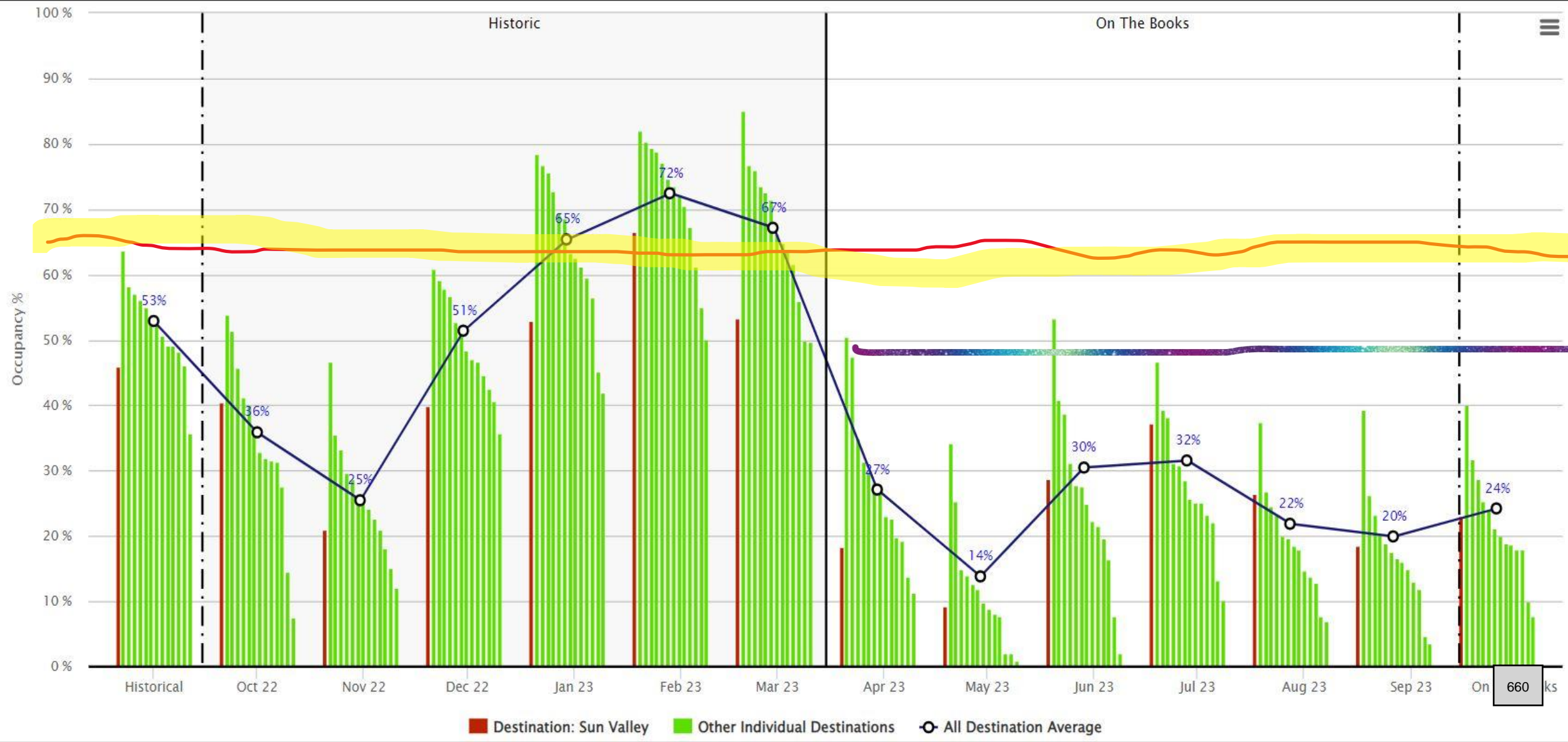


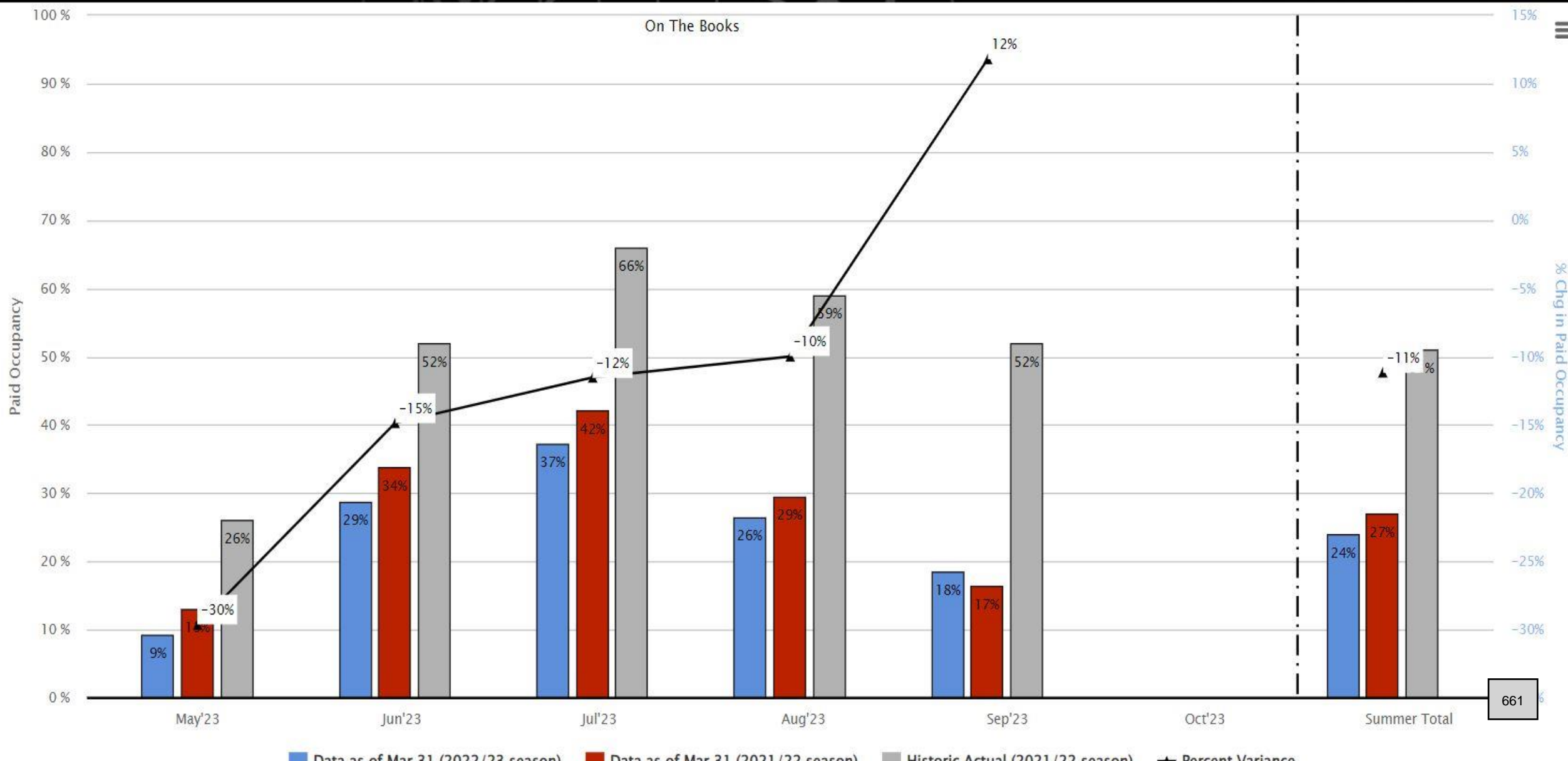
# Reported Sales Trends – All Time Record

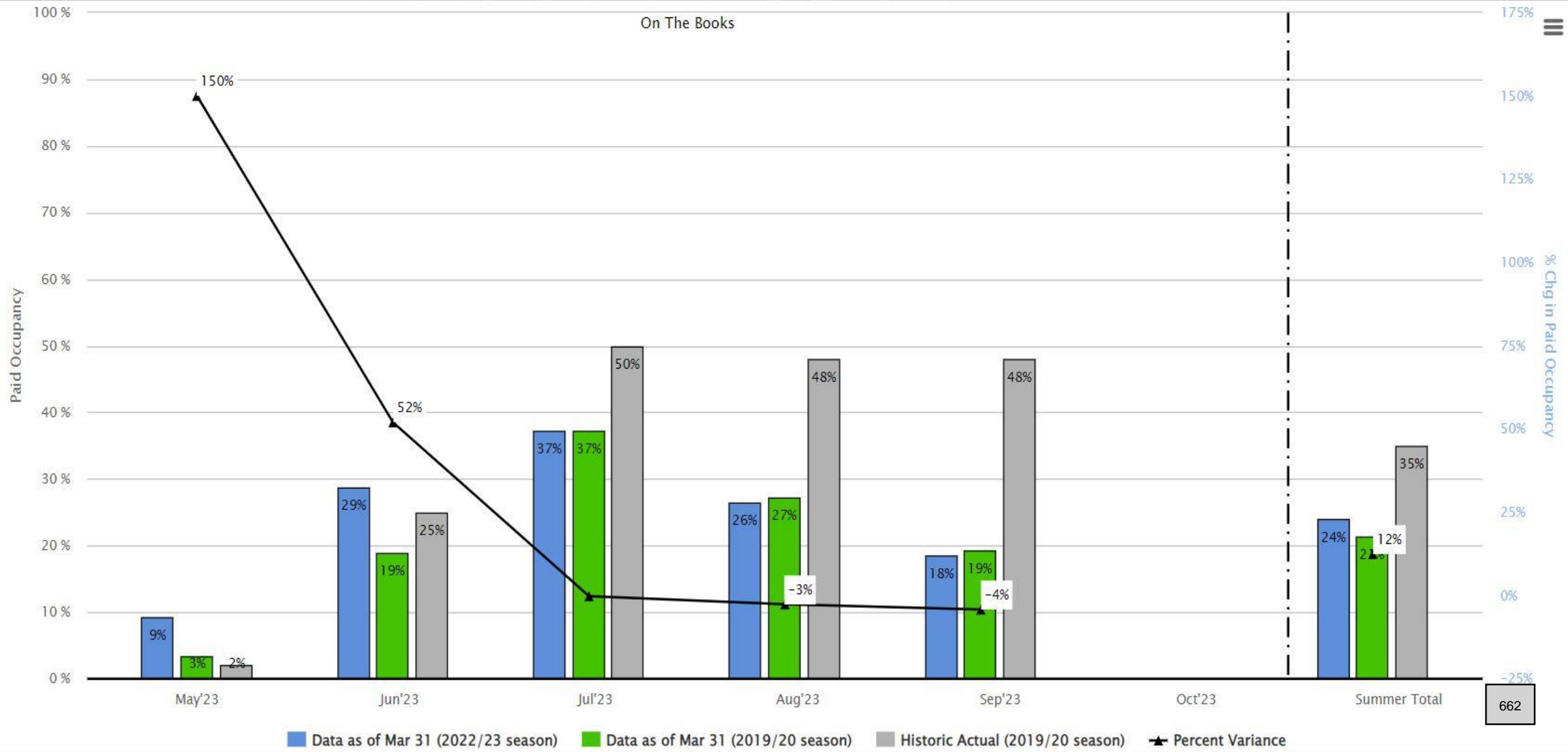
Blaine Co Total Reported Sales (\$ millions)



[Download PDF](#)







Scott Fortner – Visit Sun Valley

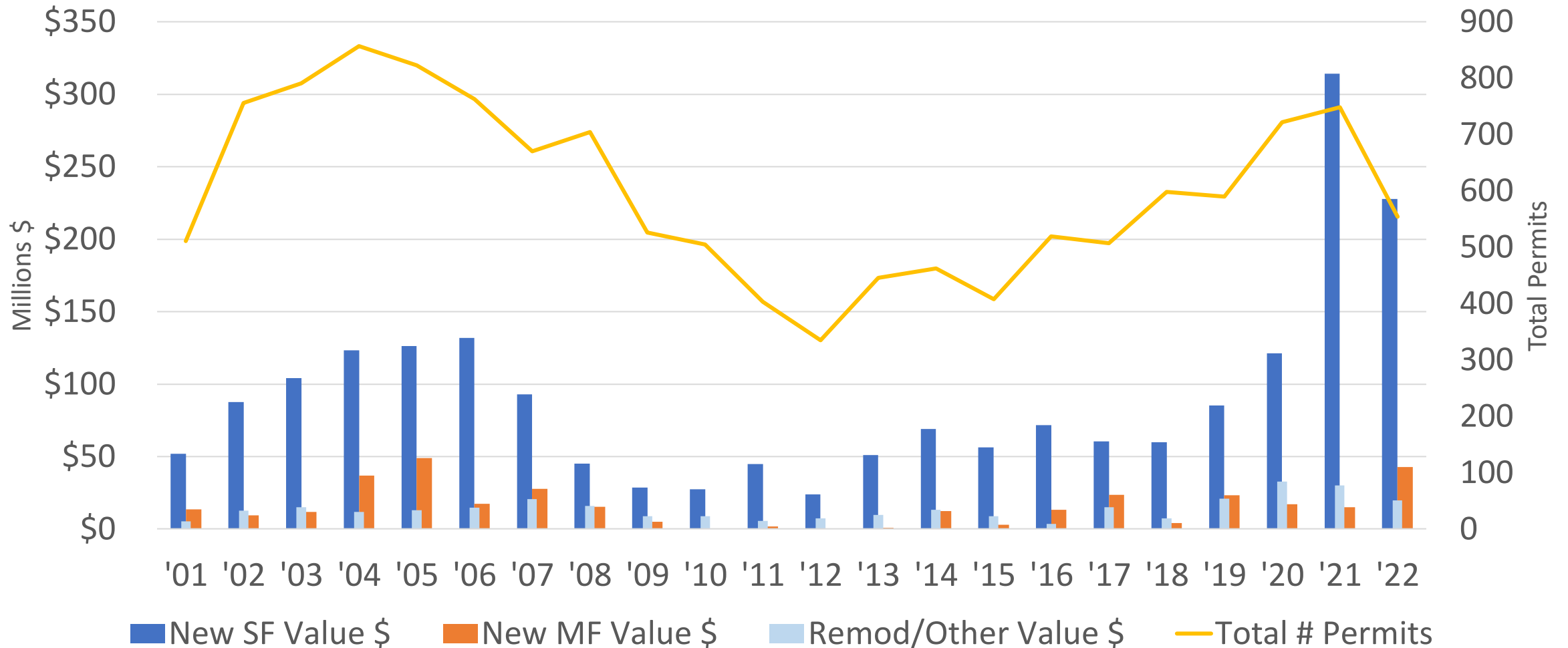
Mark Nieves – Independent Goods

Duffy Witmer – the Pioneer

Paddy McIlvoy – Backwoods Mountain Sports

# Construction Activity – Residential Permits Slowing

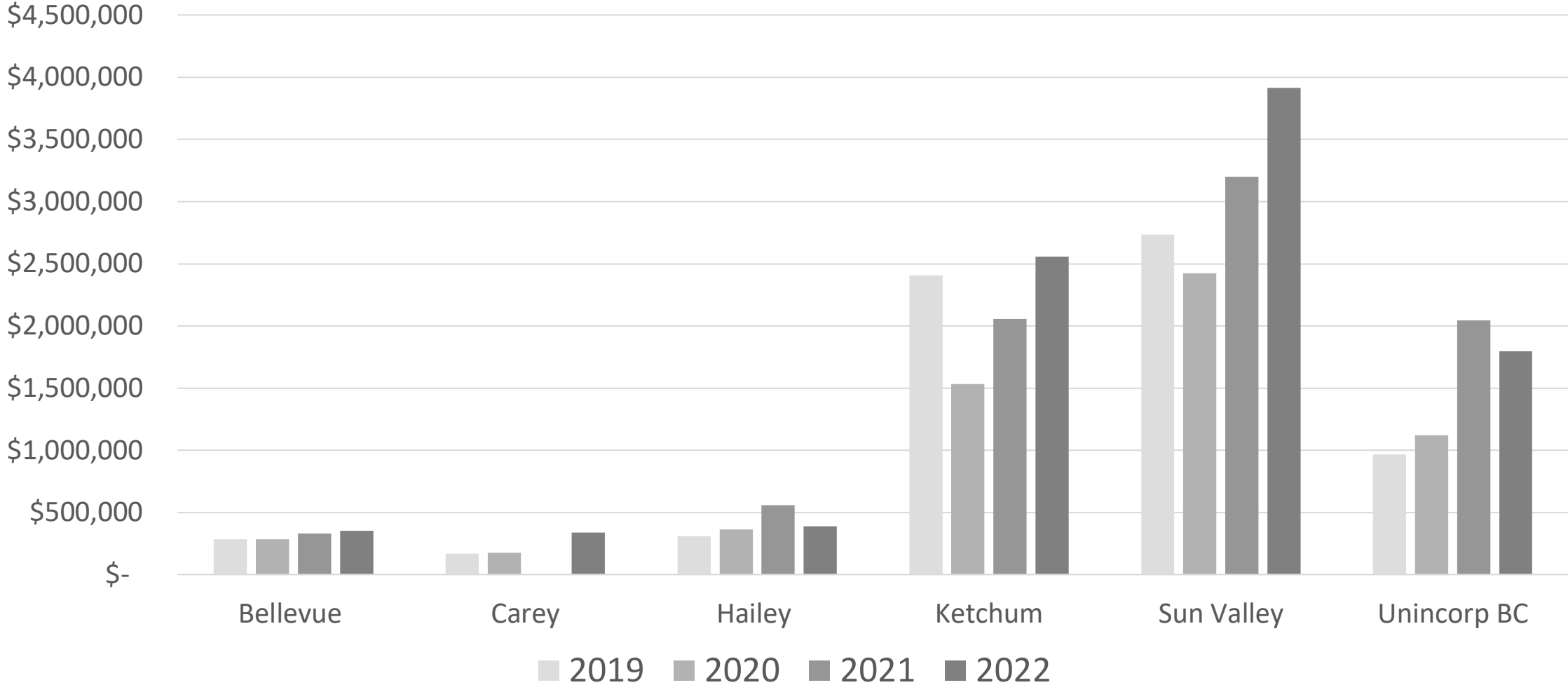
Total Blaine Co. Residential Building Permits





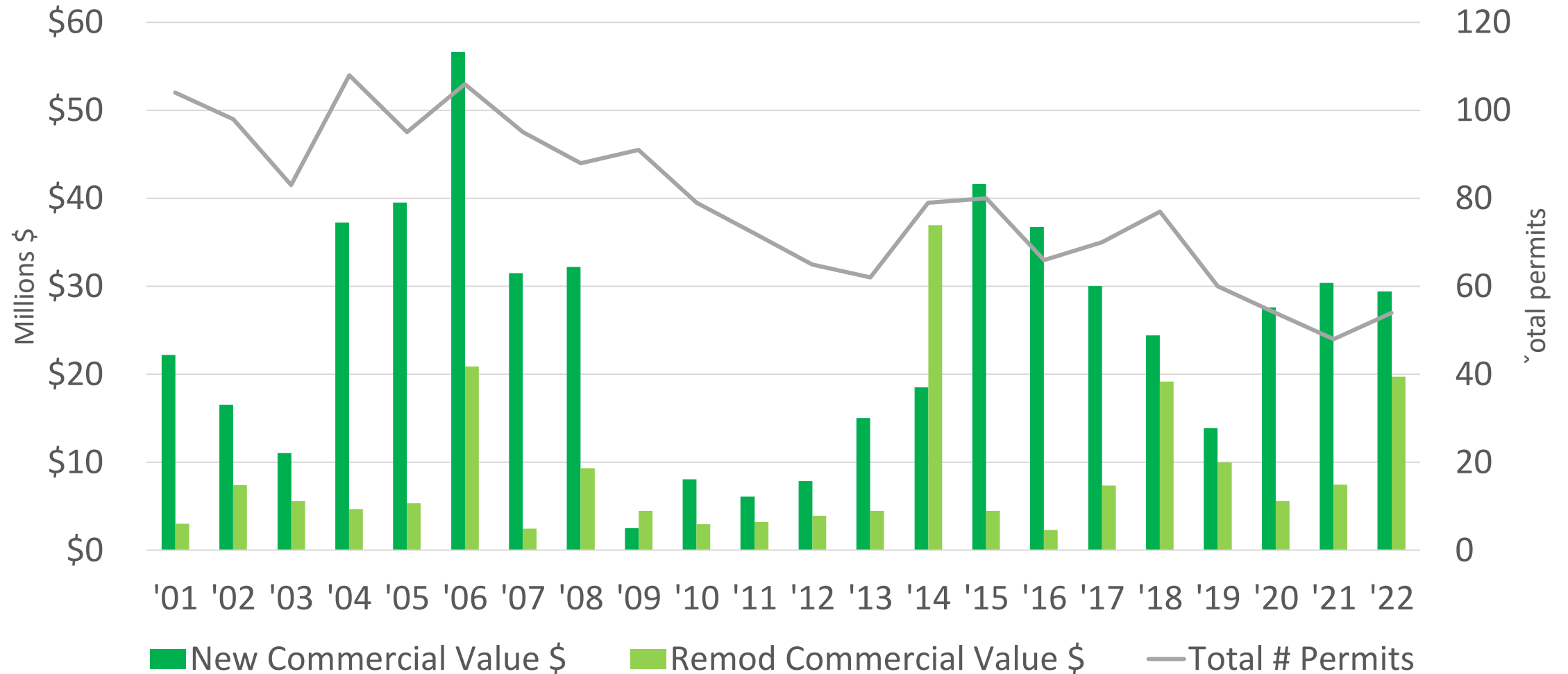
# Construction Activity – Record Residential Metrics

New Single Family Average Permit Value



# Construction Activity – Commercial Volatility

Total Blaine Co. Commercial Building Permits



Paul Conrad – Conrad Bothers Construction

Dave Patrie – Benchmark/Galena Engineering

Matt Gelso – Kenny Bogue Real Estate

# LOT for Housing & Air

Roundtable 2

# LOT - Fast Facts

**\$12 M**

Total 2022 Collections

**0.5% & 0.5%**

Proposed Share for Housing & Air

**75+%**

Paid by Visitors

**\$4 M**

Current 1% Air Collections

**60%**

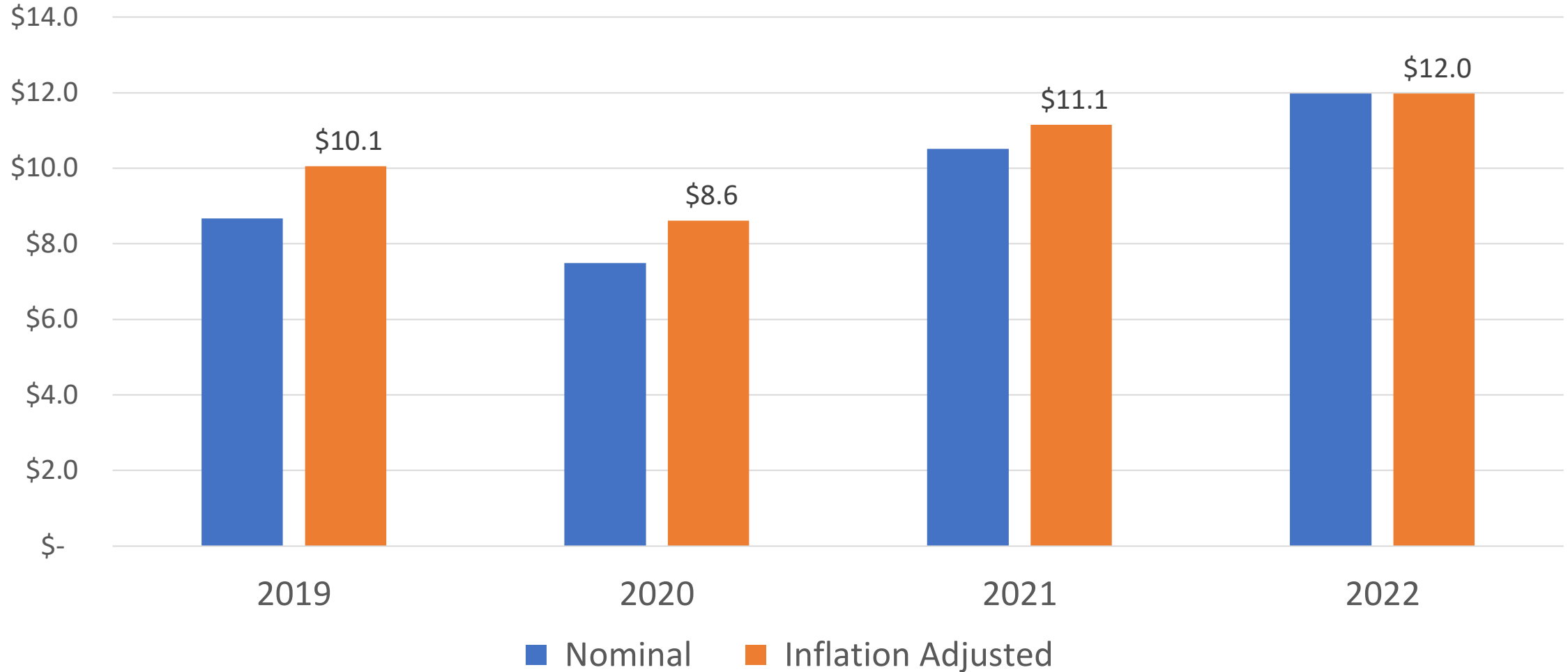
Of Voters Approval Required

**0%**

Proposed New Taxes

# LOT Collections – Strong Growth

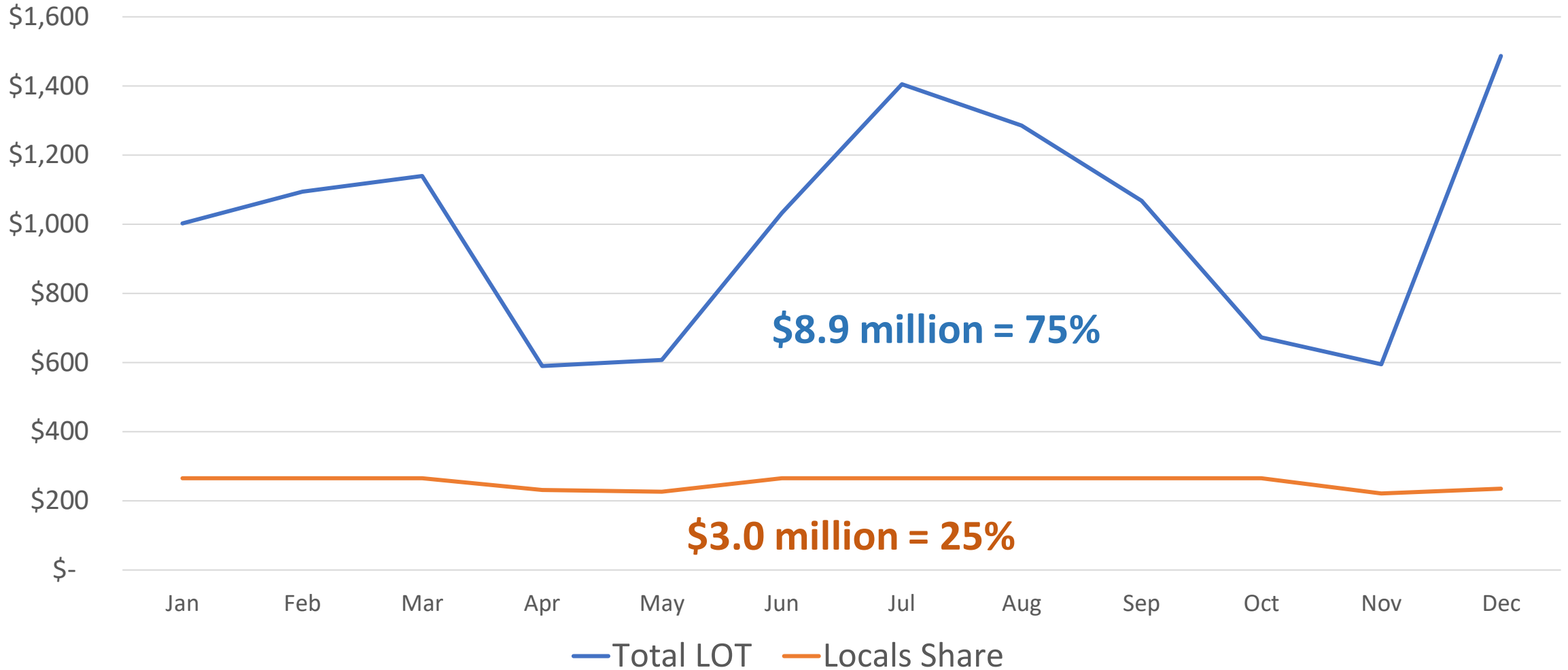
Blaine Co Total LOT by Year \* (\$ million)



\* Jan to Dec; Hailey, Ketchum & Sun Valley Totals

# LOT - Who Pays

2022 Blaine Co LOT Payment Assessment (\$000)



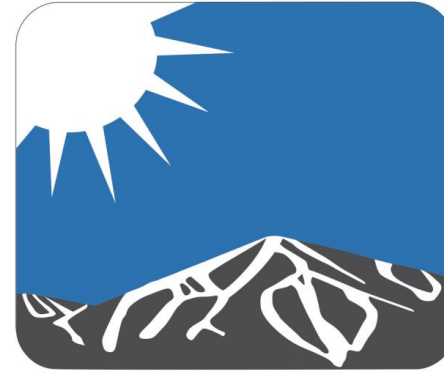
# LOT – Expected Funding for Housing & Air

	Housing	Air Service	Total
Ketchum	\$1,480k	\$1,480k	\$2,960k
Sun Valley	\$541k	\$541k	\$1,082k
Hailey	\$78k	\$78k	\$156k
Total Blaine Co	\$2,099k	\$2,099k	\$4,198k



# NEXT ROUNDTABLE SERIES

**SAVE THE DATE:**



**SUN VALLEY  
ECONOMIC  
DEVELOPMENT**

When: June 26 or 27<sup>th</sup>

Where: Zenergy

What: State of Blaine Part B  
Health & Wellness Economy  
Speaker (tbd)

**Thanks for Your Support**

*More Data, Drinks, Raffles & Networking*



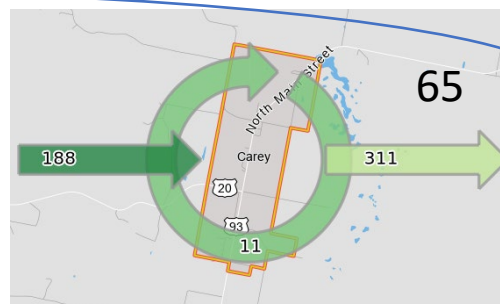
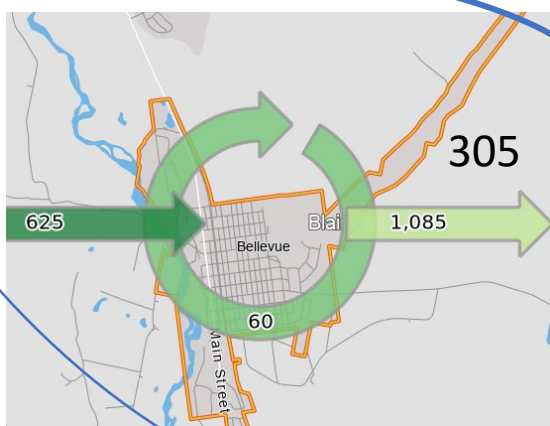
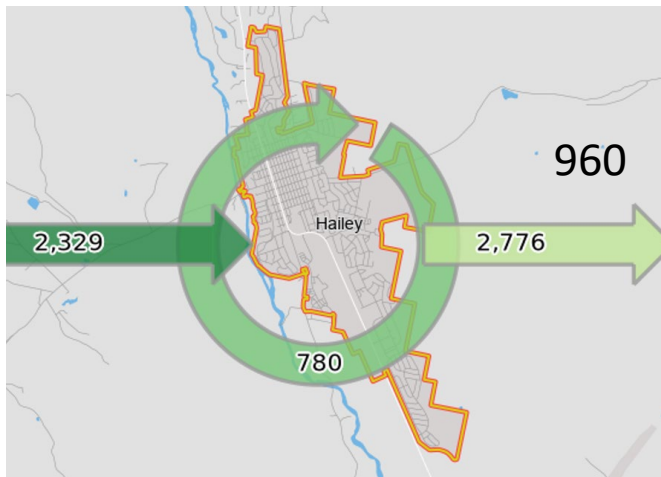
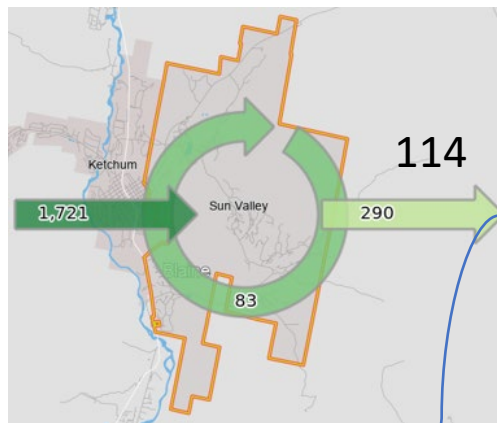
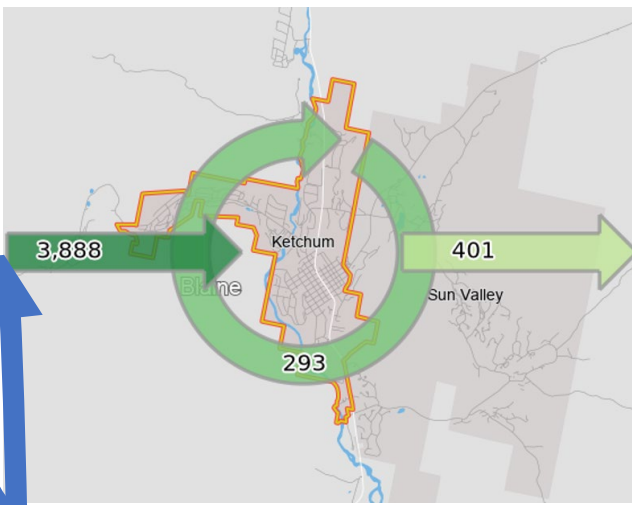
**SUN VALLEY  
ECONOMIC  
DEVELOPMENT**

# Blaine Co Job Flows

US Census “On the Map” 2019 Data

Feb 2023

# WORKFORCE IMMIGRATION - JOBS INTO KETCHUM

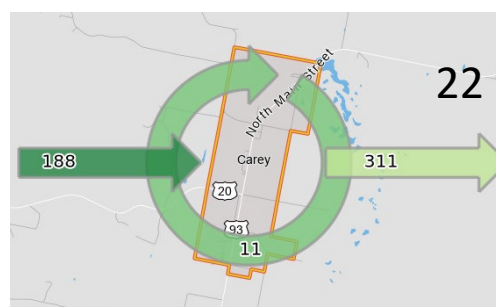
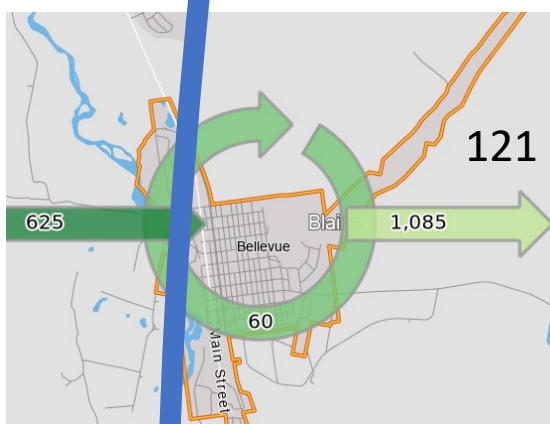
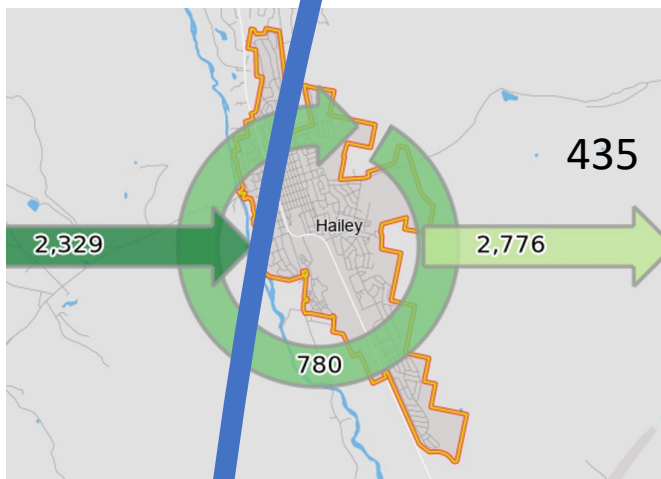
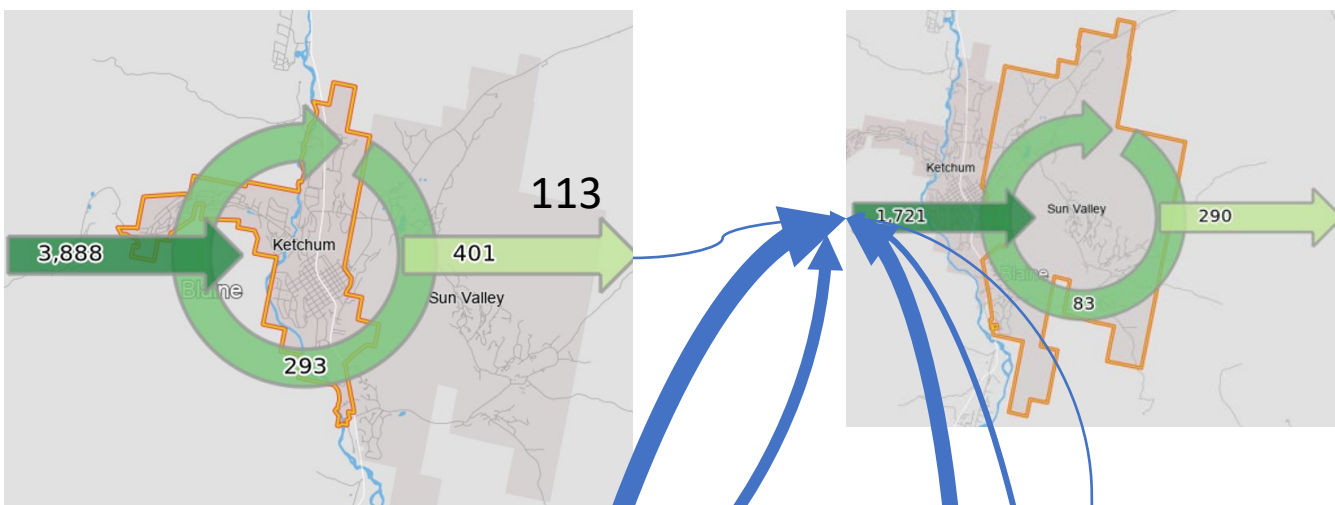


369  
Boise, Nampa,  
Meridian, Twin

1781  
All Other  
Locations

675

# WORKFORCE IMMIGRATION - JOBS INTO SUN VALLEY



129

Boise, Jerome  
 Meridian,  
 Shoshone, Twin

901

All Other  
 Locations

676

## Opportunities Report

### Projects that involve CapEx, job creation, and/or incentives

Date	Project/ Company Name	City	Industry	Opportunity Type	Number Existing Jobs	Potential Job Creation	Potential Capital Investment	Incentives Applied For	Project Stage	Summary of Project
1-Jul	Revelry Group	Ketchum	Food & Beverage	Business Attraction	17	29	\$1,800,000	TRI	In Progress	Revelry relocation from Portland to Sun Valley area proceeding as planned; temporary office accommodations secured for first 17 permanent employees; 9000 sf of new build office space secured for ground floor of 1st & 4th building under construction with occupancy expected early 2023; 1st major new program was Global Food Innovation conference in July '22 which hosted 500 attendees over 4 days at SV Resort
1-Jul	Wild Rye	Ketchum	Recreation	Business Attraction	8	30	\$0	TRI	In Progress	Wild Rye growth trajectory on track; expansion into new Ketchum office completed in March '22; actively hiring to accommodate increase in wholesale sales channels
1-Jul	Yellow Belly	Hailey	Food & Beverage	Business Retention	2	0	\$0	None	In Progress	Owner of retail ice cream store seeking to exit; local food entrepreneur evaluating brand purchase
1-Aug	Carey Grocery River & Spruce multifamily	Carey	Food & Beverage Workforce Housing	Business Attraction Community Development	0	15	\$200,000	None	In Progress	Current Carey resident and owner of automotive shop in early planning stages to reopen the shuttered grocery store on main st. Retrofitting interior space personally with view to subletting parts to other new businesses; discussed providing supply chain contacts and start up capital
1-Aug	Root Wine Bar	Hailey	Restaurant	Business Attraction	0	20	\$400,000	None	In Progress	new wine bar being set up by new resident; hired existing Chef Chris
1-Sep	Zhou 75	Hailey	Restaurant	Business Retention	15	15	\$300,000	None	In Progress	business of 20 years closing; purchase of building for development of new Asian themed restaurant by local restaurant entrepreneur
1-Sep	Mahoneys	Bellevue	Restaurant	Business Retention	12	12	\$300,000	None	In Progress	business under contract for sale to new owner
1-Sep	Silver Dollar Saloon	Bellevue	Restaurant	Business Retention	12	12	\$300,000	None	In Progress	business under contract for sale to new owner
1-Oct	Whallen Dentistry	Hailey	Healthcare	Business Retention	7	4	\$500,000	None	In Progress	business under contract for sale to new owner; owner plans to expand footprint and add 1-2 dentists with support staff
1-Nov	The Place	Hailey	Restaurant	Business Attraction	0	10	\$250,000	None	In Progress	New noodle bar serving dinners; variable operating hours as they get staffed up
1-Nov	SUN Fixed Base Operator	Hailey	Aviation	Business Attraction	0	25	\$10,000,000	None	In Progress	Announcement that Freidman Airpot Authority has received and will be soliciting indications of interest to establish a 2nd Fixed Base Operator (FBO) for General Aviation services (fueling, hangering etc) at SUN; expansion option allowed under FAA approved Master Plan; likely to be a multi year solicitation assessment process; SVED was contacted by a potential operator 2 years ago and discussed potential incentives at that time
1-Nov	YaYa	Hailey	Retail	Business Attraction	0	5	\$200,000	None	In Progress	New clothing store serving women and children
1-Jan	Tamarak Lodge	Ketchum	Lodging	Business Retention	20	0	\$500,000	None	In Progress	2-Yr remodeling project completed this month; mostly interiors and 26 guest rooms
1-Jan	Wyld Gin	Ketchum	Food & Beverage	Start Up Business	0	2	\$0	None	Closed Won	New startup using existing blend stock to produce new brand
1-Jan	Wyle Beet Town & Park Jewelers	Hailey	Restaurant	Start Up Business	0	2	\$50,000	None	Closed Won	New startup foodtruck focused on vegan cuisine; sub leasing space outside Sturtos in Hailey
1-Jan	Elkhorn Springs Modular Rentals	Sun Valley	Retail	Business Retention	4	0	\$0	None	In Progress	Going out of business; unable to sell business after trying for c18 months; liquidating inventory and surrendering lease in SV Village
1-Jan	Davis Reed	Sun Valley	Housing	Community Development	0	1	\$11,400,000	None	In Progress	Early planning for 19 units in SV Elkhorn; 2-3 bedroom units for rent that will be made available to local employees only
1-Jan	Café Della	Ketchum	Retail	Business Retention	10	0	\$0	None	In Progress	Going out of business sale with liquidation of inventory
1-Jan	Lee Gilman	Hailey	Restaurant	Business Retention	6	0	\$0	None	In Progress	Owners moving out of town and seeking to sell business; potential purchaser negotiating
1-Feb	Silver Dollar Saloon	Ketchum	Construction	Business Retention	15	0	\$0	None	In Progress	Succession plan to turn over to several key employees in place; checking to see if RIVDA financing might help
1-Feb	Cuttthroat Club	Bellevue	Restaurant	Business Retention	12	0	\$300,000	None	Closed Won	Sale to local Latino family completed after 4 years on market
1-Feb	Charter School	Blaine Co	Education	Business Attraction	0	15	\$1,000,000	None	In Progress	Local chef leading outside investor consortium seeking to reopen old Feugo main street restaurant closed for more the 6 years; also lobbying for liquor license under new Historic Building bill pending
1-Feb	Project Bigwood	Blaine Co	Education	Start Up Business	0	25	\$5,000,000	None	In Progress	Reported new K-12 start up charter school based on "conservative values"; not much more known at this time
1-Mar	Tundra Restaurant	Blaine Co	Education	Start Up Business	0	2	\$0	None	In Progress	new not for profit focused in environmental issues; received c3 approval
1-Mar	Growing Garden	Hailey	Restaurant	Business Retention	5	0	\$0	None	In Progress	Business brand, equipment, inventory and customer list on market for \$395k; owner exiting after 6 years of operations; opportunity to lease additional space next door for more dining area; asking price too high for limited assets
1-Mar	Growing Garden	Bellevue	Education	Business Retention	5	0	\$0	None	In Progress	Closure of 1 of 2 facilities operated by owner; inability to retain staff made operating two locations difficult; loss of 12 slots



Any meeting with a business, government agency, or non-profit

date	Company	Industry	Contact Name	City	Activity Purpose	Interested In	Referral To	Summary of Visit
6-Jul	Growing Garden	services	Molly Green	Ketchum	Partner Meeting	Other	None	Explored potential for IWDC childcare grant; not able to apply for grant due to lack of matching funds; small program with 12 students and struggling to maintain current level of operations; SVED assessment that this grant program will be very difficult for small providers
7-Jul	CSI	education	Janet Pretti	Twin Falls	Partner Meeting	Other	None	Kickoff meeting of Region IV TPM project team; standing meeting to plan project activities on IWDC vocational improvement program
8-Jul	SV Culinary Institute	education	Karl Uri	Ketchum	Partner Meeting	None	None	committee meeting to review current student appoicaitons and establish initial scholarship levels
11-Jul	SV Culinary Institute	education	Mindy Meads	Ketchum	Partner Meeting	None	None	annual retreat to reievew strategic priorities, work plan for future, board composition and financials
12-Jul	Farmers Market	food & beverage		Ketchum	Partner Meeting	None	None	visit with 15 vendors at weekly farmers market; business is strong this year, supply chain working well but food inflation is causing increase at retail
12-Jul	Sun Valley Playschool	services	Smeranda Summers	Sun Valley	Partner Meeting	Other	None	Explored potential for IWDC childcare grant; will discuss options with management; one of the larger programs with 80 students, mix of staff, locals and tourist
13-Jul	Silent Water Development	development	Broderick Smith	Ketchum	Partner Meeting	None	None	Discussion about new mixed use project, the Perry, expected to start construction spring 2023; four ground floor retail, food with Type 1 hood, market rate and affordable apartments, and 2 luxury penthouse units; ready for full design review
13-Jul	one Co Sustainability Commi	governmant	Lynn Barker	Hailey	Community Development	None	None	committee meeting of transport & land use committee to evaluate goals and vision
13-Jul	SVED Exco	not for profit	Rick Lefavivre	Ketchum	Board Meeting	None	None	regular meeting to discuss priorities, financials, workplan progress
18-Jul	Wood River CFE	recreation	Lance Davison	Blaine Co	Community Development	None	None	review of draft report on Urban Tree Canopy study for Blaine Co; discussion of potential actions arising from scientific principles
19-Jul	Wood River Tourism Coalitio	hospitality & tourism	Carole Waller		Community Development	None	None	discussion of plans for renewing LOT for air service; planning for schedule, ballot wording, PR program and consulting resources for potential Nov '22 election
19-Jul	SPUR	not for profit	Sally Gillespie		Partner Meeting	None	None	dinner with interested donors at Rally for Housing; round table discussion on ongoing and future project plans
20-Jul	SVED	not for profit	Rick Lefavivre		Board Meeting	None	None	full board meeting
21-Jul	Reflex Poles	recreation	Ben Verge		Partner Meeting	STEP Grant	None	discussion of expansion plans for ski pole distribution and new products; next step is to build out purchase engine on web and start internet sales channel
22-Jul	Archive Finishing	construction & trades	Roberto de		Partner Meeting	None	None	extremely busy drywall, stucco and painting co; 120 employees after spin off of 40 peson painting unit; active in ID and WY primarily
22-Jul	Landing Local	hospitality & tourism	Colin Furth		Community Development	None	None	review of applicability of Landing Locals short term conversion program to long term for Ketchum; sharing of market data
24-Jul	Revelry	food & beverage	Jim Crystal		Partner Meeting	None	None	participated in global food innovation conferecne with 500 attendees; organized tours of culinary institutea and pitched industry scholarships
26-Jul	Keller Williams	real estate	James Taukas		Partner Meeting	None	None	presentation on state of Blaine economy to realtors; discussed slow down in local markets due to fears of recession, market and increasng supply
27-Jul	OtherWild Ventures	recreation	Jeff Rose		Partner Meeting	Other	None	evaluated possible joint branding and marketing program for outdoor rec lifestyle brands
28-Jul	WCMEDC	not for profit	Lindsey Hailey		Other	None	None	shared ideas regarding best practices in ED with new McCall based ED; board governance and other tool kits shared
6-Jul	YMCA	not for profit	Jason Scherer		Partner Meeting	None	None	explored potential for IWDC childcare grant, not able to apply as they are not licensed
12-Jul	Conrad Bros	construction & trades	Paul Conrad		Partner Meeting	None	None	update on local construction projects and proposed meetings on Ketchum ordinance changes
13-Jul	Zenergy	services	Derek Agnew		Partner Meeting	None	None	explored potential to be a partner with BCRD for childcare grant; willing to do this as large number of his 123 employees have childcare needs
13-Jul	Carr Development	development	Mike Carr		Partner Meeting	None	None	discussed delay in mixed use development plan in Ketchum
14-Jul	Macquells House	services			Partner Meeting	Other	None	Explored potential for IWDC childcare grant; not able to apply for grant due to lack of 3 year track record
19-Jul	BSU	education	Vanessa Fry		Partner Meeting	None	None	discussion of potential speakers for SVED '22 summit; possible professor with urban planning track record
20-Jul	Walnut Ave Mall	development	Chip Fisher	Ketchum	Partner Meeting	None	None	discussion
20-Jul	Wood River Insurance	financial	Ashley Robertson	Hailey	Partner Meeting	None	None	evaluated fire insurance risks in WRV; Chubb and AIG have stopeed writing policies in certain aras including Gimlet nad Golden Eagle; little know issue becoming more pronounced; SVED will seek to discuss with realtors board
21-Jul	State Farm Insurance	financial	Patrick Buchanan	Hailey	Partner Meeting	None	None	discussed fire insurance risk issue with another agent to verify circumstances
26-Jul	National Forest Foundation	not for profit	Dani Southard	Boise	Partner Meeting	None	None	reviewed status of joint chef's grant on private sector lands; discussed possible text amendment to Mountain Overlay District to allows administrative review ofr forest health reasons
27-Jul	SV Water & Sewer	governmant	Pat McMahon	Sun Valley	Partner Meeting	None	None	interested in update of water consumption analysis for SV Elkhorn Association
27-Jul	I Have a Dream Foundation	not for profit	Laura Rose Lewis	Ketchum	Partner Meeting	Other	None	discussion of TPM vocational program resource needed for Hospitality & Tourism cohort
30-Jul	High Desert Sports	retail		Hailey	Business Retention	Other	None	current owners seeking exit from operations; selling building and inventory ex guns and ammo
30-Jul	Jonny G's	restaurant	John Gorham	Ketchum	Business Retention	Other	None	current owners seeking exit from operations; selling building, equipment, inventory and brand to new operator

2-Aug	Mascaroni Design	construction & trades	Tim Mascaroni	Ketchum	Partner Meeting	Other	None	update on local construction projects and proposed meetings on Ketchum ordinance changes
2-Aug	RIVDA	financial	Rob Akins	Twin Falls	Partner Meeting	Other	None	review of Blaine Co lending opportunities
2-Aug	Fly Sun Valley Alliance	transportation	Carole Waller	Ketchum	Partner Meeting	Other	None	planning for approval of LOT for Air Service
3-Aug	Blaine Co Sustainability Commi	government	Lynn Barker	Hailey	Community Development	Other	None	internal discussion about priorities and lack of focus on land use planning in subcommittee
4-Aug	CSI	education	Janet Pretti	Twin Falls	Community Development	Other	None	planning for implementation of TPM grant project; discussion of reporting, roles and financing options
5-Aug	Blaine Co School District	education	Jim Foudy	Hailey	Community Development	Other	None	discussion of BCSD vocational programs and oppornities to link with TPM project
8-Aug	Sun Valley Co.	hospitality & tourism	Pete Sontag	Sun Valley	Partner Meeting	Other	None	review of summer outcomes and winter plans; discussed childcare grants, forest health project, new lift installation, alpine racing events, wedding stats (90+ this summer)
9-Aug	Sun Valley Culinary Institute	food & beverage	donnor	Ketchum	Other	Other	None	cultivation of donor for student scholarships
9-Aug	Blaine Co Housing Authority	government	Sara Michael	Ketchum	Community Development	Other	None	review of affordable housing data availbale for sharing with housing advocates
9-Aug	Custom Trailers	hospitality & tourism	Rob Clayton	Deer Valley	Other	Other	None	meeting with new luxury tiny home builders who designs 400 sf trailers as a housing alternative; connected them with potential partners like ARCH, Meadows Trailer Park, etc
10-Aug	SVED	not for profit	Rick Lefavre	Ketchum	Board Meeting	Other	None	Exco meeting to discuss action plan priorities, YTD financials and advocacy activities
8/11/2022	Visit Sun Valley	hospitality & tourism	Scott Fortner	Ketchum	Board Meeting	Other	None	Board meeting to discuss tourism programs, summer results, winter forecasts and LOT for Air ballot timing
8/12/2022	SVED	not for profit	Guy Cherp	Ketchum	Board Meeting	Other	None	summit subcommittee meeting to review theme, speakers, messaging, panels and logistics
8/15/2022	US Bank	financial	Chris Calvert	Ketchum	Partner Meeting	Other	None	discussion of current state of economy and banking activities
8/15/2022	KURA	not for profit	Susan Scoville	Ketchum	Partner Meeting	Other	None	quarterly report to Ketchum Urban Renewal Authority
8/16/2022	Ketchum P&Z	government	Neil Morrow	Ketchum	Community Development	Other	None	advocacy on Ordiannce 1234 for development community, focus on complexity and unintended consequences
8/17/2022	Windemere Group	real estate	Stephanie Reed	Hailey	Partner Meeting	Other	None	presentation to 20 realtors on the state of the economy and discussion of latest trends in real estate market; general slowing of offers, increase in inventories
8/17/2022	CSI	education	Janet Pretti	Twin Falls	Community Development	Other	None	kickoff meeting for TPM grant project; team intros and creation of project timeline, deliverables and reporting alignment
8/18/2022	Wood River ELC	education	Martin Balbon	Boise	Community Development	Other	None	kickoff meeting for new Early Learning Collaborative project supported by Wood River Womens Foundation; explanation of project and goals
8/22/2022	Appelation Hospitality	hospitality & tourism	Chris Hunsberger	Los Angles	Community Development	Other	None	introduction to partner for the new Harriman Hotel project;discussion of culinary offering and potential help in sourcing a new Instructor Chef for SVCI
8/22/2022	The Kneadery	restaurant	Dillon Witmer	Ketchum	Partner Meeting	Other	None	discussion of summer activity; more business with Perry's closed and more difficult customers; staffing ok but burned out staff requiring time off
24-Aug	Blaine Co Sustainability Commi	government	Lynn Barker	Hailey	Community Development	Other	None	discussion of charette process and finalization of goals
26-Aug	YMCA	not for profit	Jason Shearer	Ketchum	Partner Meeting	Other	None	meeting with Y board to provide update on economic activity, statistics etc as part of annual strategy review
29-Aug	FARE Idaho	not for profit		Ketchum	Other	Other	None	introduction to their mission and activities, and discussion of collaboration with SVCI regarding food supply chain, local ag support and educational options
30-Aug	Mountain Pride	food & beverage	Stuart Siderman	Ketchum	Business Retention	Other	None	20 year owner sold to new resident; will lease building to owner and provide consulting support for short term;
30-Aug	Espinoza Flooring	construction & trades	Mr Espinoza	Ketchum	Business Retention	Other	None	took business back from son to tighten up operations; record last 24 months with residential construction activity
1-Aug	Magic Lantern	media	Rick Kessler	Ketchum	Business Retention	Other	None	reported sale of the cinema for \$2.9m, including land & inventory; current status unknown
1-Aug	First Lite	recreation	Ross Cooperman	Hailey	Business Expansion	Other	None	new Hailey retail outlet opened for brand
1-Aug	Idaho Cycles	recreation	Mark Carnes	Ketchum	Business Retention	Other	None	giving up on business; cant get staff, ready to retire, too much effort for reward
1-Aug	Zhou 75	development	Rob Cronin	Hailey	Business Retention	Other	None	core staff exited with no notice; unable to find replacement staff so going out of business
30-Aug	Bigwood Cinema	media	Latham Williams	Hailey	Business Retention	Other	None	unable to recover from Covid downturn and TV streaming
30-Aug	Wood River Matress		Scott Shane	Hailey	Partner Meeting	None	None	this summer strong but below record year in 2021
9-Sep	RIVDA	financial	Jeff McCurdy	Twin Falls	Partner Meeting	None	None	review of RIVDA projects in Blaine Co
12-Sep	Glass Masters	construction & trades	Sven	Ketchum	Partner Meeting	None	None	review of state of business and successin plans
15-Sep	Smokey Mountain Pizza	restaurant	Chad	Ketchum	Partner Meeting	None	None	struggling to maintain service levles with limited staff, delivery drivers are very tough to keep
14-Sep	SVED	not for profit	Rick LeFavre	Ketchum	Board Meeting	None	None	Exco review of priorities and delivery of plan
15-Sep	Sun Valley Culinary Institute	education	Scott Fortner	Ketchum	Board Meeting	None	None	discussion of summer activity levels and Fall professional program, budget for '23 and new staff hiring
19-Sep	City of Ketchum	government	Neil Bradshaw	Ketchum	Community Development	None	None	feedback on proposed new ordiannce 1234 which would impose additional restrictions on city core and tourist district developments; advocated against 2 specific provisions to limit luxury unit size and require potential overbuilding of commercial space
21-Sep	SVED	not for profit	Rick Lefavre	Ketchum	Board Meeting	None	None	Board meeting to discuss tourism programs, summer results, winter forecasts and LOT for Air ballot timing
23-Sep	QBS Solutions	financial	Toni Himmelman	Ketchum	Partner Meeting	None	None	review of SVCI treatment of tuition payments and scholarship accounting
26-Sep	Sun Valley Music Festival	not for profit		Ketchum	Partner Meeting	None	None	discussion of summer symphony session; number strong again but short of record; interestedin having SVED conduct an EIA
28-Sep	Blaine Co Sustainability Commi	government	Lynn Barker	Hailey	Partner Meeting	None	None	Land Use a& Transportation subcommittee meeting to review goals for upcoming charette exercise
28-Sep	SEI	financial	Patsie Gove	Ketchum	Partner Meeting	None	None	private equity reviewof fundrasing and giving strategies
29-Sep	City of Carey	government	Sara Mecham	Carey	Partner Meeting	None	None	Idaho Govt for a Day; meetings with Gov Little's team to discuss small town rural issues and problems; feedback on childcare grants just launched by IWDC



3-Oct	City of Ketchum	government	Niel Bradshaw	Ketchum	Partner Meeting	None	None	advocacy against specific provisions of ordinance 1234 based on questionable statement that more commercial is needed without market study and that limiting size of 3rd floor luxury units results in suboptimal space development
4-Oct	Micron	manufacturing		Boise	Site Visit	None	None	tour of Micron Boise facility as part of IEDA conference
5-Oct	Economic Development A	not for profit	Sari David	Boise	Seminar	None	None	IEDA conference
6-Oct	CSI	education	Alex Wexford	Twin Falls	Seminar	None	None	discussion of current CSI workforce training options as part of TPM project
7-Oct	Mountain Express	media	Pam Morris	Ketchum	Partner Meeting	None	None	review of draft Economic Almanac prior to summit publication
10-Oct	SV Culinary Institute	education	Karl Uri	Ketchum	Partner Meeting	None	None	discussion of candidates for replacing culinary director
11-Oct	I Have a Dream Foundation	education	Jack Bunce	Ketchum	Partner Meeting	None	None	discussion of TPM vocational program organizational structure
11-Oct	Fly Sun Valley Alliance	not for profit	Carol Waller	Hailey	Partner Meeting	None	None	review of LOT Air
12-Oct	WR Urban Landscape	not for profit	Lance Davidson	Boise	Partner Meeting	None	None	review of 1st draft of local forest canopy study for Blaine Co; feedback given
12-Oct	SVED	not for profit	Rick Lefavre	Ketchum	Board Meeting	None	None	Exco meeting to discuss action plan priorities, YTD financials and advocacy activities
13-Oct	River Early Learning Collab	not for profit	Kathryn Ivers	Hailey	Community Development	None	None	kickoff meeting with new BC early education coordinator to establish priorities and accountabilities
13-Oct	Visit Sun Valley	tourism	Scott Fortner	Ketchum	Partner Meeting	None	None	regular meeting to discuss priorities, financials, workplan progress
14-Oct	Sun Valley Co.	hospitality & tourism	Pete Sonntag	Sun Valley	Partner Meeting	None	None	update on winter plans, new lift installation, forest health project, new staff appointments
17-Oct	KURA	government	Sue Scoville	Ketchum	Partner Meeting	None	None	presentation on FY23 budget request and contract for services
18-Oct	Idaho Power	utilities	Amber Larna	Ketchum	Partner Meeting	None	None	review of IP plans for Blaine Co and sponsorship opportunities for Summit
24-Oct	SV Community School	education	Trent Smithers	Sun Valley	Partner Meeting	None	None	review of economic impact study and missing data points to enable study to be completed
27-Oct	BC Sustainability Committee	government	Lynn Barker	Hailey	Partner Meeting	None	None	sustainability charette with 100 community leaders to fine tune goals and objectives for Blaine Co
28-Oct	Maxwell Structural Engineerin	construction & trades	Craig Maxwell	Ketchum	Partner Meeting	None	None	discussion about level of business activity; still jammed but new home starts and interest slowing
18-Oct	Sage School	education	Harry Weeks	Hailey	Partner Meeting	None	None	invitation to send students to summit; also review of school term to date
19-Oct	Whallen Dentistry	healthcare	Luke Whallen	Hailey	Partner Meeting	None	None	update on level of activity in professional services; strong demand still
19-Oct	Bundy Architecture	construction & trades	Rebecca Bundy	Hailey	Partner Meeting	None	None	invitation to be panelist at summit
19-Oct	SV Institute	not for profit	Amy Mathias	Hailey	Partner Meeting	None	None	invitation to be panelist at summit; staff of 4 with plans to grow slowly
20-Oct	Mountain Pride	food & beverage	Ben Roth	Ketchum	Partner Meeting	None	None	Regular meeting to coordinate economic development activities across county; representatives of VSV, the Chamber, Air Service Board, Realtors and not-for-profit platform to review new business opportunities, and issues like housing and talent attraction
1-Nov	BC Business Working Group (BWG)	not for profit	Harry Griffith	Blaine Co	Networking Event	None	None	review of upcoming bookings and pinch points in tourism; specific discussion on extending LOT for air
2-Nov	Wood River Tourism Coalitior	not for profit	Jessica Maynard	Blaine Co	Networking Event	None	None	SVC update for community on upcoming winter plans, new lift program, fire safety projects and key new staff hires
2-Nov	Sun Valley Co.	hospitality & tourism	Pete Sonntag	Sun Valley	Seminar	None	None	Exco meeting to discuss new culinary director candidates and offer process
2-Nov	Sun Valley Culinary Institute	food & beverage	Karl Uri	Ketchum	Partner Meeting	None	None	
2-Nov	YMCA		Jason Scherer	Ketchum	Partner Meeting	None	None	Presentation to full board on local economic and discussion of implications for Y business model
3-Nov	St. Lukes Wood River		Joy Purdek	Ketchum	Seminar	None	None	State of St Lukes presentation on future health care issues and activities
8-Nov	Early Learning Advisory Committee		Kathryn Ivers	Ketchum	Partner Meeting	None	None	Meeting of ELAC on childcare need and delivery survey; review of branding, spanish translation, distribution plans
9-Nov	2022 SVED Summit		Harry Griffith	Sun Valley	Networking Event	None	None	Annual gathering to discuss Quality of Place; 1 keynote, 4 panels and 150 attendees collaborating for full day on strategic future for WRV
10-Nov	Sun Valley Culinary Institute		Karl Uri	Ketchum	Board Meeting	None	None	Regular board meeting to review strategic priorities and year end fundraising activities
14-Nov	CSI		Janet Pretti	Twin Falls	Partner Meeting	None	None	Meeting to discuss summer trade camps for WRV with CSI, I Have a Dream and TPM contractor
14-Nov	KURA		Susan Scoville	Ketchum	Partner Meeting	None	None	Review of final FY23 contract for services
16-Nov	BC Sustainability Committee		Lynn Barker	Hailey	Partner Meeting	None	None	Review of revised goals following charette
16-Nov	SVED	not for profit	Rick Lefavre	Ketchum	Board Meeting	None	None	Regular board meeting to discuss priorities, YTD financials and potential new board members; vote to change out chairman from Ric Lefavre to Guy Cherp based on tenure
16-Nov	Visit Sun Valley		Scott Fortner	Ketchum	Networking Event	None	None	Business after hours discussion
17-Nov	Sun Valley Co.	hospitality & tourism	Pete Sonntag	Sun Valley	Partner Meeting	None	None	Meeting on TPM project to identify key members of the SV Hosp team to engage
30-Nov	RIVDA	financial	Jeff McCurdy	Twin Falls	Partner Meeting	None	None	Regular board meeting
2-Nov	Benchmark Engineering	construction & trades		Ketchum	Partner Meeting	None	None	Membership renewal solicitation
4-Nov	Mascaroni Design	construction & trades	Tim Mascaroni	Ketchum	Partner Meeting	None	None	Membership renewal solicitation
17-Nov	St Thomas Pet Clinic	healthcare	Karsten Foestveed	Ketchum	Partner Meeting	None	None	Discussion of takeover of Sun Valley Animal Center and impact on small vet practices
3-Dec	City of SV	Government	Peter Hendricks	Sun Valley	Partner Meeting	None	None	Discussion of city administration staff changes
6-Dec	Business Working Group (B)	not for profit		Ketchum	Networking Event	None	None	Update on county economic issues
7-Dec	WR Tourism Partnership	tourism		Ketchum	Tourism	None	None	Update on level of tourism activities; Dec on par with Jan expected to be ahead
8-Dec	Cox Communications	communications	Guy Cherp	Ketchum	Partner Meeting	None	None	Discussion of interest in assuming SVED board chairman position
8-Dec	Business Plus	not for profit	Rebecca Wilder	Twin Falls	Partner Meeting	None	None	Discussion of air service and minimum revenue guarantee program
9-Dec	SV Culinary Institute	food & beverage	Karl Uri	Ketchum	Partner Meeting	None	None	Interviews for new chef instructor candidates
9-Dec	Zartico	tourism	Ray Gadd	Denver	Tourism Community	None	None	Webinar on new functionality for destination management software; sample data presented indicates visitor spend at \$500 per person per day over last 6 months
13-Dec	City of Ketchum	government	Neil Morrow	Ketchum	Development	None	None	Planning & Zoning meeting on Harriman Hotel development; SVED submitted letter of support
14-Dec	Department of Commerce	government	Karen Applegren	boise	Seminar	None	None	Review of Idaho Access Project; suggested linkage with TPM assessments underway
14-Dec	SVED Exco	not for profit	Rick Lefavre	Ketchum	Board Meeting	None	None	
14-Dec	Christensen Global Strategie	professional services	Aimee Christensen	Ketchum	Networking Event	None	None	Inaugural climate tech entrepreneurs meeting
14-Dec	BC Sustainability Committee	government	Lynn Barker	hailey	Partner Meeting	None	None	Charette with 100 community members to fine tune goals and actions
14-Dec	CSI	education	Alex Wolford	Twin Falls	Partner Meeting	None	None	Planning meeting on construction and trades approach to Blaine Co
16-Dec	Webb Landscaping	construction & trades	Doug Webb	Bellevue	Partner Meeting	None	None	business levels still very high, staffing OK with longer term staff; no plans to develop housing inhouse on co-owned land
19-Dec	Early Learning Advisory Com	education		Hailey	Partner Meeting	None	None	Finalization of provider & user surveys and assignment of solicitation responsibilities

16-Dec	Steadfast Properties	development	Lance Emery	Bellevue	Partner Meeting	None	None	Discussion of plans for new multifamily development south of Bellevue; c 600 units planned in
2-Dec	Becker Chambers	financial	Linda Chambers	Hailey	Partner Meeting	None	None	PUD with mix of affordable, market and commercial
5-Dec	Rixon Excavation	construction & trades	Carl Rixon	Hailey	Partner Meeting	None	None	Having to scale back on clients services due to lack of staff (just lostZ one staff mmember)
8-Dec	McPhearson CPA	financial	Christie McPhearson	Hailey	Partner Meeting	None	None	Backlog from Fall still exists, but things slowing down now; lots of snow removal YTD
13-Dec	Sawtooth Board of realtors	real estate	Bob Crosby	Ketchum	Partner Meeting	None	None	Cutting back on all NFP clients to have more personal time; also focusing on a newer start up
15-Dec	BSU	education	Vanessa Fry	boise	Partner Meeting	None	None	client tr two with growth potential
15-Dec	Friedman Memorial Airport	transportation	Chris Pomeroy	Hailey	Partner Meeting	None	None	Discussed upcoming advocacy issues for zketchum; considering lobbying for increase in Idaho
20-Dec	Buffalo Electric	construction & trades		Hailey	Partner Meeting	None	None	jumbo loan limitation with HUD like a decade ago
22-Dec	City of Hailey	government	Lisa Horowitz	Hailey	Partner Meeting	None	None	discussed BSU hospitality program and renewal of SVED membership
1-Jan	Slette Robinson	legal	Gary Slette	Twin Falls	Partner Meeting	None	None	Discussed potetnial new FBO company as allowed in Master Plan ; a number of companies have
3-Jan	City of Ketchum	government	Jade Riley	Ketchum	Partner Meeting	None	None	expressed interested; may use an RFP process to ferret out interest
4-Jan	Kenny Bogue	real estate	Matt Bogue	Ketchum	Partner Meeting	None	None	Big backlog of business exceeding 45 days for non essential services
4-Jan	US Bank	financial	Charlotte Westover	Ketchum	Partner Meeting	None	None	Review of recent chnages in Hailey development scene
5-Jan	RIVDA	financial	McCready	Weiser	Partner Meeting	None	None	Discussion of creating amended language for Mountain Overlay District to allow for Forest Health
9-Jan	Jons Heating	construction & trades	Clint	Carey	Partner Meeting	None	None	improvements; support potential from John Riling of Boise Ntional Forest
9-Jan	Atkinsons Market	retail	Whit Atkinsons	Ketchum	Partner Meeting	None	None	Discussion of LOT ballot proposal for air and housing
10-Jan	Ketchum Auto	retail	Ryan	Ketchum	Partner Meeting	None	None	Review of commercial real estate markets
11-Jan	SVED	not for profit	Guy Cherp	Ketchum	Board Meeting	None	None	Review of community banking trends
11-Jan	PEG Group	development	Kody Frank	Ketchum	Partner Meeting	None	None	Review of proposed loan for purchase of assisted living facility
12-Jan	Sun Valley Outfitters	recreation	Eric Weiseth	Ketchum	Partner Meeting	None	None	Staffing for qualified installers still a problem; service book full with new and old clients
12-Jan	Revelry Group	food & beverage	Jim Crystal	Ketchum	Partner Meeting	None	None	Annual updat on community issues; staffing OK with long term ee 's and J1 access- butchers
12-Jan	Visit Sun Valley	tourism	Scott Fortner	Ketchum	Board Meeting	None	None	harest positions to fill; no current plans to put in ee housing; do not provide childcare support but
13-Jan	RIVDA	financial	Jeff McCready	Twin Falls	Board Meeting	None	None	interested in supporting community access expansion; last year highest revenue ever but
13-Jan	CSI	education	Alex Wolford	Twin Falls	Community Development	None	None	significantly impacted by inflation as well as higher demand
16-Jan	City of Ketchum	government	Morgan Lander	Ketchum	Community Development	None	None	Discussed potential new Ketchum roundabout and business; generally supportive provided they
16-Jan	Jivaro	services	Adrian Proctor	Ketchum	Partner Meeting	None	None	can get access; lots of new customers
17-Jan	SQN Sports	recreation	Megan Murphy Lengyel	Hailey	Partner Meeting	Other	None	Annual retreat with full board and 5 outside community members; reviewed performance ,
18-Jan	WR Tourism Partnership	tourism	Carol Waller	Ketchum	Tourism	None	None	strategic plan and budgets for 2023
19-Jan	SV Culinary Institute	education	Karl Uri	Ketchum	Partner Meeting	None	None	Provided analytical support for visiting equity investor re: Marriott Signature hotel project
20-Jan	The History Project	tourism	Wendolyn Holland	Sun Valley	Partner Meeting	None	None	Discussed SNRA Outfitters Guides Management Plan and concerns about license allocation
23-Jan	WRV Lodging Association	tourism	Jessica Maynard	Blaine Co	Partner Meeting	None	None	methodology which does not take into accout 2021 or 2022 data on hand
24-Jan	Blaine Co Commissioners	government	Muffy Davis	Blaine Co	Partner Meeting	None	Tourism	Discussion on ndrainsig priorities for SVCI; agreed on funneling industry through Revelry
24-Jan	Ketchum P&Z	government	Neil MOrrow	Ketchum	Community Development	None	None	Foundation and seeking expanded support associated with SV events
25-Jan	aho Department of Commer	government	Karen Applegren	Boise	Networking Event	None	None	regular board meeting to reviewprograms and priorities; discussion on LOT ballot options and
26-Jan	McCall & Teton ED Pros	economic development	ian McDermot/Lindsay Har	Idaho	Networking Event	None	None	approach
31-Jan	arly Learning Advisory Com	education	Kathryn Ivers	Blaine Co	Business Retention Business	None	None	Loan committee meeting followup on assisted living acquisition loan
17-Jan	LightBio	agriculture	Keith Woods	Blaine Co	Expansion Community	IGEM	IGEM	Discussion with BCSD, I Have a Dream on orgnization and funding for summer vocational trade
19-Jan	WRV Forest Collaborative	environmental	Lance Davisson	Boise	Development	None	None	camp; plans for week long camps end June for Construction/Trades, Calinary and
20-Jan	Idaho House	government	Ned Burns					Entrepreneurship
21-Jan	Makey ED Pro	economic development	Martin Evans	Mackee		None	None	Meeting to discuss strategic plan for Planning & Zoning department, formation of Technical
24-Jan	SV Guides	recreation	Zach Crist	Ketchum	Partner Meeting	None	None	Advisory Committee with SVED participation; also presented project development survey results
24-Jan	Hillside Gains	food & beverage	Brett Stevenson	Bellevue	Partner Meeting	None	None	and offered further background / presentations

25-Jan	US Forest Service	government	Kurt Nelson	Sun Valley	Partner Meeting	None	None	Discussed problems with Outfitters Guides Management Plan and objection process conducted by regional office in SLC
25-Jan	Engel Voekler	real estate	Reid Sanborn	Ketchum	Partner Meeting	None	None	Discussed current status of commercial projects underway; new construction on SV Rd and 1st Ave is commercial only and pre-sold to 4 local businesses
25-Jan	Walnut Ave Mall	real estate	Chip Fisher	Ketchum	Partner Meeting	None	None	Discussed move of Topnotch into Le Saisons building and backfilling former space in Walnut Ave Mall; also possible approaches on Simplot parcel
20-Feb		real estate	Broderick Smith	Ketchum	Partner Meeting	None	None	Mixed use commercial development advancing; hoping for final P&Z design approval March; delayed 3-4 months at cost of \$x00,000 for redesign, retainer, etc; layouts still the same; City process seems to be improving; no plans to apply for PTE due to need for simplicity and progress; probably breaking ground spring 2024
28-Feb	Elias Construction	construction & trades	Adam Elias	Ketchum	Partner Meeting	None	None	general level of business high, albeit off Covid peaks; customers delaying projects bc of hope pricing might come down; Weyakin project on hold with propter's death, his kids are not sure when they might put up for sale, all w&s and 1 main road installed, one spec home foundation poured but no further activity planned; he has set up a succession plan with three key employees, maybe another relative later; wages for ee's have increased, jr carpenters now \$30/hr, sr \$40, super skilled \$60, labopr \$25; very interested in vocational camps
6-Feb	o Economic Development A	not for profit	Sari David	Telecon	Partner Meeting	None	None	regular weekly meeting to review legislative affairs in fro of House and Senate
7-Feb	Business Working Group (B)	economic development	Harry Griffith	Blaine Co	Networking Event	None	None	regular monthly meeting to discuss collaboration on economic development in county
7-Feb	SVED	economic development	Guy Cherp	Blaine Co	Board Meeting	None	None	monthly ExCo meeting to discuss priorities
9-Feb	Cox Communications	communications	Melanie Lotspeich	Las Vegas	Partner Meeting	None	None	review of membership options for 2023; commitment to highest level; weocmes opportunity to increase profile of local business leader thru forums
9-Feb	Visit Sun Valley	tourism	Scott Fortner	Ketchum	Board Meeting	None	None	monthly boardmeeting to review tourism programs; LOT for Air & Housing strategy development
10-Feb	Strayhorn Properties	real estate	Jeff Pfaffle	Bellevue	Partner Meeting	None	None	discussion on phase 2 development of circa 40 parcels; prices increased from \$60 to \$100k as prior price saw a lot of buyers who flipped their purchases for 30%+ bonus
10-Feb	Wyld Gin	food & beverage	Conner Quinn	Hailey	Start Up Business	None	None	new local gin manufacturer; brand being introduced into BC and other SC Idaho markets; stock from other local manufacturers
10-Feb		tourism	Jeff Rose	Ketchum	Partner Meeting	Other	None	local entrepreneur exploring movie production popportunities in Idaho; desire to introduce film production credits in collaboration with Commerce
13-Feb	Idaho Tourism	tourism	Diana Norton	Boise	Community Development	Other	None	discussion about advocacy against current draft of Outfitter Guide Management Plan prepared for SNRA; convinced Commerce to object tp report findings on grounds that capacity analysis was flawed and understates needed extra license days
14-Feb	BSU	education	Kent Nepert	boise	Other	None	None	discussion with newly appointed professor of Hospitality program; currently seeking candidates to fill 1st professor roles; interested in collaborating on TPM hospitality survey and possible future interns
15-Feb	Ketchum Housing Committee	government	Carrisa Connely	Ketchum	Community Development	None	None	feedback on proposed investment project priorities that should be pursued; top candidates include Landing Local and an Indeed restriction program
16-Feb	Gannet Rach	real estate	Lance Emery	Ketchum	Community Development	None	None	discussion with Steadfast staff over EIA structure, timing and costs; agreed to membership at top level for analysis and consulting; waiting on detailed data requested
20-Feb	The Perry	real estate	Broderick Smith	Ketchum	Community Development	None	None	project going through detailed design review at P7Z; getting pushback over unit category restriction designations with only Cat4 and 5 allowed; believe Cat 6 a missing gap to be addressed
20-Feb	SVED	economic development	Derek Agnew	Ketchum	Other	None	None	review of SVED memebship model and benefits; restructured level names, \$ threshold values and benefits for future
20-Feb	Sun Valley Resort	hospitality & tourism	Peter Sonntag	Sun Valley	Partner Meeting	None	None	annual sitdown to reconfirm membership; support for new sustainability position, upcoming US National ski event
21-Feb	City of Ketchum	government	Neil Bradshaw	Ketchum	Partner Meeting	None	None	delivered quarterly report on SVED projects and activities; provided Strategic and Action Plan, Budget for review
21-Feb	Ketchum URA	government	Susan Scoville	Ketchum	Partner Meeting	None	None	delivered quarterly report on SVED projects and activities; provided Strategic and Action Plan, Budget for review
22-Feb	Technical Action Group	government	Morgan Lander	Ketchum	Community Development	None	None	kickoff meeting of new design advisory group; plans to rewrite city code, update comp plan and weight in on new ordnances
23-Feb	ine Co Contractors Associat	construction & trades	Tim Carter	Hailey	Community Development	None	None	regular meeting of 40 BC contractors to learn about changing supply chain, permitting processes and hear about TPM needs assessment being conducted by SVED
27-Feb	Coule Coffee	food & beverage	Ted Ayliff	Ketchum	Start Up Business	STEP Grant	business Attract	new concept coffee maker which avoids plastic micro particle pollution; seeking 1st round \$1m with \$0.4 banked; off to US coffee expo to launch product; working with Revelry Group to help position concept and brand
27-Feb	Elias Construction	construction & trades	Adam Elias	Ketchum	Partner Meeting	None	None	annual meeting to review state of industry; he is right sized at 20 ees and has all projects he is comfortable with; still missing skilled laborors and interested in enhanced local vocational programs
6-Feb	Evans Plumbing Ltd	construction & trades	Cody	Hailey	Partner Meeting	None	None	discussion of vocational training opportunities and need for more certified plumbers
7-Feb	City of Bellevue	government	Doug Brown	Bellevue	Partner Meeting	None	None	altered city council president about new annexation law which might impact Bellevue's plans to annex the Eckles Ranch property
14-Feb	St Lukes Hospital	healthcare	Joy Purdek	Ketchum	Partner Meeting	None	None	altered SLWR about pending legislation in nursing and tax exempt status; offered support via IEDA advocacy
20-Feb	Buffalo Electric	construction & trades	Ryan Deign	Hailey	Partner Meeting	None	None	conducted TPM vocational survey
21-Feb	Orflo	med tech	Ted Ayliff	Ketchum	Partner Meeting	None	None	sold in 2019 to Gemini Bio, spun off to Broad Oak Investment Group in 2021, merged with United Bio Channel Nov 2022; local office still active with limited staff
2-Mar	IEDA	not for profit	Sari David	Idaho	Other	None	None	Educaiothn committee meeting to map out details of upcoming semi annual conference
3-Mar	Sun Valley Culinary Institute	food & beverage	Karl Uri	Ketchum	Seminar	None	None	New multi-day event with 4 celebrity chefs for fundraising and support of professional school with 60 attendees
7-Mar	Business Working Group	economic development	Harry Griffith	Blaine Co	Networking Event	None	None	Monthly meeting of economic development professionals to discuss issues like housing, new business, tourism, etc
3/8/223	IEDA	economic development	Sari David	Idaho	Other	None	None	Weekly legislative affairs update; focus on URA, ACI and educational issues
8-Mar	SVED	economic development	Guy Cherp	Blaine Co	Board Meeting	None	None	Monthly review of project priorities and issues

9-Mar	US Bank	financial	chief economist	Ketchum	Networking Event	None	None	Presentations on state of the economy for US and Idaho by bank experts
9-Mar	Mountain Land Design	construction & trades	Mark Fisher	Ketchum	Business Expansion	None	None	Ribbon cutting on new MLD showroom after 3 years of construction; new hire in place with inventories being stocked
9-Mar	Sun Valley Culinary Institute	education	Rick Lefaivre	Ketchum	Board Meeting			Quarterly board meeting to review new chef settling, professional recruitment (3 todate enrolled) and summer event/fundraising calendar
9-Mar	Visit Sun Valley	tourism	Mike Burchmore	Ketchum	Board Meeting	None	None	monthly boardmeeting toreview tourism programs; LOT for Air & Housing strategy development
15-Mar	SVED	economic development	Guy Cherp	Ketchum	Board Meeting	None	None	Monthly board meeting to review project priorities, board composition, advocacy issues, progress on vocational assessment and childcare collaboration
16-Mar	WR Early Learning Advisory Committee	not for profit	Kathryn Ivers	Hailey	Business Retention	None	None	Planning session for upcoming all day strategic retreat
3/16/223	Jaquet Tours	Government	Wendy Jaquet	Ketchum	Networking Event	None	None	Pre-tour meeting for upcoming city to city tour with Driggs business and government
21-Mar	Sun Valley Resort	hospitality & tourism	Peter Sterns	Sun Valley	Partner Meeting	None	None	Update on season closing and new lift installation process; hoping to be able to commission Dec 2023
22-Mar	Climate Tech SV	not for profit	Aimee Christensen	Ketchum	Seminar	None	None	Presentations by sustainability partners and review of upcoming resilience summit in June
27-Mar	Bigwood Golf	recreation	Paul Hineman	Ketchum	Business Expansion	None	None	Golf course reported for sale at \$6m; new rest operations would have continuing lease; possible private club opportunity to be explored
28-Mar	Sun Valley Culinary Institute	education	Karl Uri	Ketchum	Partner Meeting	None	None	Education committee meeting to review recruiting activitie; 4 local Idaho HS's visited with one prospect identified
29-Mar	arly Learning Advisory Com	not for profit	Kathryn Ivers	Hailey	Networking Event	None	None	Full day strategic review resulting in finalized goals and both short term and long term action plan
31-Mar	Mountain Express	communications	Pam MORris	Ketchum	Partner Meeting	None	None	Confirmation of annual inkind membership; low staffing levles but have new experienced reporter from New Orleans Picyune joining; paper succession planning in progress; increase in subscription levels but materials inflation hurting profitability
22-Mar	Kenny Bogue	real estate	Matt Bogue	Ketchum	Partner Meeting	None	None	Discussion of upcoming commercial demand study for Ketchum to be conducted by EPS of Denver;
30-Mar	Idaho Workforce Developmer	government	Matt Thomson	Boise	Other	None	None	Discussed Idaho Launch legislation passed; guidance on how to getSVC1 approved as provider and there =fore eligible for program



City of Ketchum

### CITY COUNCIL MEETING AGENDA MEMO

Meeting Date:  Staff Member/Dept:

Agenda Item:

**Recommended Motion:**

There is no recommended motion. Staff will present the draft plan and requests policy guidance on the following questions:

- Does the plan contain projects that are not a priority of the Council?
- Does the plan outline the correct timing to execute the project?
- Are there projects missing in the plan?
- Does the Council desire alternative approaches or scopes to specific projects?

**Reasons for Recommendation:**

- Staff will review the attached presentation
- The plan has been financially constrained to reflect alignment with available revenues
- Following the direction from the Council, staff will post an on-line survey and open house to receive community feedback on the plan. Staff would present the plan again during the June budget workshop.

**Policy Analysis and Background (non-consent items only):**

Staff has updated the five-year Capital Improvement Plan for the General Fund. The city does not have a significant ongoing revenue source for the plan outside the Idaho Power Franchise (\$290,000). Historically, the city has utilized any excess revenues from the previous fiscal year to fund the upcoming year. It is also important to note that almost the entire plan is focused on repair and maintenance of assets and not new service level expansion.

The Governmental Finance Officers Association outlines a best practice of a multi-year capital improvement plan. Further, Idaho law requires such a plan should the city wish to collect development impact fees for fire, police, parks and transportation. Once the Council has completed the final approval of the plan, staff will return with an updated Impact Fee Plan for adoption. It is important to note that the only funds that would be requested for appropriation by the Council are associated with Fiscal Year 2024. The plan is intended to be a long-term document which would be revisited at least twice a year.

**Sustainability Impact:**

The plan allocates \$50,000 for sustainability infrastructure.

Financial Impact:

None OR Adequate funds exist in account:	Staff recommends approximately \$1.3m in expense for FY24 based on available funds from Idaho Power Franchise, FY23 LOT revenue performance, CIP Fund Balance and savings from FY23 projects. Projects highlighted in yellow represent projects that could be approved mid FY24 based on revenue/expense utilization.
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Attachments:

1. Staff presentation
2. FY24-28 General Funds Capital Improvement Plan



# **Capital Improvement Plan**

## **5-Year Outlook**

May 15, 2023



Capital Improvement Plan  
**Agenda**

- 2023 Project review
- 2024 Projects – Highlights
- 2025-2028 – Highlights
- Questions
- Next Steps

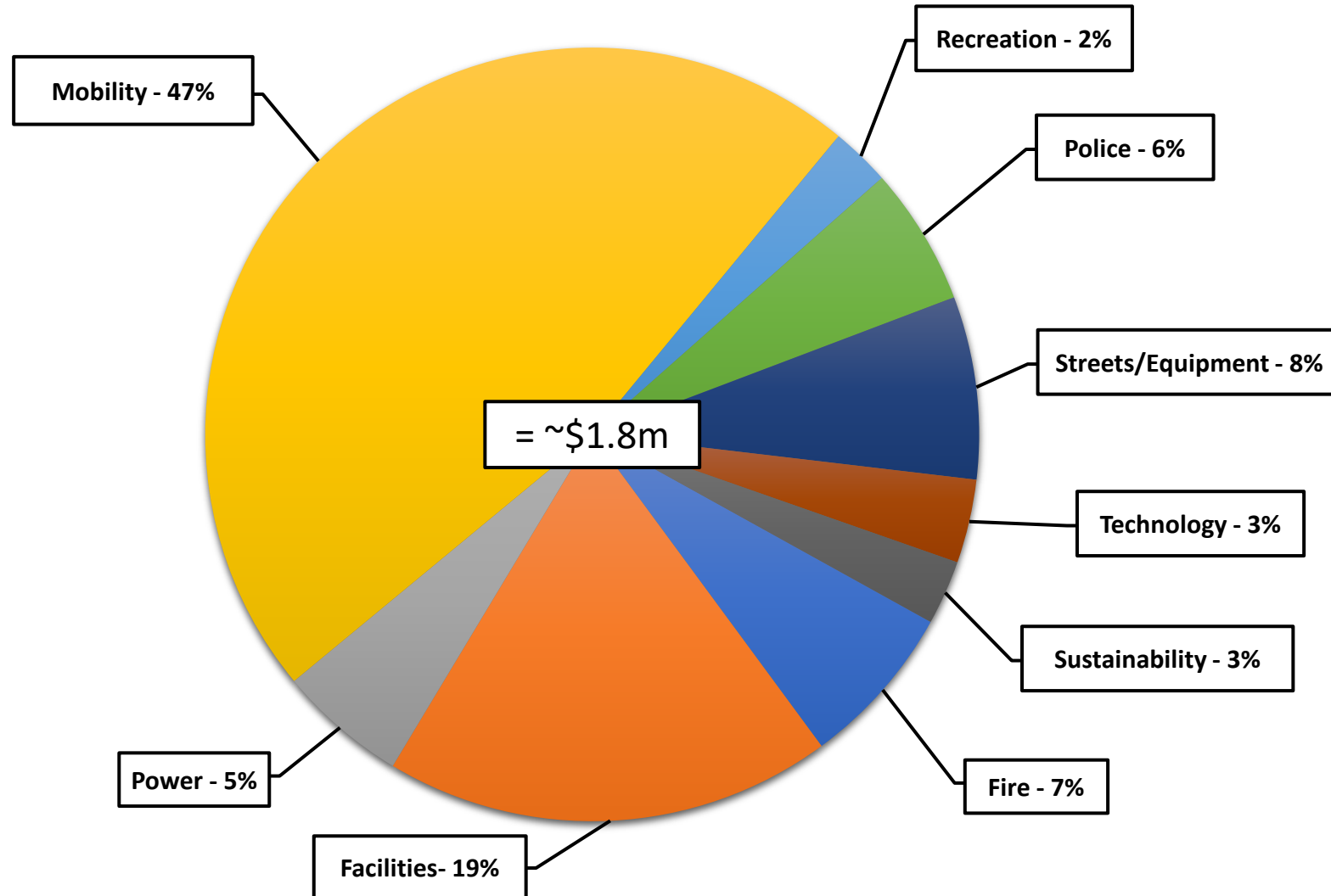




## **Fiscal Year 2023 Projects**



Capital Improvements Update  
**2023 – Projected Cost per Department**





Capital Improvements Update  
**2023 – Progress Report**

In progress	4 <sup>th</sup> street pavers
	5 <sup>th</sup> street (alley to Leadville)
	Town Square Master Plan
Delayed	2 <sup>nd</sup> Avenue sharrows/protected bike lane
	Main street sidewalks
New/unplanned	Snow blower head
	Pistenbully
	Toolcat



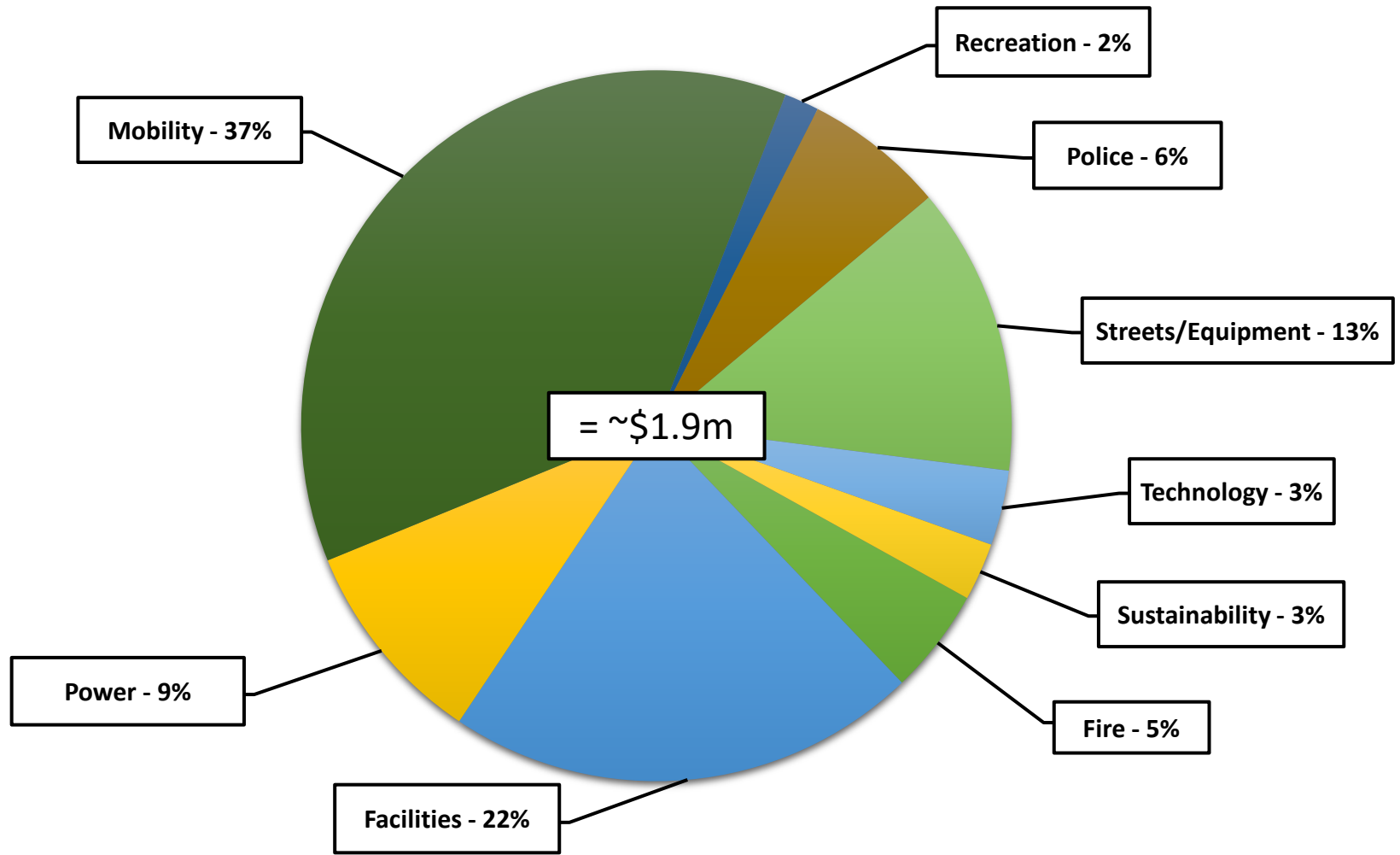
## Fiscal Year 2024 Projects

*Reminder:*

No significant, on-going, dedicated revenue source for the 5-year CIP.



Capital Improvements Update  
**2024 – Projected Cost per Department**





Capital Improvements Update  
**2024 – Big Projects**

“Green” projects	Recommended to approve at fiscal year start	\$1,398,865
“Yellow” projects	Will review budget halfway through fiscal year	\$507,000
		↓
	<ul style="list-style-type: none"> <li>• Atkinson Park ballfield redo</li> </ul>	\$150,000
	<ul style="list-style-type: none"> <li>• Police patrol vehicle</li> </ul>	\$57,000
	<ul style="list-style-type: none"> <li>• Streets sweeper</li> </ul>	\$250,000
	<ul style="list-style-type: none"> <li>• Streets commuter car</li> </ul>	\$50,000
	<ul style="list-style-type: none"> <li>• 4<sup>th</sup> Street pavers, phase 2</li> </ul>	TBD
	<ul style="list-style-type: none"> <li>• Town Square upgrades</li> </ul>	TBD
	<ul style="list-style-type: none"> <li>• Fire Station solar panels</li> </ul>	TBD
Deferred projects	East Avenue reconstruction <ul style="list-style-type: none"> <li>• (fog seal - \$40K)</li> </ul>	\$1.4m

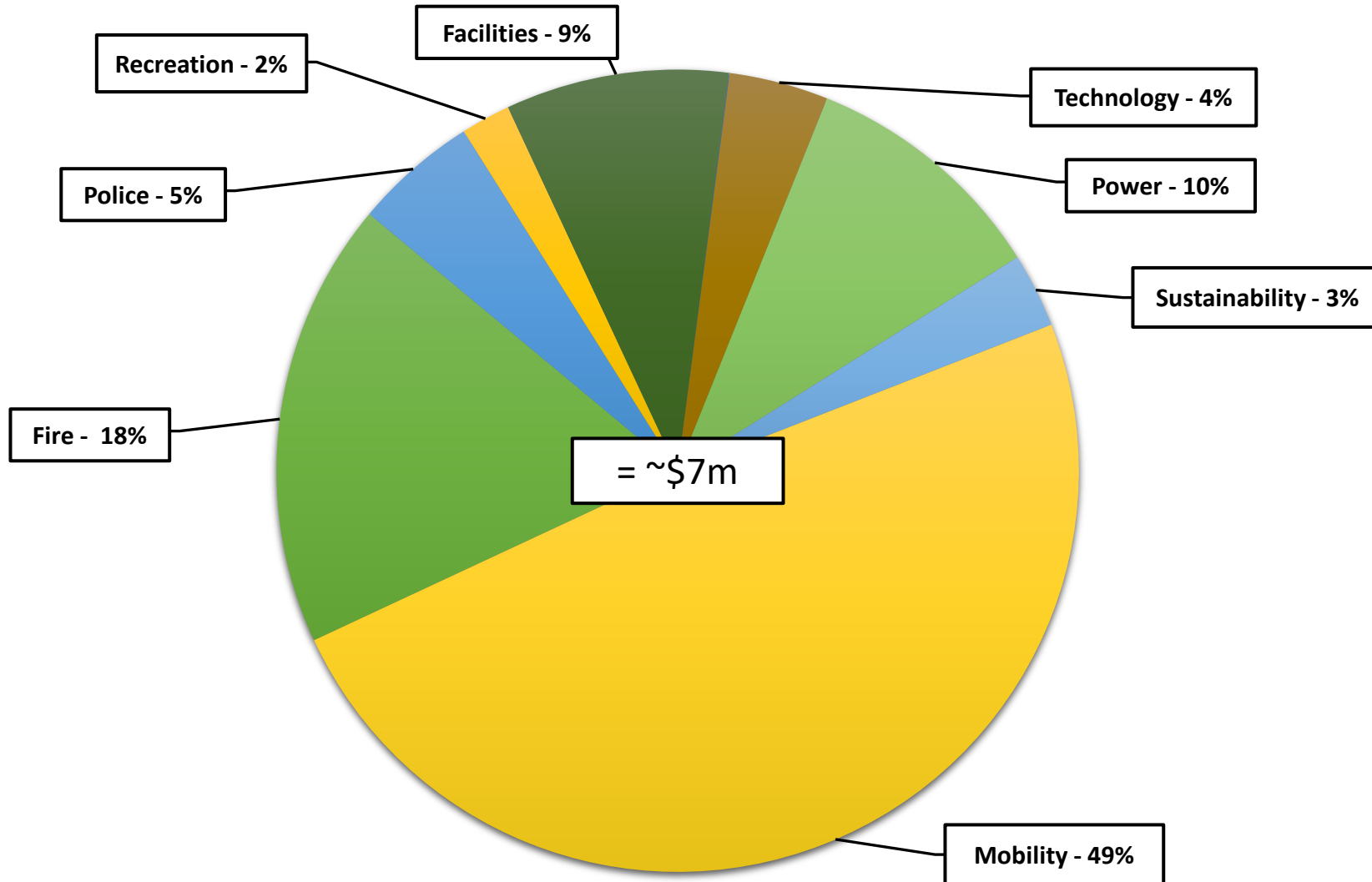


## **Fiscal Years 2025-2028**



Capital Improvements Update

**2024-2027** – Projected Cost per Department

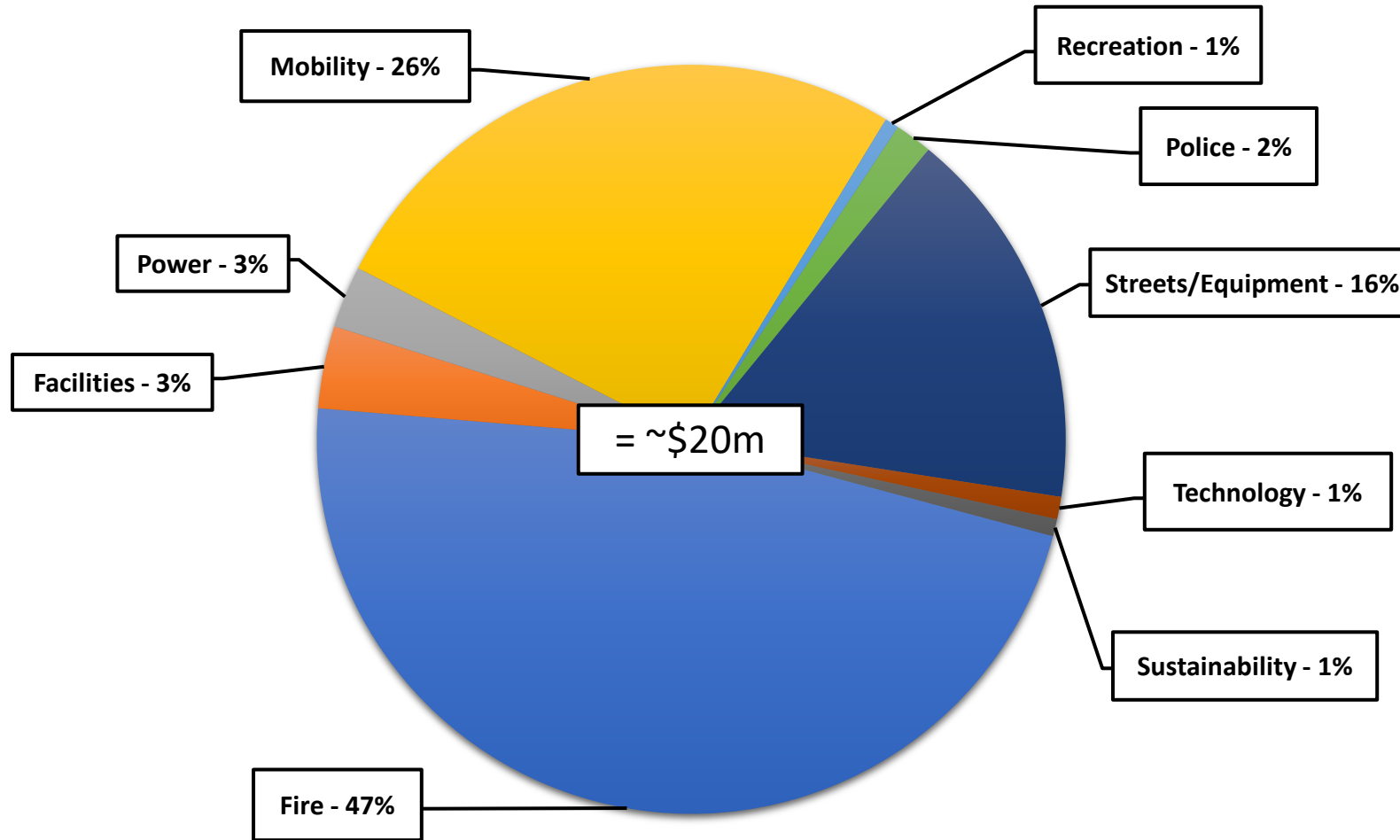






Capital Improvements Update

## 2025-2028 – Projected Cost per Department





Capital Improvements Update  
**2025-2028 Big Projects**

2025	Walnut mill & overlay*
2026	East Avenue reconstruction*
2027	Several large equipment purchases
2028	Fire Station 2 (\$9m)

\*dependent on success of East Avenue fog-sealing

- Over the next 3 years, the plan is not adequately funded
- Currently evaluating lease option for several equipment items
- Deficit position



**Discussion/Questions?**

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2023

Version Date 5/11/23

**APPROVED 2023**

Description	Department	Expenditure Category	Status	Projected Cost	Encumbered/Expensed to Date	Remaining	Projected Funding Sources							
							Capital Fund			Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance	Donations	Impact Fees (All)
1 Starting Fund Balance								\$0		\$1,418,246				
2 FY 2022 End of Year Resources (GF Trans Year End)														
3 Current Year/Planned Use Resources							9/30/2023	\$400,000	\$480,000	\$938,246	\$0	\$0		
4 FY 2023														
4 Firefighting EQ (tools)	03-4230-7115	Fire	Replacement	Proposed	\$14,860	\$0	\$14,860		\$14,860					
5 First Due Inspection Software		Fire	R&M	Approved	\$11,800	\$11,800	\$0		\$11,800					
6 PPE (turnout gear)	03-4230-7130	Fire	Replacement	Proposed	\$31,375	\$11,175	\$20,200		\$31,375					
7 MDT (Mobile Computers)	03-4230-7145	Fire	Replacement	Proposed	\$24,000	\$975	\$23,025		\$24,000					
8 Radios (portable)	03-4230-7120	Fire	Replacement	Proposed	\$14,000	\$306	\$13,694		\$14,000					
9 Medical (city provided)	03-4230-4135	Fire	Replacement	Proposed	\$4,000	\$0	\$4,000		\$4,000					
10 Rescue (city provided)	03-4230-7125	Fire	Replacement	Proposed	\$24,800	\$1	\$24,799		\$24,800					
11 Shop Tools	03-4230-7140	Fire	Replacement	Proposed	\$2,500	\$0	\$2,500		\$2,500					
12		Fire		Department Total	\$127,335	\$24,257	\$103,078	\$0	\$127,335	\$0	\$0	\$0		
13 Water Conservation Upgrades Cost Savings	03-4194-7180	Facilities	R&M	Proposed	\$20,000	\$0	\$20,000		\$20,000					
14 Replace 2001 Ford Ranger	03-4194-7110	Facilities	Replacement	Proposed	\$35,000	\$754	\$34,246		\$35,000					
15 EV Charging Stations	03-4194-7185	Facilities	Enhancement	Proposed	\$5,000	\$0	\$5,000		\$5,000					
16 Atkinson Park Irrigation Upgrades	03-4194-7120	Facilities	Enhancement	Proposed	\$25,000	\$0	\$25,000		\$25,000					
17 Atkinson Park Replace Softball Fence	03-4194-7125	Facilities	Replacement	Proposed	\$27,000	\$0	\$27,000		\$27,000					
18 Forest Service Park Replace Restroom Fixtures	03-4194-7135	Facilities	Replacement	Approved	\$6,500	\$0	\$6,500		\$6,500					
19 Forest Service Park New Roof Residential Bldgs	03-4194-7145	Facilities	R&M	Approved	\$80,000	\$4,999	\$75,001		\$80,000					
20 Forest Service Park Paint All Buildings	03-4194-7150	Facilities	R&M	Approved	\$35,000	\$0	\$35,000		\$35,000					
21 John Deere Mower X729 2011 - Replacement	03-4194-7602	Facilities	Replacement	Proposed	\$16,000	\$0	\$16,000		\$16,000					
22 Tool Cat	03-4194-7610	Facilities	Enhancement	Approved	\$48,397	\$48,397	\$0		\$48,397					
23 Pistenbully	03-4194-7620	Facilities	Enhancement	Approved	\$40,000	\$40,000	\$0		\$40,000					
24 Replace Trash Cans (Citywide)	03-4194-7170	Facilities	Replacement	Proposed	\$10,000	\$0	\$10,000		\$10,000					
25 Power Line Undergrounding	03-4193-7180	Power	Enhancement	Proposed	\$100,000	\$0	\$100,000		\$100,000					
26		Facilities/Power		Department Total	\$447,897	\$94,150	\$353,747	\$0	\$447,897	\$0	\$0	\$0		
27 2nd Avenue Sharrows/Protected Bike Lane	03-4193-7115	Mobility	R&M	Proposed	\$80,000	\$0	\$80,000		\$80,000					
28 4th Street Paver Replacement - Phase I	03-4193-7120	Mobility	Enhancement	Proposed	\$420,144	\$0	\$420,144		\$420,144					
29 5th Street Sidewalk replacement (alley to Leadville)	03-4193-7110	Mobility	Enhancement	Proposed	\$222,000	\$45,615	\$176,385		\$222,000					
30 Sidewalk Curb and Gutter Repairs	03-4193-7607	Mobility	R&M	Proposed	\$111,111	\$32,921	\$78,190		\$111,111					
31 East Avenue Fog Sealing		Mobility	R&M	Proposed	\$40,461		\$40,461		\$40,461					
32		Mobility		Department Total	\$873,716	\$78,536	\$795,180	\$0	\$873,716	\$0	\$0	\$0		
33 Atkinson Park New Soccer Goals (deferred from '22)	03-4510-7100	Recreation	Replacement	Approved	\$10,000	\$3,308	\$6,692	\$10,000	\$0					
34 Van/bus - new (deferred from '22)	03-4510-7115	Recreation	Replacement	Approved	\$36,000	\$0	\$36,000		\$36,000					
35 Replace Automatic Plow truck (transfer from WW, savings to line #33)	03-4510-7120	Recreation	Replacement	Proposed	\$0	\$0	\$0		\$0					
36		Recreation		Department Total	\$46,000	\$3,308	\$42,692	\$10,000	\$36,000	\$0	\$0	\$0		
37 New server for body camera system	03-4210-7130	Police	Replacement	Proposed	\$24,245	\$0	\$24,245	\$24,245						
38 Mobile radio replacement	03-4210-7120	Police	Replacement	Proposed	\$12,000	\$0	\$12,000	\$12,000						
38 Vehicle - radio upfitting		Police	Enhancement	Approved	\$12,561	\$12,561	\$0	\$12,561						

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2023

Version Date 5/11/23

**APPROVED 2023**

Description	Department	Expenditure Category	Status	Projected Cost	Encumbered/Expensed to Date	Remaining	Projected Funding Sources					
							Capital Fund			Local Option Tax	Donations	Impact Fees (All)
							Current Year Funding*	Prior Year Resources Fund Balance				
<b>1 Starting Fund Balance</b>							\$0		\$1,418,246			
<b>2 FY 2022 End of Year Resources (GF Trans Year End)</b>												
<b>3 Current Year/Planned Use Resources</b>					<b>9/30/2023</b>		\$400,000	\$480,000	\$938,246	\$0	\$0	
<b>4 FY 2023</b>												
39 Patrol vehicle replacement	03-4210-7100	Police	Replacement	Proposed	\$28,651	\$26,349	\$2,302	\$28,651				
40 City Share of Record Management System	03-4210-7135	Police	R&M	Proposed	\$29,883	\$0	\$29,883	\$29,883				
		<b>Police</b>		<b>Department Total</b>	<b>\$107,340</b>	<b>\$38,910</b>	<b>\$68,430</b>	<b>\$107,340</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
42 Blower	03-4310-7120	Street/Equipment	Replacement	Approved	\$131,000	\$131,000	\$0		\$131,000			
43 Loader	03-4310-7110	Street/Equipment	Replacement	Approved	\$10,970	\$10,970	\$0		\$10,970			
		<b>Street/Equipment</b>		<b>Department Total</b>	<b>\$141,970</b>	<b>\$141,970</b>	<b>\$0</b>	<b>\$0</b>	<b>\$141,970</b>	<b>\$0</b>	<b>\$0</b>	
45 IT Upgrades	03-4193-7200	Technology	R&M	Proposed	\$65,000	\$12,581	\$52,419		\$65,000			
		<b>Technology</b>		<b>Department Total</b>	<b>\$65,000</b>	<b>\$12,581</b>	<b>\$52,419</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	
47 Sustainability Infrastructure	03-4193-7210	Sustainability Infra	Enhancement	Proposed	\$50,000	\$14,762	\$35,238		\$50,000			
		<b>Sustainability Infrastructure</b>		<b>Department Total</b>	<b>\$50,000</b>	<b>\$14,762</b>	<b>\$35,238</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$0</b>	
<b>49 2023 Proposed Totals</b>					<b>\$1,859,258</b>	<b>\$408,474</b>	<b>\$1,450,784</b>	<b>\$117,340</b>	<b>\$1,599,948</b>	<b>\$0</b>	<b>\$0</b>	

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2024

Version Date **5/11/23**

**DRAFT 2024**

Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					% for Art Eligible
					Capital Fund			Donations	Impact Fees (All)	
					Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance			
<b>Starting Fund Balance</b>					\$282,660		\$298,298			
<b>FY 2023 End of Year Resources (GF Trans Year End)</b>										
<b>Current Year/Planned Use Resources</b>					\$400,000	\$265,000		\$0		\$0
<b>FY 2024</b>										
Firefighting EQ (tools)	Fire	Replacement	Proposed	\$14,860	\$14,860	\$0				
PPE (turnout gear)	Fire	Replacement	Proposed	\$31,375	\$31,375	\$0				
Radios (portable)	Fire	Replacement	Proposed	\$14,000	\$14,000	\$0				
Medical (city provided)	Fire	Replacement	Proposed	\$4,000	\$4,000	\$0				
Rescue (city provided)	Fire	Replacement	Proposed	\$24,800	\$24,800	\$0				
Shop Tools	Fire	Replacement	Proposed	\$2,500	\$2,500	\$0				
	<b>Fire</b>		<b>Department Total</b>	<b>\$91,535</b>	<b>\$91,535</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Water Conservation Upgrades Cost Savings	Facilities	Enhancement	Proposed	\$20,000		\$20,000				
Atkinson Park Irrigation Upgrades	Facilities	Enhancement	Proposed	\$25,000		\$25,000				
Replace Trash Cans (Citywide)	Facilities	Replacement	Proposed	\$10,000		\$10,000				
Replace Gator	Facilities	Replacement	Proposed	\$18,000		\$18,000				
Replace 2004 Ford Ranger	Facilities	Replacement	Proposed	\$35,000		\$35,000				
Rotary Park - Bathroom Roof Replacement	Facilities	Replacement	Proposed	\$25,000		\$25,000				
Splash Pad - Replace 2 Pumps	Facilities	Replacement	Proposed	\$8,500		\$8,500				
Forest Sevice Park upgrades	Facilities	Replacement	Proposed	TBD		TBD				
Forest Service Park drinking fountain/bottle filler	Facilities	Enhancement	Proposed	\$3,500		\$3,500				
Warm Springs Preserve - Phase I	Facilities	Enhancement	Proposed	TBD		TBD				
Atkinson Park Refurbish Legion Ballfield	Facilities	Enhancement	Proposed	\$150,000						
Edelweiss Park Install Irrigation Hookup	Facilities	Enhancement	Approved	\$10,000		\$10,000				
Rotary Park Bathroom & Shelter Roof Replacements	Facilities	Replacement	Proposed	\$50,000		\$50,000				
Rotary Park Paint Bathrooms	Facilities	R&M	Proposed	\$15,000		\$15,000				
Rotary Park Replace Paver Walkways	Facilities	Replacement	Proposed	\$22,000		\$22,000				
Rotary Park Replace Picnic tables	Facilities	Replacement	Proposed	\$11,000		\$11,000				
Rotary Park Replace Play Structure	Facilities	Replacement	Proposed	\$7,000		\$7,000				
Town Square Upgrades	Facilities	Enhancement	Proposed	TBD						
Solar Panels ( Fire)	Facilities	Replacement	Proposed	TBD						
Power Line Undergrounding - south of town (will change)	Power	Enhancement	Proposed	\$180,000		\$180,000				
	<b>Facilities/Power</b>		<b>Department Total</b>	<b>\$590,000</b>	<b>\$0</b>	<b>\$440,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Downtown Core Sidewalk infill	Mobility	Enhancement	Proposed	\$222,000		\$222,000				
Sidewalk Curb and Gutter Repairs	Mobility	R&M	Proposed	\$111,111		\$110,611				
4th Street Paver Replacement - Phase II	Mobility	Enhancement	Proposed	TBD		\$0				
Main and 1st Street - Pedestrian Safety (Construction) (from '23)	Mobility	Enhancement	Proposed	\$104,400		\$104,400				
Main Street and Sun Valley Road - Pedestrian Safety (Construction) (from '23)	Mobility	Enhancement	Proposed	\$113,100		\$113,100				
Main Street and 5th Street - Pedestrian Safety (Construction) (from '23)	Mobility	Enhancement	Proposed	\$104,400		\$104,400				
Main Street and 6th Street - Pedestrian Safety (Construction) (from '23)	Mobility	Enhancement	Proposed	\$52,200		\$52,200				
	<b>Mobility</b>		<b>Department Total</b>	<b>\$707,211</b>	<b>\$0</b>	<b>\$706,711</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2024

Version Date 5/11/23

**DRAFT 2024**

Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					% for Art Eligible
					Capital Fund			Donations	Impact Fees (All)	
					Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance			
<b>Starting Fund Balance</b>					\$282,660		\$298,298			
<b>FY 2023 End of Year Resources (GF Trans Year End)</b>										
<b>Current Year/Planned Use Resources</b>					\$400,000	\$265,000		\$0		\$0
<b>FY 2024</b>										
Pump park overhaul	Recreation	Enhancement	Proposed	\$10,000						
John Deere Gator	Recreation	Replacement	Proposed	\$20,000		\$20,000				
	<b>Recreation</b>		<b>Department Total</b>	<b>\$30,000</b>	<b>\$0</b>	<b>\$20,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Patrol vehicle replacement HOLD	Police	Replacement	Proposed	\$57,000	\$57,000					
Tasers	Police	Replacement	Proposed	\$7,000	\$7,000					
Mobile radios	Police	Replacement	Proposed	\$18,154						
Body Cams	Police	Replacement	Proposed	\$10,000						
City Share of Record Management System	Police	R&M	Proposed	\$29,965	\$29,965					
	<b>Police</b>		<b>Department Total</b>	<b>\$122,119</b>	<b>\$93,965</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Elgin Eagle (2006) - Sweeper (lease/purchase TBD)	Street/Equipment	Replacement	Proposed	\$250,000						
Dodge Durango (2001) - commuter car (might repurpose from another dept.)	Street/Equipment	Replacement	Proposed	\$50,000		\$50,000				
	<b>Street/Equipment</b>		<b>Department Total</b>	<b>\$250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
IT Upgrades	Technology	R&M	Proposed	\$65,000		\$65,000				
	<b>Technology</b>		<b>Department Total</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Sustainability Infrastructure	Sustainability Infrastructure	R&M	Proposed	\$50,000		\$50,000				
	<b>Sustainability Infrastructure</b>		<b>Department Total</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
% for Art	% for Art		Approved	\$0		\$0				
	<b>% for Art</b>		<b>% for Art Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>2024 Proposed Totals</b>				<b>\$1,905,865</b>	<b>\$185,500</b>	<b>\$1,281,711</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>





**Ketchum Capital Improvement Program**

Sources/Uses Summary - FY 2025

Version Date

5/11/23

**DRAFT 2025**

	Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					
						Capital Fund			Donations	Impact Fees (All)	% for Art Eligible
						Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance			
1	<b>Starting Fund Balance</b>					\$497,160		-\$718,413			
2	<b>FY 2024 End of Year Resources (GF Trans Year End)</b>										
3	<b>Current Year/Planned Use Resources</b>					\$400,000	\$265,000		\$0	\$0	
4	<b>FY 2025</b>										
46	IT Upgrades	Technology	R&M	Proposed	\$65,000		\$65,000				
47		<b>Technology</b>		<b>Department Total</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
48	Sustainability Infrastructure	Sustainability Infrastructure	R&M	Proposed	\$50,000		\$50,000				
49		<b>Sustainability Infrastructure</b>		<b>Department Total</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
50	% for Art	% for Art		Proposed	\$0		\$0				
51		<b>% for Art</b>		<b>% for Art Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	
52	<b>2025 Proposed Totals</b>				<b>\$4,118,022</b>	<b>\$202,418</b>	<b>\$3,805,604</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2026

Version Date 5/11/23

**DRAFT 2026**

Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					% for Art Eligible
					Capital Fund			Donations	Impact Fees (All)	
					Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance			
1 Starting Fund Balance					\$694,742		-\$4,259,017			
2 FY 2025 End of Year Resources (GF Trans Year End)										
3 Current Year/Planned Use Resources					\$400,000	\$265,000		\$0	\$0	
4 FY 2026										
4 Firefighting EQ (tools)	Fire	Replacement	Proposed	\$14,860	\$14,860	\$0				
5 PPE (turnout gear)	Fire	Replacement	Proposed	\$31,375	\$31,375	\$0				
6 Radios (portable)	Fire	Replacement	Proposed	\$14,000	\$14,000	\$0				
7 Medical (city provided)	Fire	Replacement	Proposed	\$4,000	\$4,000	\$0				
8 Rescue (city provided)	Fire	Replacement	Proposed	\$24,800	\$24,800	\$0				
9 Shop Tools	Fire	Replacement	Proposed	\$2,500	\$2,500	\$0				
10	<b>Fire</b>		<b>Department Total</b>	<b>\$91,535</b>	<b>\$91,535</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
11 Atkinson Park Irrigation Upgrades	Facilities	Enhancement	Proposed	\$25,000		\$25,000				
12 Paint Ore Wagon Museum	Facilities	R&M	Proposed	\$25,000		\$25,000				
13 City Hall Elevator	Facilities	Replacement	Proposed	\$120,000		\$120,000				
14 City Hall Electrical Upgrades	Facilities	R&M	Proposed	TBD						
15 Replace Rotary Park restroom fixtures	Facilities	Replacement	Proposed	\$8,500		\$8,500				
16 Replace Trash Cans (Citywide)	Facilities	Replacement	Proposed	\$10,000		\$10,000				
17 Power Line Undergrounding	Power	Enhancement	Proposed	\$180,000		\$180,000				
18	<b>Facilities/Power</b>		<b>Department Total</b>	<b>\$368,500</b>	<b>\$0</b>	<b>\$368,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
19 Warm Springs Road and Saddle Road - Pedestrian Safety	Mobility	Enhancement	Proposed	\$170,000		\$170,000				
20 Downtown Core Sidewalk Infill	Mobility	R&M	Proposed	\$222,000		\$222,000				
21 Warm Springs Road Reconfiguration (dependent on 23's fog sealing project)	Mobility	Enhancement	Proposed	TBD		TBD				
22 East Avenue Reconstruction	Mobility	R&M	Proposed	\$1,345,982		\$1,345,982				
23 Sidewalk Curb and Gutter Repairs	Mobility	R&M	Proposed	\$111,111		\$111,111				
24	<b>Mobility</b>		<b>Department Total</b>	<b>\$1,849,093</b>	<b>\$0</b>	<b>\$1,849,093</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
25 Vehicle Replacement	Police	Replacement	Proposed	\$60,000	\$60,000					
26 Tasers	Police	Replacement	Proposed	\$7,000	\$7,000					
27 City Share of Record Management System	Police	R&M	Proposed	\$29,883	\$29,883					
28	<b>Police</b>		<b>Department Total</b>	<b>\$96,883</b>	<b>\$96,883</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
29 Elgin Pelican (2001) - Sweeper (lease/purchase TBD)	Street/Equipment	Replacement	Proposed	\$300,000		\$300,000				
30 New Snow Blower - (lease/purchase TBD)	Street/Equipment	Replacement	Proposed	\$850,000		\$850,000				
31 Boom Truck	Street/Equipment	Replacement	Proposed	\$100,000		\$100,000				
32	<b>Street/Equipment</b>		<b>Department Total</b>	<b>\$1,250,000</b>	<b>\$0</b>	<b>\$1,250,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
33 IT Upgrades	Technology	R&M	Proposed	\$65,000		\$65,000				
34	<b>Technology</b>		<b>Department Total</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$65,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
35 Sustainability Infrastructure	Sustainability Infrastructure	R&M	Proposed	\$50,000		\$50,000				
36	<b>Sustainability Infrastructure</b>		<b>Department Total</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$50,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
37 % for Art	% for Art		Proposed	\$0		\$0				
38	<b>% for Art</b>		<b>% for Art Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Ketchum Capital Improvement Program**

Sources/Uses Summary - FY 2026

Version Date

5/11/23

**DRAFT 2026**

	Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					
						Capital Fund			Donations	Impact Fees (All)	% for Art Eligible
						Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance			
1	Starting Fund Balance					\$694,742		-\$4,259,017			
2	FY 2025 End of Year Resources (GF Trans Year End)										
3	Current Year/Planned Use Resources					\$400,000	\$265,000		\$0		\$0
4	FY 2026										
39	2026 Proposed Totals				\$3,771,011	\$188,418	\$3,582,593	\$0	\$0		\$0

**Ketchum Capital Improvement Program**  
Sources/Uses Summary - FY 2027

Version Date 5/11/23

**DRAFT 2027**

Description	Department	Expenditure Category	Status	Projected Cost	Projected Funding Sources					% for Art Eligible	% Growth
					Capital Fund			Donations	Impact Fees (All)		
					Local Option Tax	Current Year Funding*	Prior Year Resources Fund Balance				
1 Starting Fund Balance					\$906,324		-\$7,576,610				
2 FY 2026 End of Year Resources (GF Trans Year End)											
3 Current Year/Planned Use Resources					\$400,000	\$265,000		\$0	\$0		
4 <b>FY 2027</b>											
4 Firefighting EQ (tools)	Fire	Replacement	Proposed	\$14,860	\$14,860	\$0				Yes	
5 PPE (turnout gear)	Fire	Replacement	Proposed	\$31,375	\$31,375	\$0					
6 Radios (portable)	Fire	Replacement	Proposed	\$14,000	\$14,000	\$0				Yes	
7 Medical (city provided)	Fire	Replacement	Proposed	\$4,000	\$4,000	\$0					
8 Rescue (city provided)	Fire	Replacement	Proposed	\$24,800	\$24,800	\$0					
9 Command Vehicle	Fire	Replacement	Proposed	\$150,000							
9 Shop Tools	Fire	Replacement	Proposed	\$2,500	\$2,500	\$0					
10	Fire		Department Total	\$241,535	\$91,535	\$0	\$0	\$0	\$0		
11 Replace Trash Cans (Citywide)	Facilities	Replacement	Proposed	\$10,000		\$10,000					
12 Power Line Undergrounding	Power	Enhancement	Proposed	\$180,000		\$180,000					
13	Facilities/Power		Department Total	\$190,000	\$0	\$190,000	\$0	\$0	\$0		
14 Downtown Core Sidewalk infill	Mobility	R&M	Proposed	\$222,000		\$222,000					20%
15 Sidewalk Curb and Gutter Repairs	Mobility	R&M	Proposed	\$111,111		\$111,111					
16	Mobility		Department Total	\$333,111	\$0	\$333,111	\$0	\$0	\$0		
17 Zamboni	Recreation	Replacement	Proposed	\$60,000		\$60,000					
18	Recreation		Department Total	\$60,000	\$0	\$60,000	\$0	\$0	\$0		
19 Rifle Replacements (18 Units)	Police	Replacement	Proposed	\$18,000	\$18,000						
20 Tasers	Police	Replacement	Proposed	\$7,000	\$7,000						
21 City Share of Record Management System	Police	R&M	Proposed	\$29,883	\$29,883						
22 Vehicle Purchase	Police	Replacement	Proposed	\$60,000	\$60,000						
23	Police		Department Total	\$114,883	\$114,883	\$0	\$0	\$0	\$0		
24 Kenworth 10-Wh T 800 (1992)	Street/Equipment	Replacement	Proposed	\$200,000	\$200,000						20%
25 Bobcat Toolcat (2013)	Street/Equipment	Replacement	Proposed	\$83,900	\$83,900						15%
26 F350 Flatbed (2000)	Street/Equipment	Replacement	Proposed	\$60,000	\$60,000						10%
27	Street/Equipment		Department Total	\$343,900	\$343,900	\$0	\$0	\$0	\$0		
28 IT Upgrades	Technology	Replacement	Proposed	\$65,000		\$65,000					
29	Technology		Department Total	\$65,000	\$0	\$65,000	\$0	\$0	\$0		
30 Sustainability Infrastructure	Sustainability Infrastructure	Enhancement	Proposed	\$50,000		\$50,000					
31	Sustainability Infrastructure		Department Total	\$50,000	\$0	\$50,000	\$0	\$0	\$0		
32 % for Art	% for Art		Proposed	\$0		\$0					
33	% for Art		% for Art Total	\$0	\$0	\$0	\$0	\$0	\$0		
34											
35 <b>2027 Proposed Totals</b>				\$1,398,429	\$206,418	\$698,111	\$0	\$0	\$0		