



## AGENDA

### PUBLIC PARTICIPATION INFORMATION

Public information on this meeting is posted outside City Hall.

**We welcome you to watch Commission Meetings via live stream.**

You will find this option on our website at [www.ketchumidaho.org/meetings](http://www.ketchumidaho.org/meetings).

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

1. Join us via Zoom (*please mute your device until called upon*).  
**Join the Webinar:**  
<https://ketchumidaho-org.zoom.us/j/84744555298>  
Webinar ID: 847 4455 5298
2. Address the Commission in person at City Hall.
3. 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.*

---

### CALL TO ORDER:

### ROLL CALL:

### COMMUNICATIONS FROM COMMISSIONERS:

### CONSENT AGENDA:

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

1. ACTION ITEM: Approval of June 14, 2022 Minutes

### PUBLIC HEARING:

2. ACTION ITEM: Recommendation to Consider and Provide Direction to Staff on Conditional Use Permit P22-033 to Amend the Pines PUD to Permit an Addition to 402 Evergreen Lane

3. ACTION ITEM: Recommendation to Review and Approve Conditional Use Permit P22-022, and Adopt the Findings of Fact, Conclusions of Law, and Decision for an Assembly Space at 180 N 1st Ave Known as the Extra Credit Event Space.

**NEW BUSINESS:**

4. ACTION ITEM: Review and Approval of Findings of Fact, Conclusions of Law, and Decision and Outdoor Pool Determination for Mountain Overlay Design Review Permit P22-002 for 600 Walnut Street

**ADJOURNMENT:**



Planning and Zoning Commission Meeting Minutes

Tuesday, June 14, 2022, at 4:30 PM  
191 5<sup>th</sup> Street West, Ketchum, ID 83340

---

**CALL TO ORDER** (*video 00:02:09*)

The meeting was called to order at 4:30 p.m. by Chairman, Neil Morrow.

**ROLL CALL**

Chairman, Neil Morrow

*Vice-Chairman, Mattie Mead (absent)*

Commissioner, Brenda Moczygemba

Commissioner, Tim Carter

Commissioner, Spencer Cordovano

**STAFF**

Director, Planning and Building - Suzanne Frick

Senior Planner - Morgan Landers

Senior Planner - Abby Rivin

Associate Planner - Adam Crutcher

City Clerk - Tara Fenwick

**COMMUNICATION FROM COMMISSIONERS:**

None.

**CONSENT CALENDAR — ACTION ITEMS:** (*video 00:02:58*)

Spencer Cordovano recused himself from findings of fact for the previous meeting, as he was not in attendance.

**Motion to approve the Meeting Minutes of May 24<sup>th</sup> with revisions. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba. Cordovano recused.**

**Motion to approve the Findings of Fact, Conclusions of Law, and Decision for the Work/Live Conditional Use Permit for 940 N Leadville Ave. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba. Cordovano recused.**

**Motion to approve the Findings of Fact, Conclusions of Law, and Decision for the 1st & Sun Valley Office Building Design Review Application File No. P21-100. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba. Cordovano recused.**

**Motion to approve the Findings of Fact, Conclusions of Law, and Decision for the Mountain Land Design Showroom & Residences Design Review Amendment Application File No. P20-027 and Condominium Subdivision Preliminary Plat Application File No. P22-014. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba. Cordovano recused.**

**PUBLIC HEARING:** *(video 00:05:30)*

1. ACTION ITEM: Recommendation to review and approve Mountain Overlay Design Review Permit P22-002 for single family home located at 600 Walnut Avenue.

Planner, Adam Crutcher provided the Commission a short presentation.

Design Workshop, Architect, Mike Albert addressed the Commission.

Commissioners asked questions and received answers.

Design Workshop staff, Kevin Burke answered questions about the energy consumption of the proposed hot tub.

Chairman, Neil Morrow, allowed public comment.

**Public Comment:**

Susan Scovell	Video 00:38:20
Ed McDermott	Video 00:40:40
Tom Drougas	Video 00:44:00

Chairman, Neil Morrow, closed public comment.

Commissioners discussed the recommendation.

**Motion to approve Mountain Overlay Design Review Permit P22-002 for single family home located at 600 Walnut Avenue, with conditions. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba, Cordovano.**

2. ACTION ITEM: Recommendation to conduct a Public Hearing and review and approve Design Review Application P22-028 for the PEG Ketchum Boutique Hotel located at 251 Main Street and 260 East River Street.

Building and Planning Director, Suzanne Frick, provided the Commission a review of the project.

PEG Applicants addressed the Commission.

Commissioners asked questions and received answers.

Chairman, Neil Morrow, allowed public comment.

**Public Comment:**

Scott Levee	Video 02:05:00
Kevin Livingston	Video 02:06:10

Chairman, Neil Morrow, closed public comment.

**(Video 02:29:04) Motion to delay the approval of the Design Review Application P22-028 for the PEG Ketchum Boutique Hotel located at 251 Main Street and 260 East River Street, to a later date. Motion made by Commissioner, Spencer Cordovano. No second made to the motion. Motion failed.**

**(Video 02:29:04) Motion to approve Design Review Application P22-028 for the PEG Ketchum Boutique Hotel located at 251 Main Street and 260 East River Street, and to direct staff to complete the Findings of Fact, and continue the Public Hearing on July 6, 2022, at 3:00 p.m. Motion made by Commissioner, Brenda Moczygemba, Seconded by Commissioner, Tim Carter. Voting Yea: Morrow, Carter, Moczygemba. Voting Nea: Cordovano.**

**ADJOURNMENT:**

**Motion to adjourn at 7:11 p.m. Motion made by Commissioner, Tim Carter, Seconded by Commissioner, Brenda Moczygemba. Voting Yea: Morrow, Carter, Moczygemba, Cordovano.**

\_\_\_\_\_  
Chairman, Neil Morrow  
Planning and Zoning Commission

\_\_\_\_\_  
Secretary, Tara Fenwick



City of Ketchum  
Planning & Building

STAFF REPORT  
KETCHUM PLANNING AND ZONING COMMISSION  
June 14, 2022 MEETING

**PROJECT:** 402 Evergreen Ln Addition

**FILE NUMBER:** P22-033

**REPRESENTATIVE:** David Barovetto, Architect

**OWNER:** Junior Sealy

**REQUEST:** Conditional Use Permit for addition with the Pines PUD

**LOCATION:** 402 Evergreen Lane (Lot 14, Block 2, The Pines P.U.D.)

**ZONING:** General Residential – Low Density (GR-L)

**OVERLAY:** None

**NOTICE:** Notice was mailed to adjacent property owners on May 25, 2022

**REVIEWER:** Adam Crutcher, Associate Planner

**BACKGROUND/SUMMARY**

The Applicant is requesting a Conditional Use Permit (CUP) for a 787 sq ft addition including a storage room and master bedroom to a residence located at 402 Evergreen Ln (the “subject property”). The residence is located within the Pines Planned Unit Development (PUD) which received approval on May 1, 1989. Per KMC 16.08.140 Changes in Development Plan: “Minor changes in the location, siting or character of buildings and structures may be authorized by the Administrator, if required by engineering or other circumstances not foreseen at the time the PUD conditional use permit was approved. All such requests shall be in writing supported by such documentation as reasonably required by the Administrator. No change shall be authorized by the Administrator except in writing and shall not increase the size of any building or structure, or building envelope concept, nor change the location of any building or structure outside of an approved building envelope; provided, notwithstanding the foregoing, if the Administrator determines any proposed change may have a significant impact on the approved project, the Administrator may decline to administratively approve such change and shall forward same to the City Council for consideration.” As the request is to construct an addition which increases the size of the building and extends outside the building envelope set forth by the Pines PUD a conditional use permit is required to amend the Pines PUD. With the proposed addition the footprint, or building envelope, would increase by 620 square feet from 1,498 square feet to 2,118 square feet. The square footage of the building would increase from 1903 sq ft to 2,690 sq ft. Attachment B in the staff report is the approval and evaluation standards for the Pines PUD. Staff recommends the commission review the evaluation standards with regard to the proposed amendment and provide direction to staff. Although the addition is for one of the 26 units within the PUD, the Commission should review the project as to how it impacts/fits within the entire PUD.

## **Pines PUD History**

The Pines PUD was approved, with conditions, on May 1, 1989, to create a 26-unit single family detached home subdivision on 3.8 acres of land in the West Ketchum neighborhood (Attachment B). The Pines has a master plan which establishes building envelopes for each sub-lot and landscaping for the entire development (Attachment C). The Pines requested, and received, waivers for the development. The subject property was listed in one of the waivers which waived the requirement for a 15 ft front yard setback. The subject property was one of 9 properties within the development which received this front yard setback waiver. As a Planned Unit Development, the design, size and placement of the single-family homes are similar to each other and have been planned as a cohesive development through the PUD/CUP process. This is unlike single family homes on separate parcels within Ketchum which are only subject to the underlining development standards.

The Pines was approved with 10 conditions. One of those conditions applies to the proposed addition and is indicated as Condition #2 in Attachment B. Condition #2 states, "the access entry width at 6<sup>th</sup> St shall be narrowed by additional landscaping or other means to be approved by the Ketchum Planning and Zoning Commission through design review to help deter general public use of Pine Lane". Said access entry was developed with landscaping on both sides of the entryway as seen on the master plan (Attachment C). The subject property is located on the southern side of the access entryway and staff's comments on this aspect of the addition are stated later in the staff report. Although Condition #2 lists Pine Lane as the private road which cuts through the Pines development, the road has been renamed to present day Evergreen Lane.

## **Prior Additions**

All other additions to homes in the Pines PUD have been subject to a Conditional Use Permit reviewed by the Planning and Zoning Commission, and in some cases, the City Council. Staff has found conditional use permit applications for 5 previous additions within the Pines PUD. These additions occurred from 1993 to 2006. Additions ranged from 18 sq ft to 388 square feet. Two of the five additions occurred on 310 Williams St (Lot 12 of the Pines PUD) which although is legally a part of the Pines PUD, was built before the PUD was approved and is exempt for the Declaration of Covenants, Conditions and Restrictions for the subdivision. The other 3 three additions include:

- 502 Evergreen Lane: 388 sq ft addition to building footprint in 1993
- 404 Evergreen Lane: 130 sq ft addition to building footprint in 1993
- 108 Buss Elle: 18 sq ft addition to building footprint in 1995

The additions which took place in 1993 received numerous public comments concerned about the addition and whether it would set a precedent. Commission members in the meetings for the approvals believed that because any addition would have to come through a public hearing where the Commission would be able to review each proposal on a case-by-case basis. Additions which occurred in 1995 and for 310 Williams St (1996 and 2006) did not have any public comment and no substantive conversation between Commissioners regarding the additions.

## **Considerations for Commission Review**

### *Addition Outside of Original Footprint*

The project has proposed additions on the north and south side of the existing residence. Each of the 26 units as part of the PUD were given building envelopes as seen in Attachment C. The proposed addition extends beyond the existing footprint with a storage room on the south side of the existing residence and a master bedroom to the north. The addition will use materials to match with the existing siding and roofing. The addition would increase the building footprint from its existing 1,498 sq ft to 2,118 sq ft. The square footage of the building would increase from 1,903 sq ft to 2,690 sq ft. As stated above, there have been five requests for enlarging of the footprints within the Pines PUD which have been approved since the original PUD. This addition would be the largest, adding 620 sq ft to the building footprint while the previous largest addition was 388 sq ft.

Design review for the original approval of the Pines PUD occurred on April 24<sup>th</sup>, 1989. The conditions of approval for the design review stated that the development would use three typical design and floor plans to be used interchangeably within project lots. As the addition would extend beyond the existing footprint, the residence would differ in floor plan compared to other units within the PUD. Staff is requesting the Commission determine whether the addition is compatible within the PUD based on the increased size and differing of architectural characteristics.

### *Landscaping*

The master plan and condition of approval #2 for the Pines PUD indicate the northern portion of the subject property shall have landscaping which narrows the access off 6<sup>th</sup> St to dissuade the general public from entering the Pines. Staff was not able to locate in the landscape plan for the that identifies the specific type or amount of vegetation to be planted at the entryway. Through review of satellite imagery and Google Street view, it appears this portion of the subject property was previously vegetated with evergreen and deciduous trees.



Entry way landscaping as of July 2008. Subject property is on left behind trees

These trees were recently removed, and staff recommends the applicant provide landscaping in this area in order to restore the entry as shown in the original Pines PUD approval and the master plan. The applicant has proposed to plant four 10-12' evergreen trees and four lilac bushes at the northern end of the subject property as indicated on the landscape plan. The proposed addition will encroach into the yard space and reduce the amount of vegetation which can be planted.





Subject property as of July 2022

The Planning and Zoning Commission should determine if the proposed addition is compatible with the entry design for the development and if sufficient landscaping is being proposed to meet the original PUD intent for a landscaped entry way to distinguish this development.

#### *Open Space, Privacy, and Solar Access*

The Pines PUD was approved in 1989 based upon 17 evaluation standards contained in KMC 16.08.080. Standards #11 and #12 in the Pines PUD approval (Attachment B), speak to how to original development would allow for open space, provide privacy between units and neighboring properties, and maintain solar access. Open space for the Pines PUD was provided through a combination of separate open space parcels and limited building footprints thereby creating open space between housing units. Parcel A and Parcel B are dedicated parcels in the PUD which are used for open space and snow storage. The rest of the open space is throughout the development between structures which was left open as a result of the PUD setbacks and lot coverage. With the proposed addition, the lot coverage for the Pines PUD would increase from 39,096.5 sq ft to 39,720.4 sq ft giving the PUD a total coverage of 23.37%, below the required 35% allowable lot coverage in the GR-L Zone. This lower lot coverage created a more open and landscaped development and was in exchange for waiving reduced building setbacks. Standard #12 spoke on how the PUD would maximize privacy and protect solar access. The “zipper lot” configuration allowed for buildings to undulate along the street frontage allowing each residence to have privacy from adjacent properties. The original development only proposed 1 and 2 story buildings allowing for solar access within the PUD and for adjacent properties. The proposed addition does not increase the height of the residence and the proposed master room slopes downward from the existing residence.

The Commission should determine if this addition, which sets a new standard for additions, is in keeping with the goal of an overall development that has ample landscaping, open space, and consistent design throughout the PUD.

**STAFF RECOMMENDATION:**

Staff recommends the Commission consider the following issues identified above and provide direction to staff if the PUD should be amended to allow this addition:

- Is the addition in keeping with size, scale, design and configuration of other homes in the PUD.
- Is the proposed addition compatible with the entry design for the development and is sufficient landscaping proposed to meet the original intent of the PUD for a landscaped entry way to distinguish this development.
- Does the addition maintain the goal of an overall development that has ample landscaping, open space, and consistent design throughout the PUD.

Should the Commission choose to support or deny the application as proposed, staff will return with findings to reflect the determination. If the Commission is supportive, staff recommends the following conditions of approval.

RECOMMENDED CONDITIONS

1. The issuance of the CUP shall not be considered a binding precedent for the issuance of other conditional use permits. A conditional use permit is not transferable from one parcel of land to another.
2. Failure to comply with any conditions or term of said permit shall cause said permit to be void. A PUD – Conditional Use Permit may be revoked at any time for violation of the permit or any condition thereof by motion of the City Council after a due process hearing upon ten (10) days written notice to the holder of the PUD - Conditional Use Permit.
3. All building and fire code requirements as dictated by 2018 family of international codes and Title 15 of Ketchum Municipal shall apply to all construction onsite;
4. All exterior lighting shall be in compliance with Ketchum Municipal Code, Chapter 17.132, Dark Skies, and approved prior the issuance of a Certificate of Completion;

**ATTACHMENTS:**

- A. Application & Plans
- B. Pines PUD CUP
- C. Pines Master Plan
- D. PUD Evaluation Standards
- E. Public Comment

# Attachment A

## Application & Plans

DATE  
MAR 16, 21  
3.26

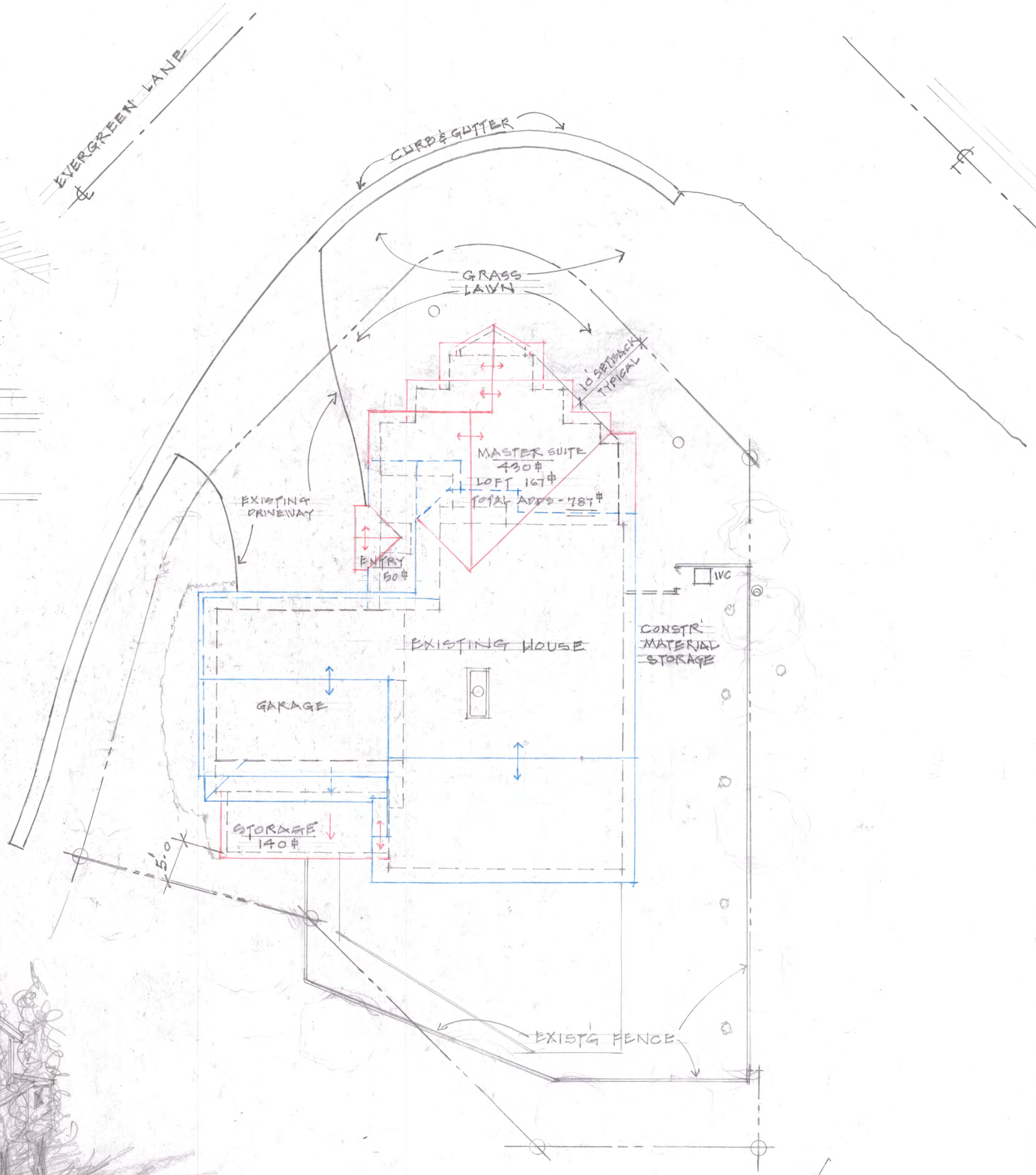
APR. 6  
PERMIT: APRIL 14, 21  
OFFCS. 4.21.21  
MAY 19, 22  
JUNE 16, 22



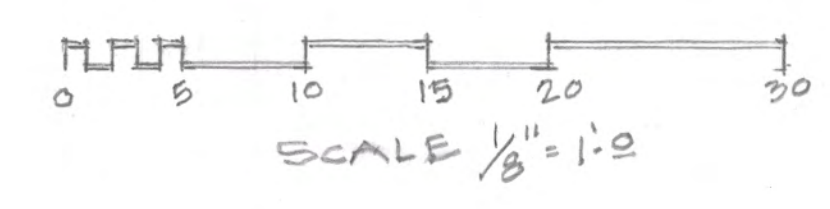
MAP - ROOF PLAN



BATHROOM



ROOF PLAN

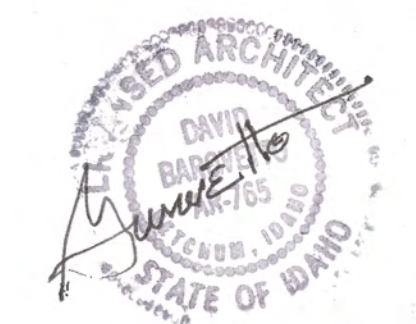


PERSPECTIVE

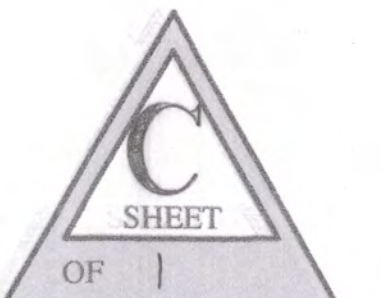
DRAWING INDEX	
SHEET	DESCRIPTION
C	COVER - ROOF PLAN
P	PROPERTY PLAN
1	FOUNDATION
2	FLOOR PLAN
3	ROOF FRAMING
4	SECTIONS
5	ELEVATIONS SOUTH & WEST
6	ELEVATIONS NORTH & EAST
L	LANDSCAPE (MAY 31, 22)
E	ELECTRICAL
S	STRUCTURAL SPECIFICATIONS

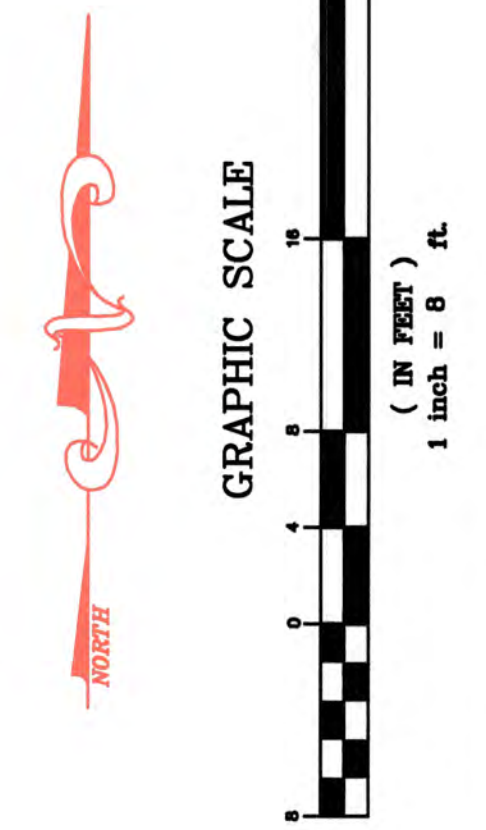
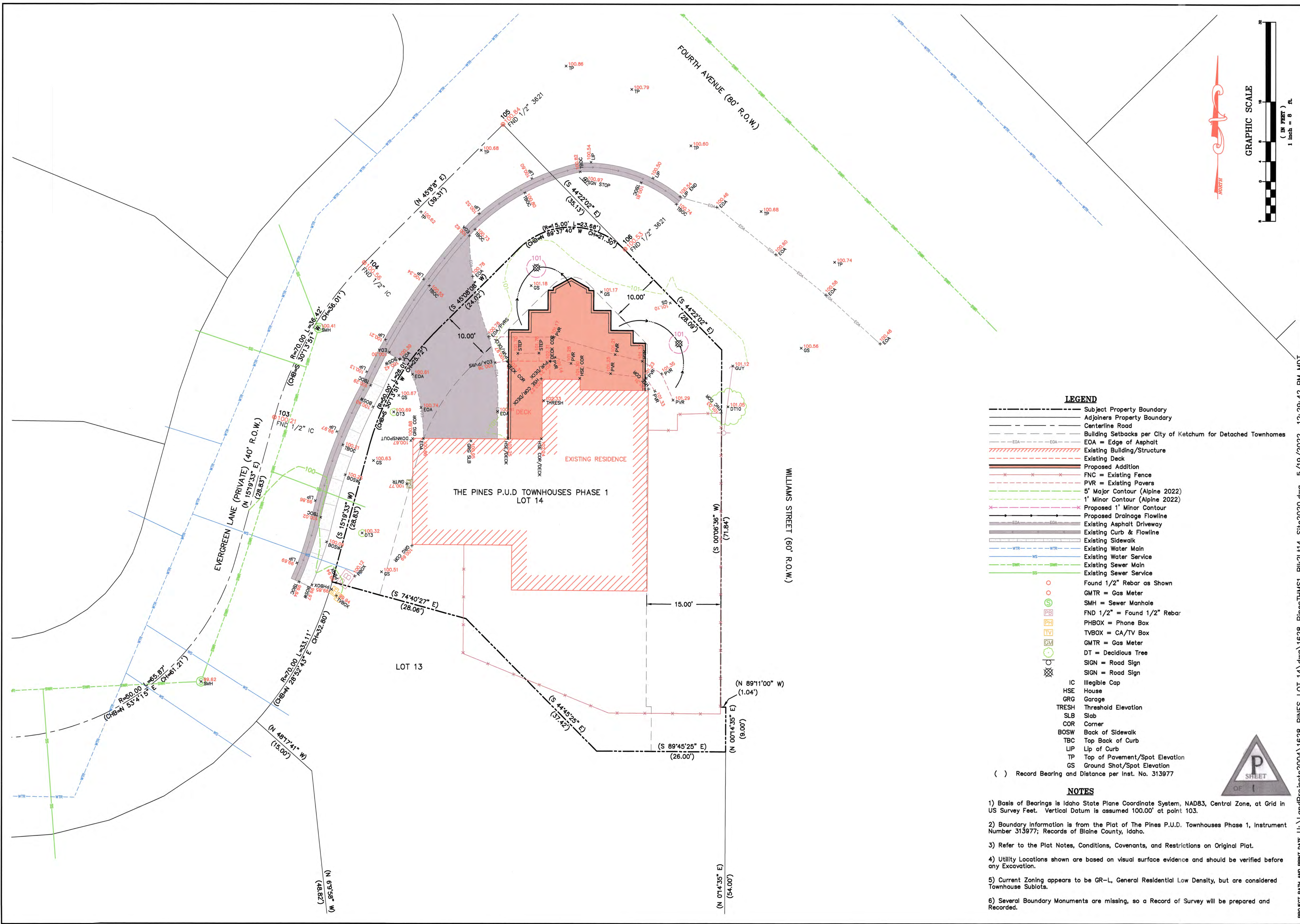


VESEAL ADDITION  
402 EVERGREEN - KETCHUM, IDAHO



DRAWINGS SCALE 1/8" = 1'-0" (uno.)

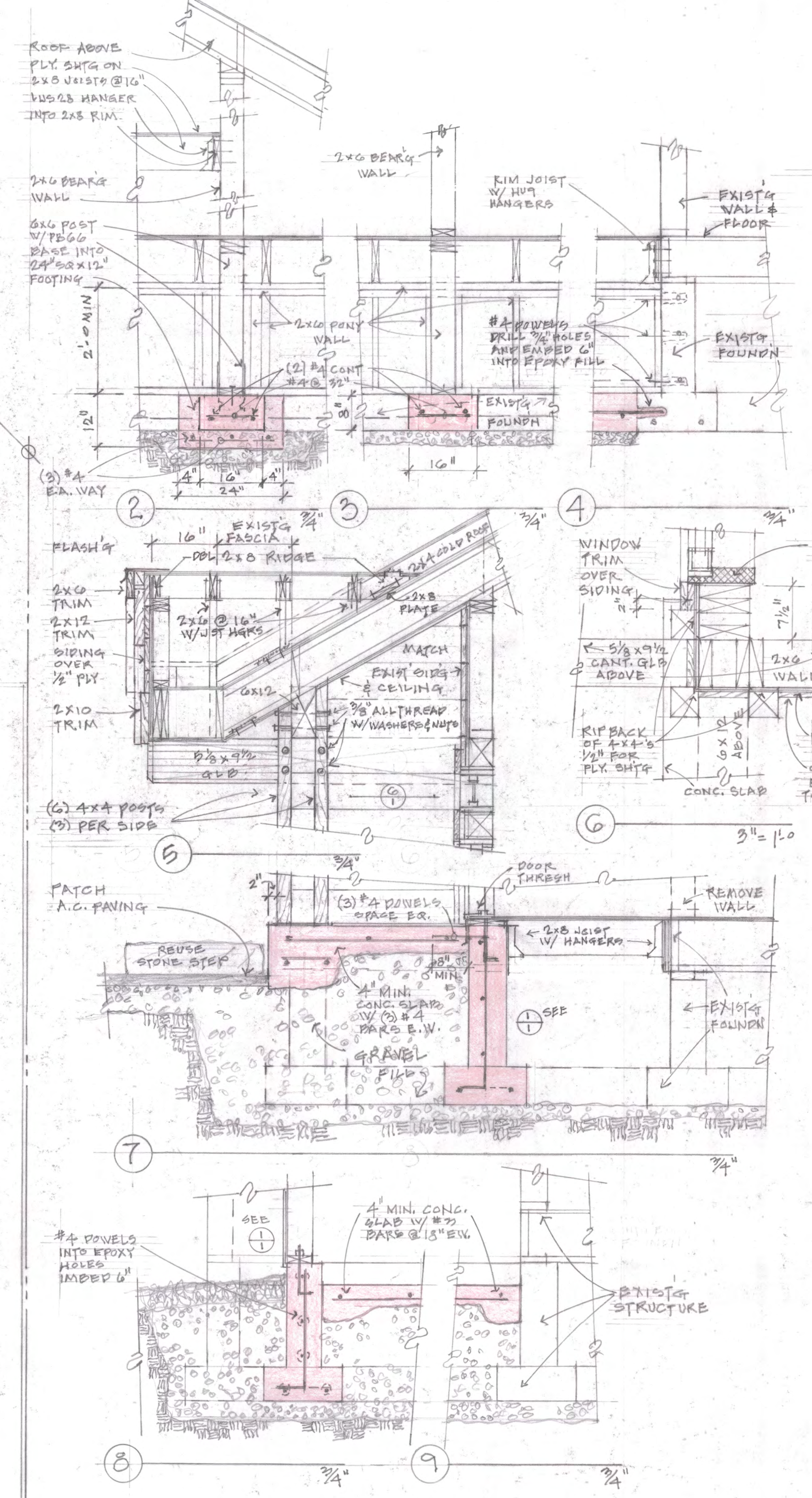
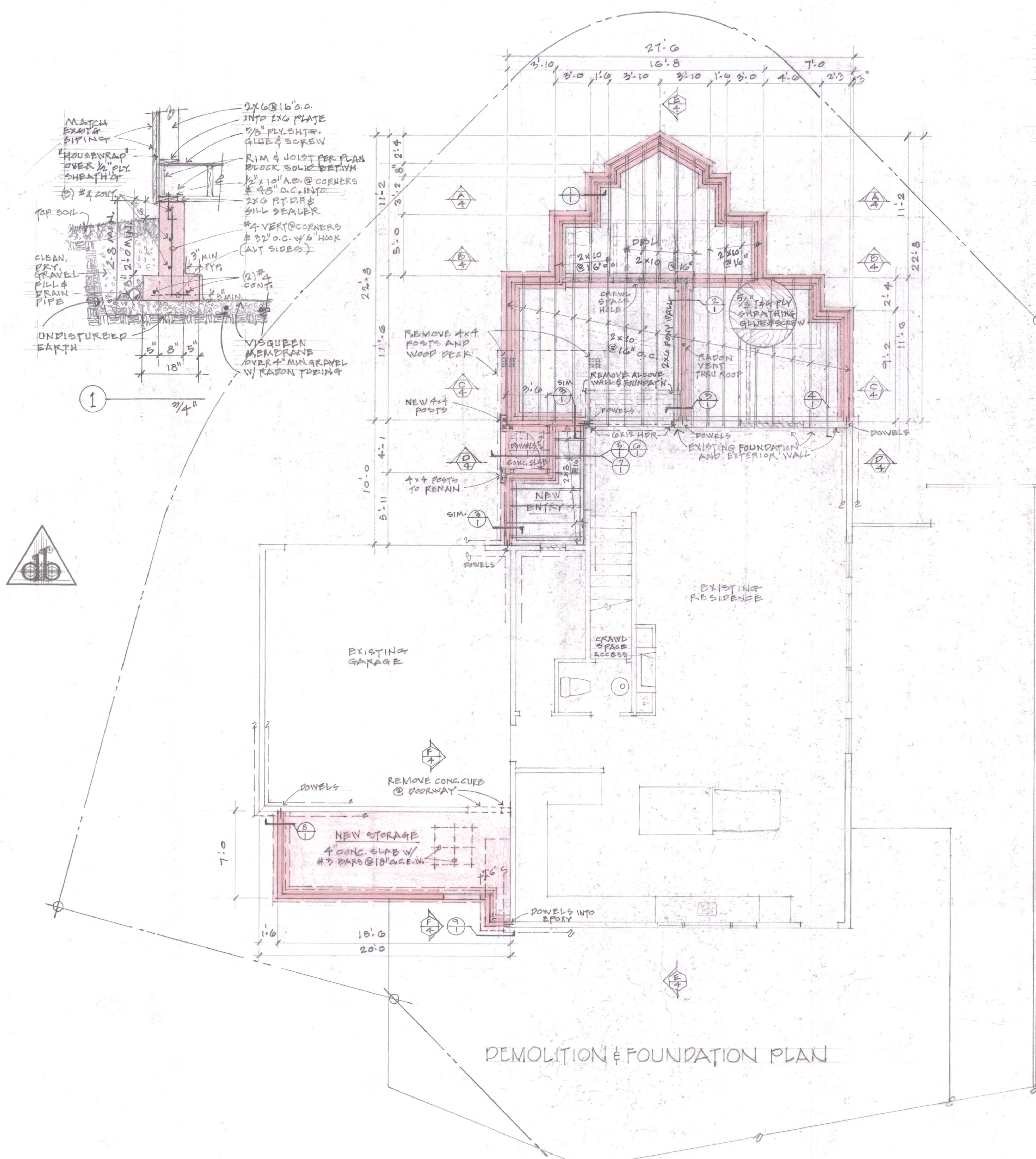
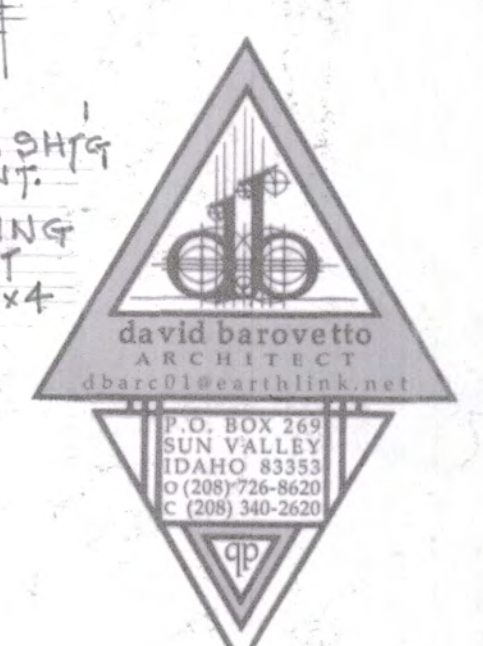




- LEGEND**
- Subject Property Boundary
  - Adjoiners Property Boundary
  - Centerline Road
  - Building Setbacks per City of Ketchum for Detached Townhomes
  - EOA = Edge of Asphalt
  - Existing Building/Structure
  - Existing Deck
  - Proposed Addition
  - FNC = Existing Fence
  - PVR = Existing Pavers
  - 5' Major Contour (Alpine 2022)
  - 1' Minor Contour (Alpine 2022)
  - Proposed 1' Minor Contour
  - Proposed Drainage Flowline
  - Existing Asphalt Driveway
  - Existing Curb & Flowline
  - Existing Sidewalk
  - Existing Water Main
  - Existing Water Service
  - Existing Sewer Main
  - Existing Sewer Service
  - Found 1/2" Rebar as Shown
  - GMTR = Gas Meter
  - SMH = Sewer Manhole
  - FND 1/2" = Found 1/2" Rebar
  - PHBOX = Phone Box
  - TVBOX = CA/TV Box
  - GMTR = Gas Meter
  - DT = Deciduous Tree
  - SIGN = Road Sign
  - SIGN = Road Sign
  - IC Illegible Cap
  - HSE House
  - GRG Garage
  - TRESH Threshold Elevation
  - SLB Slab
  - COR Corner
  - BOSW Back of Sidewalk
  - TBC Top Back of Curb
  - LIP Lip of Curb
  - TP Top of Pavement/Spot Elevation
  - GS Ground Shot/Spot Elevation
- ( ) Record Bearing and Distance per Inst. No. 313977

- NOTES**
- 1) Basis of Bearings is Idaho State Plane Coordinate System, NAD83, Central Zone, at Grid in US Survey Feet. Vertical Datum is assumed 100.00' at point 103.
  - 2) Boundary Information is from the Plat of The Pines P.U.D. Townhouses Phase 1, Instrument Number 313977; Records of Blaine County, Idaho.
  - 3) Refer to the Plat Notes, Conditions, Covenants, and Restrictions on Original Plat.
  - 4) Utility Locations shown are based on visual surface evidence and should be verified before any Excavation.
  - 5) Current Zoning appears to be GR-L, General Residential Low Density, but are considered Townhouse Sublots.
  - 6) Several Boundary Monuments are missing, so a Record of Survey will be prepared and Recorded.

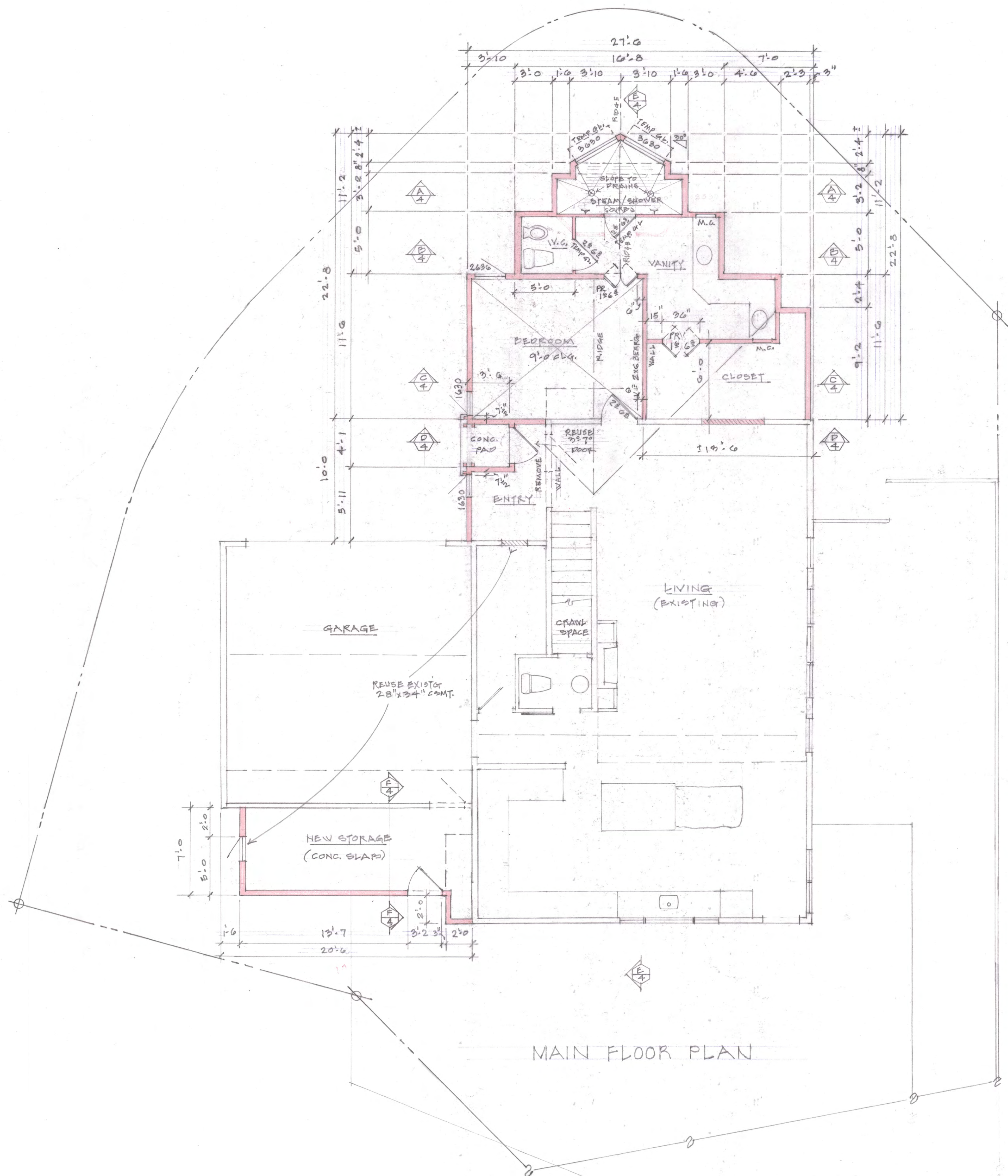
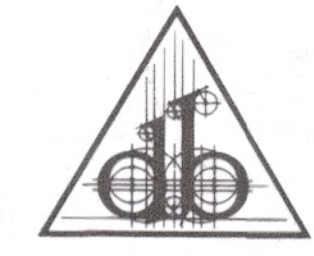
PROJECT PATH AND PRINT DATE U:\LandProjects\2004\1628\_PINES\_LOT 14.dwg\1628\_PinesTHMS1\_Blk2L14\_Site2020.dwg 5/19/2022 12:29:42 PM MDT  
 A SITE SURVEY & PLAN SHOWING  
 LOT 14, BLK 2, PINES TOWNHOUSES, PHASE 1  
 WITHIN S13, T.4N., R.17E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO  
 PREPARED FOR DAVID BARVETTO & JUNIOR SEALY  
 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) 727-1888  
 email: dbarv@alpineenterprises.com  
 PROFESSIONAL LAND SURVEYOR  
 7048  
 19MAY22  
 STATE OF IDAHO  
 REVISIONS  
 NO DATE BY  
 Sheet 1 of 1

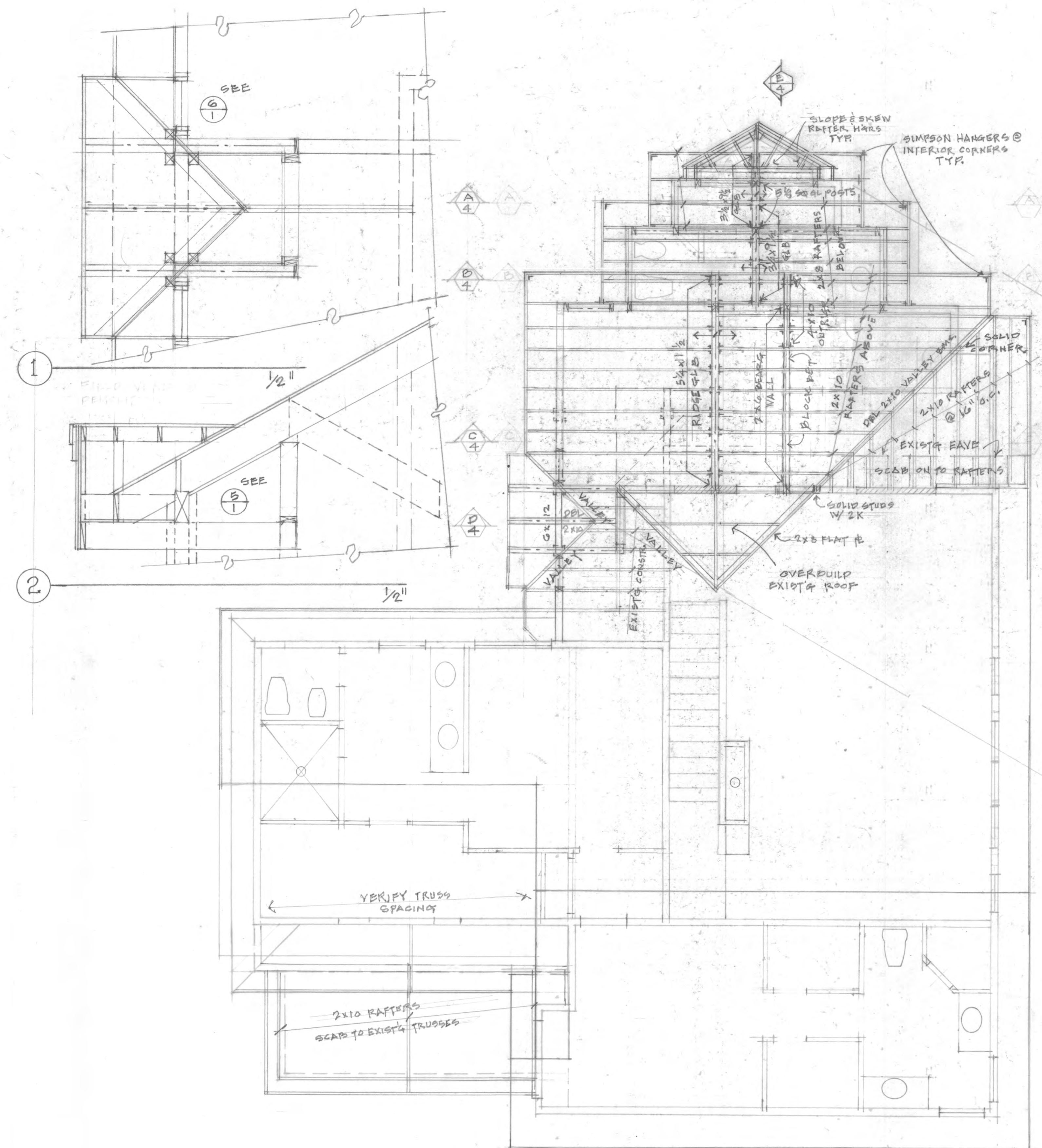


FLOOR PLAN

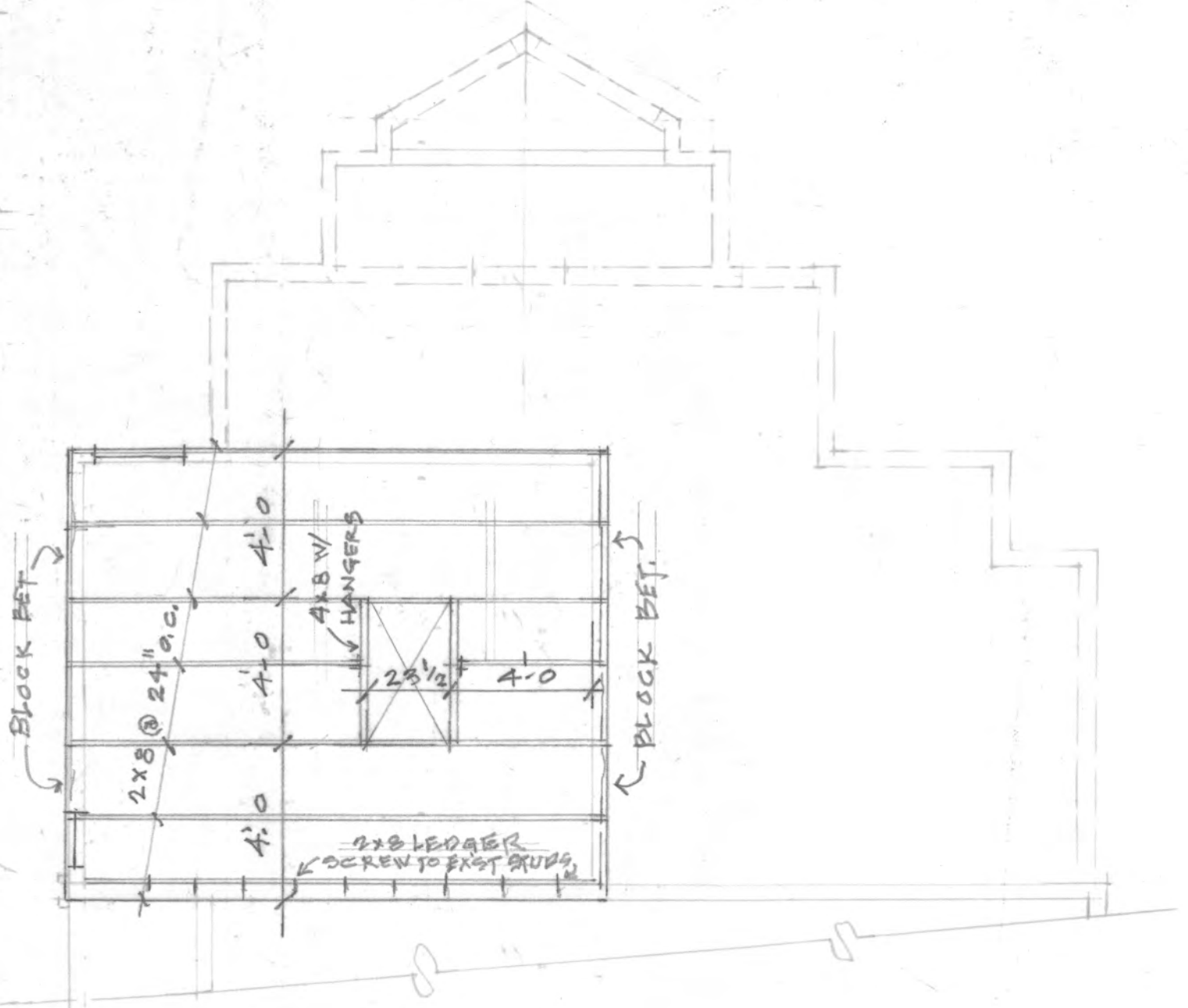
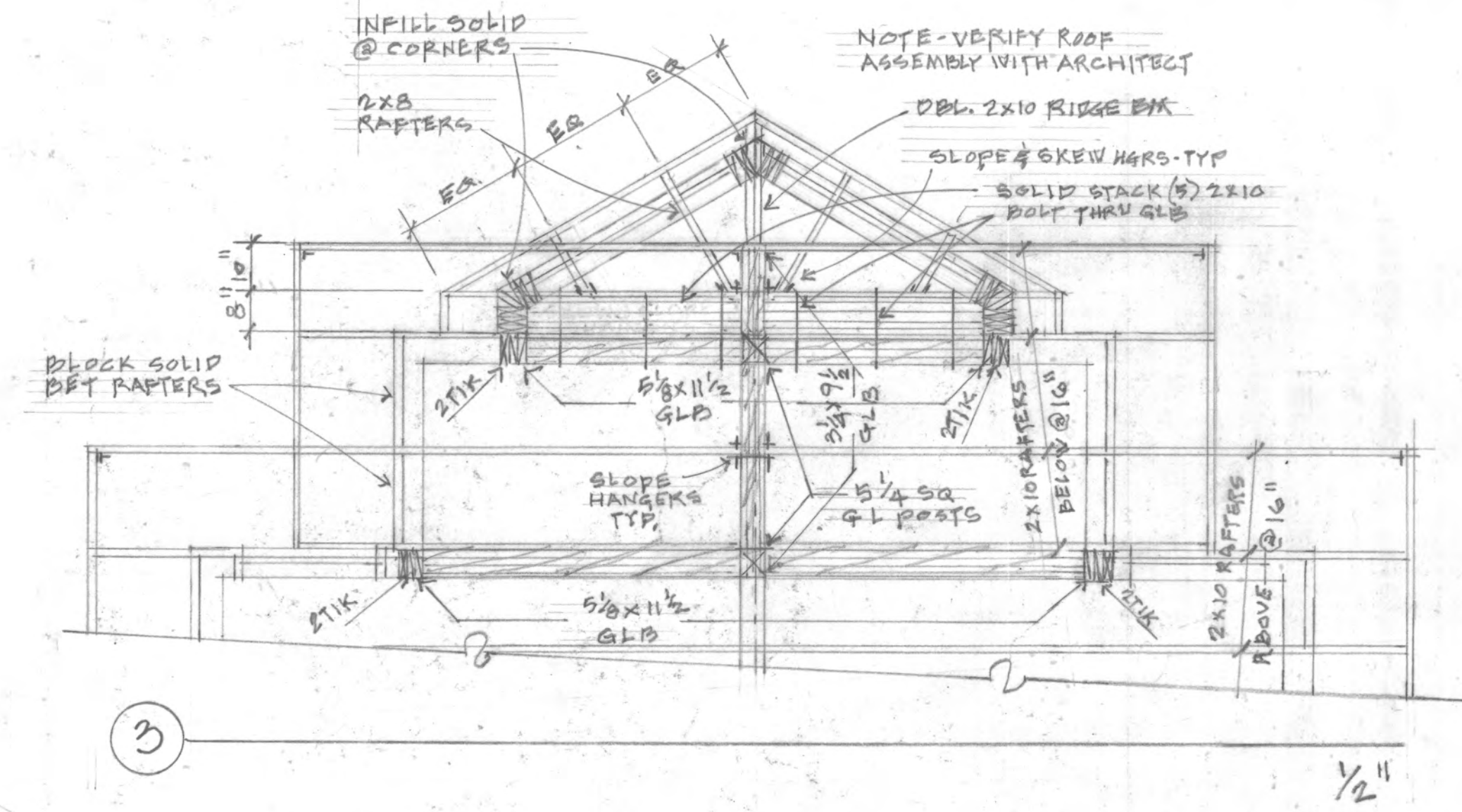


VESEAL ADDITION  
402 EVERGREEN-KETCHUM, IDAHO



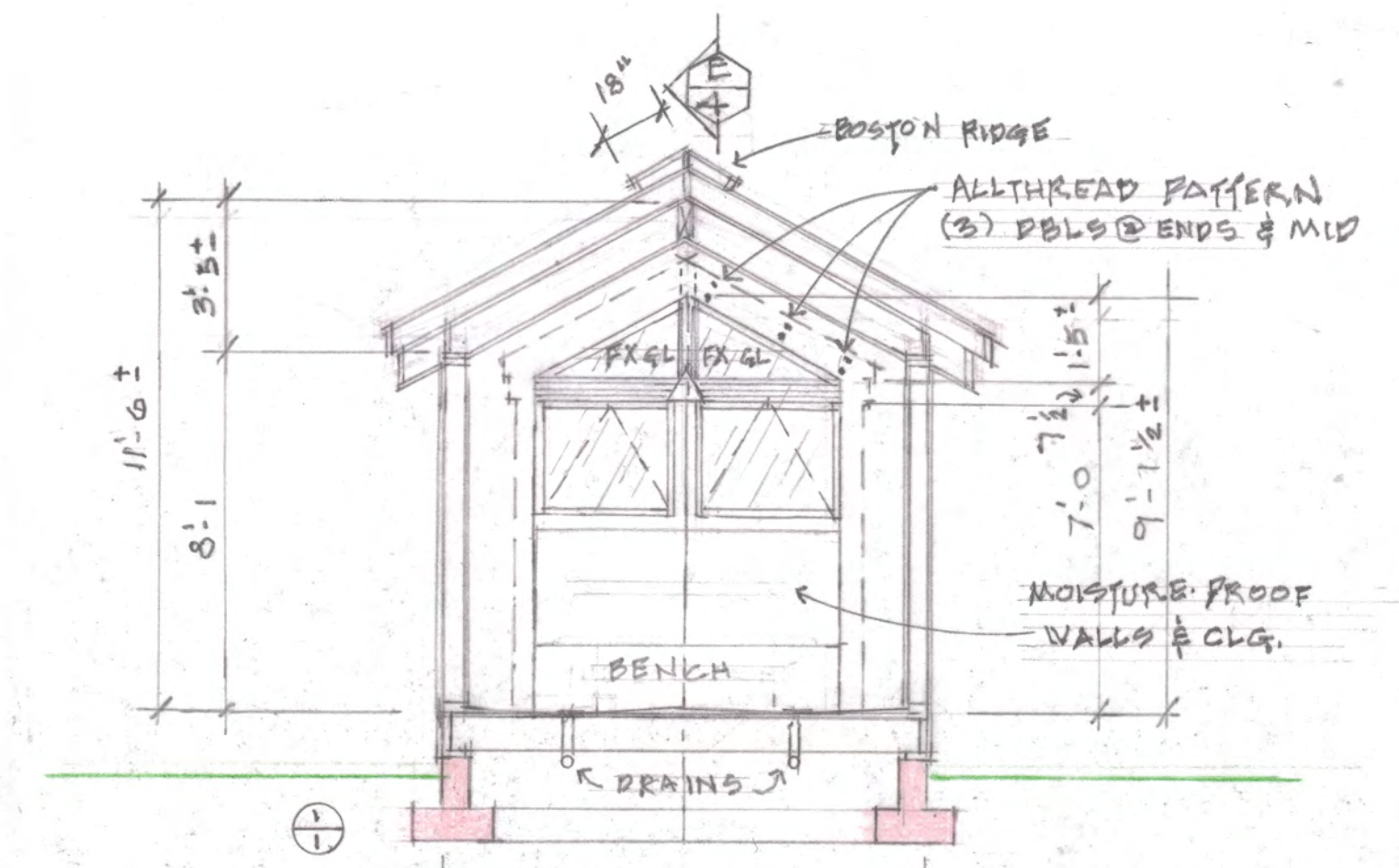


ROOF FRAMING PLAN

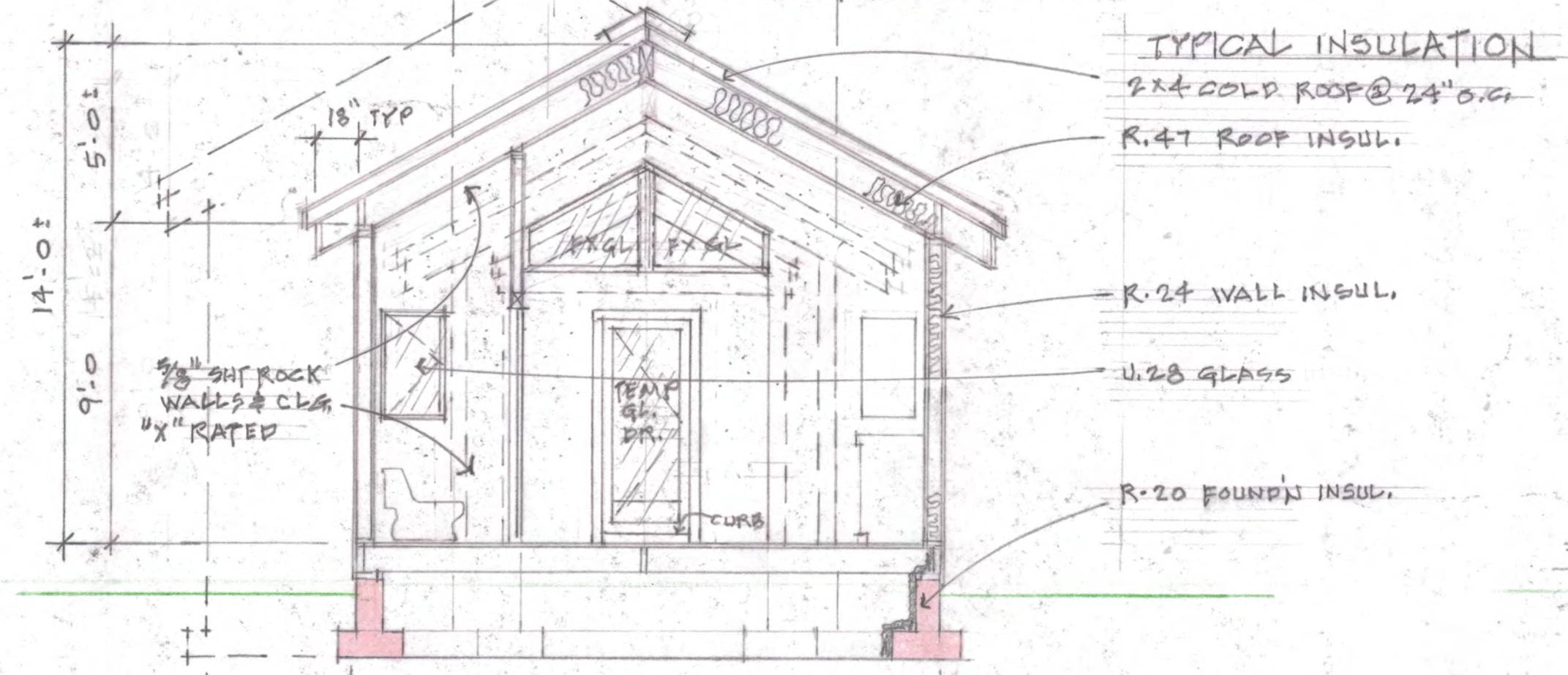


LOFT FRAMING PLAN

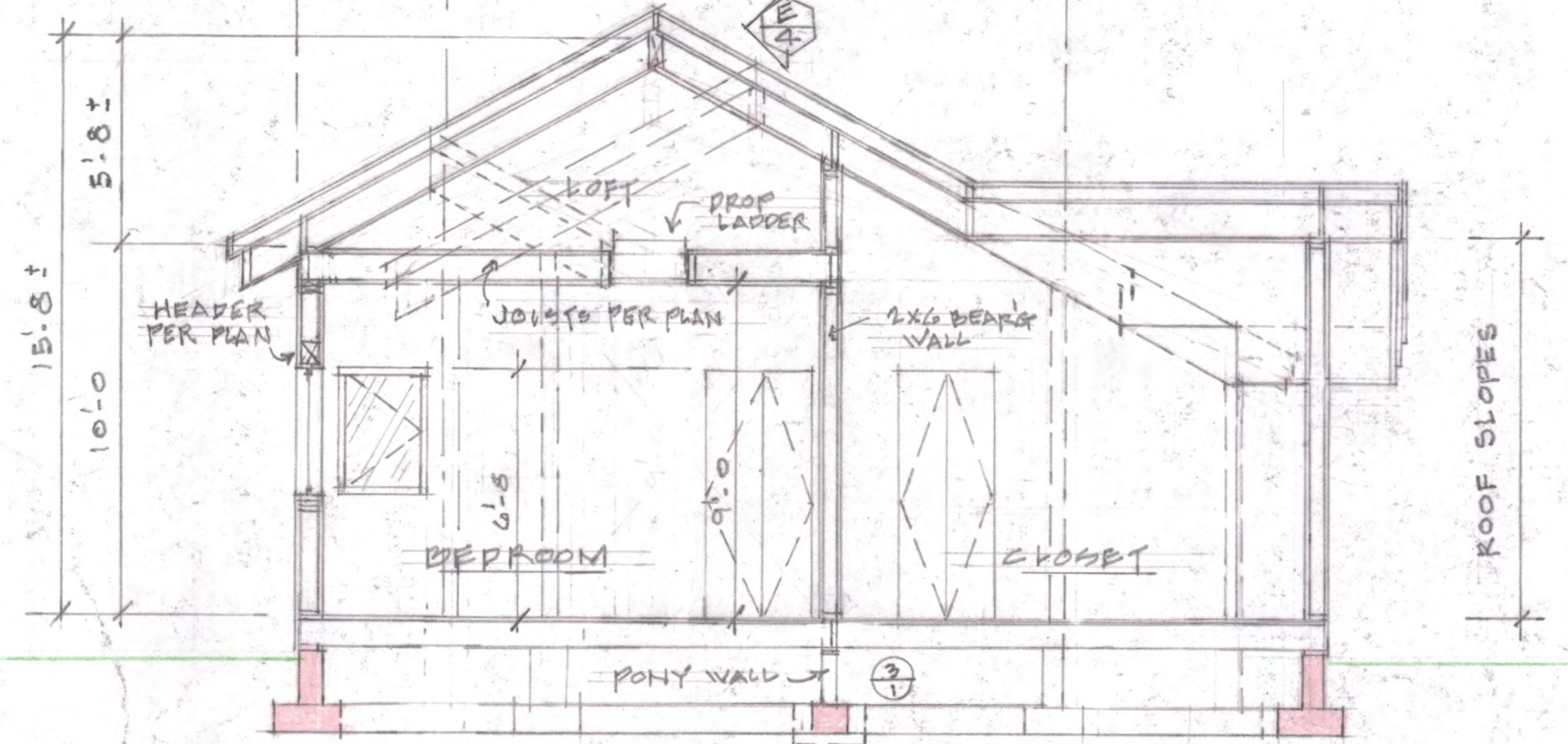




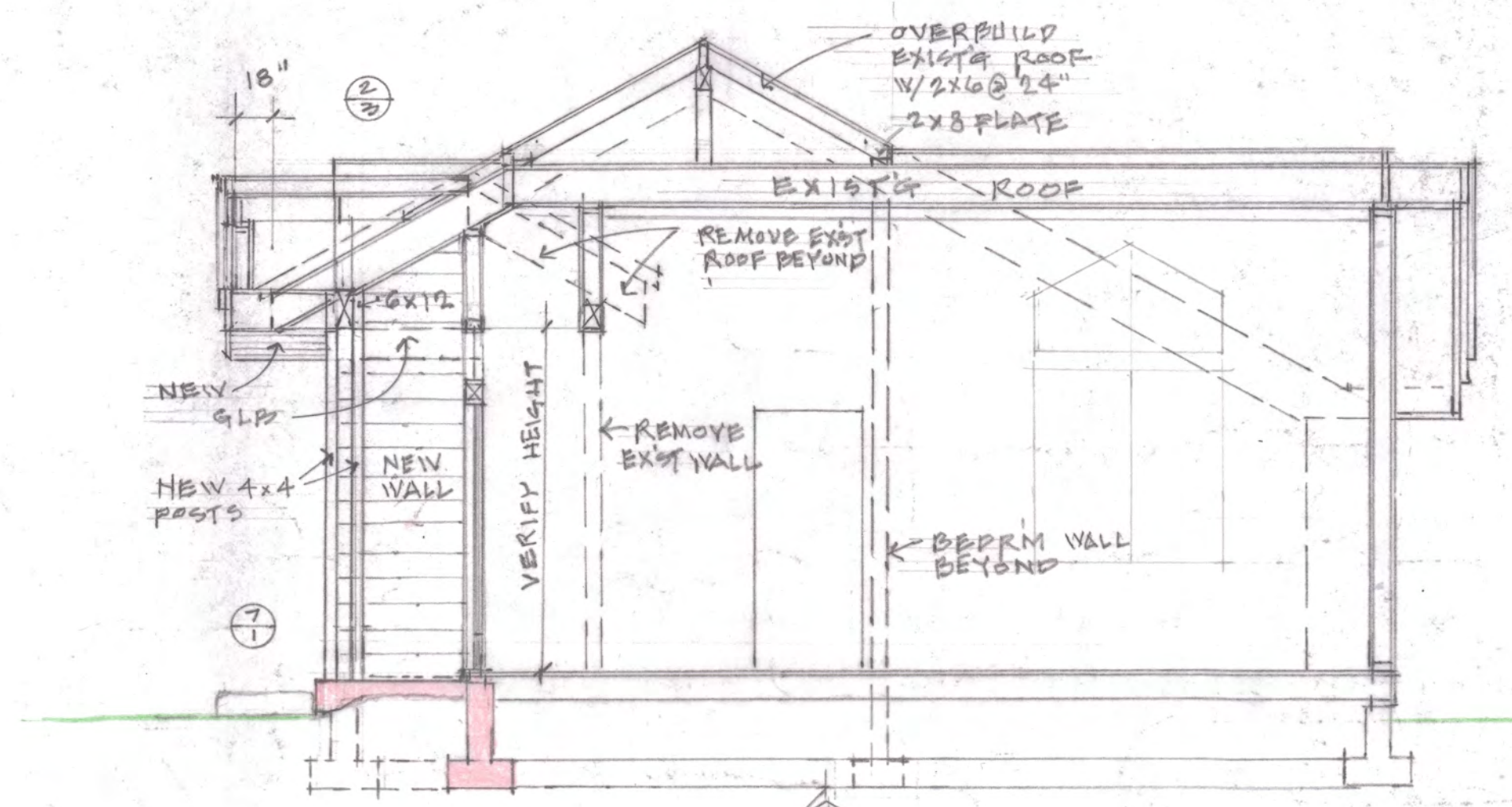
SECTION A-A



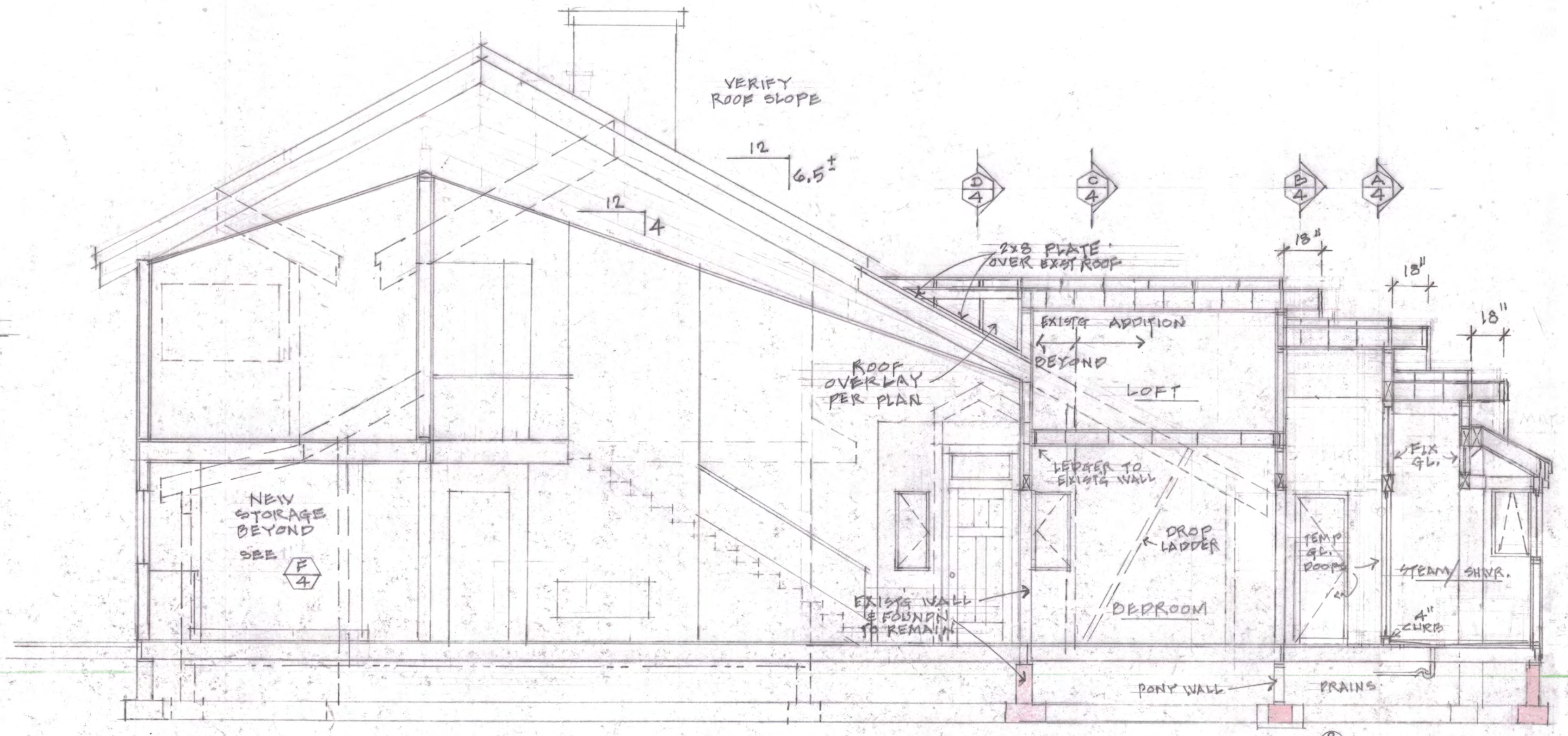
SECTION B-B



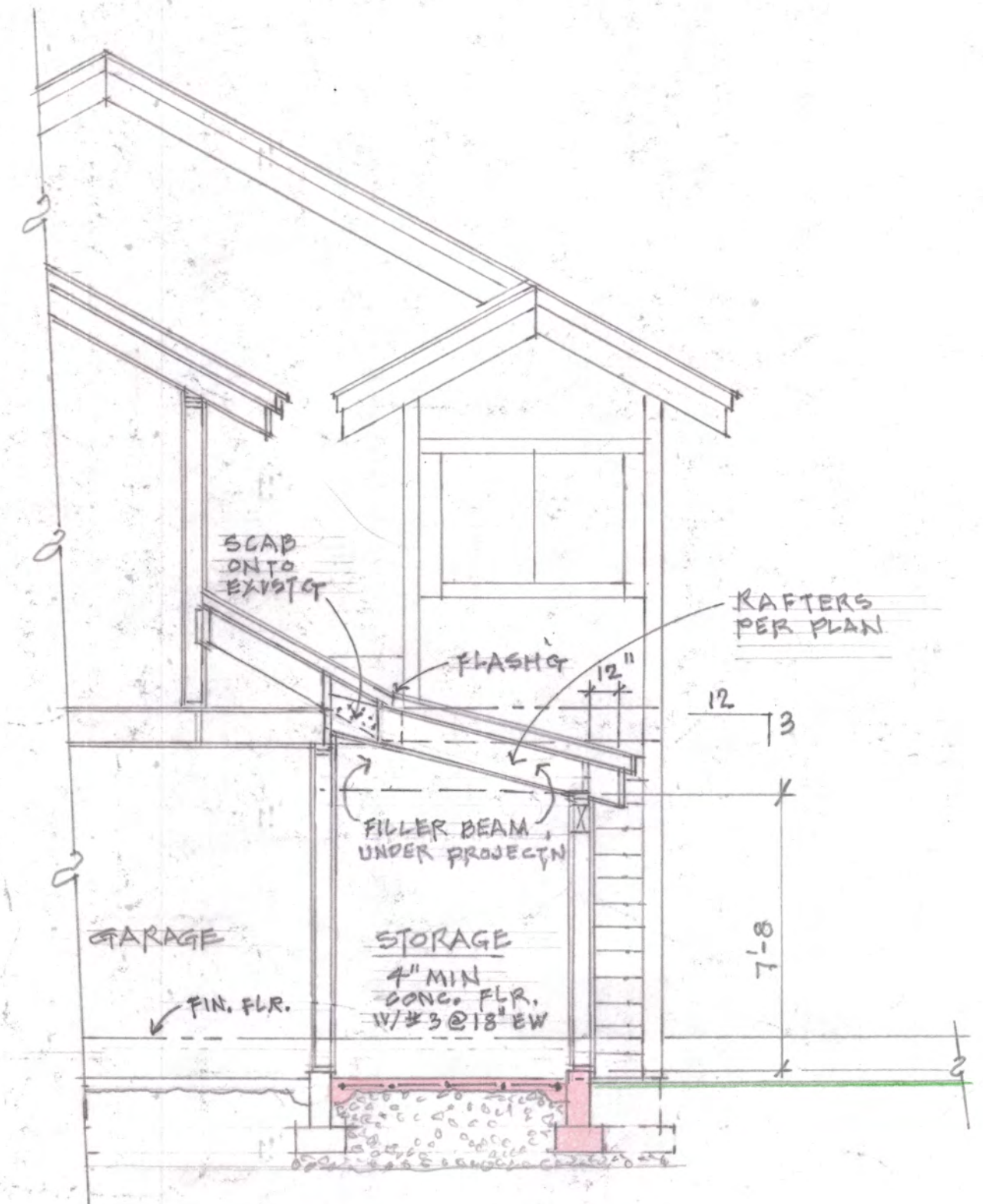
SECTION C-C



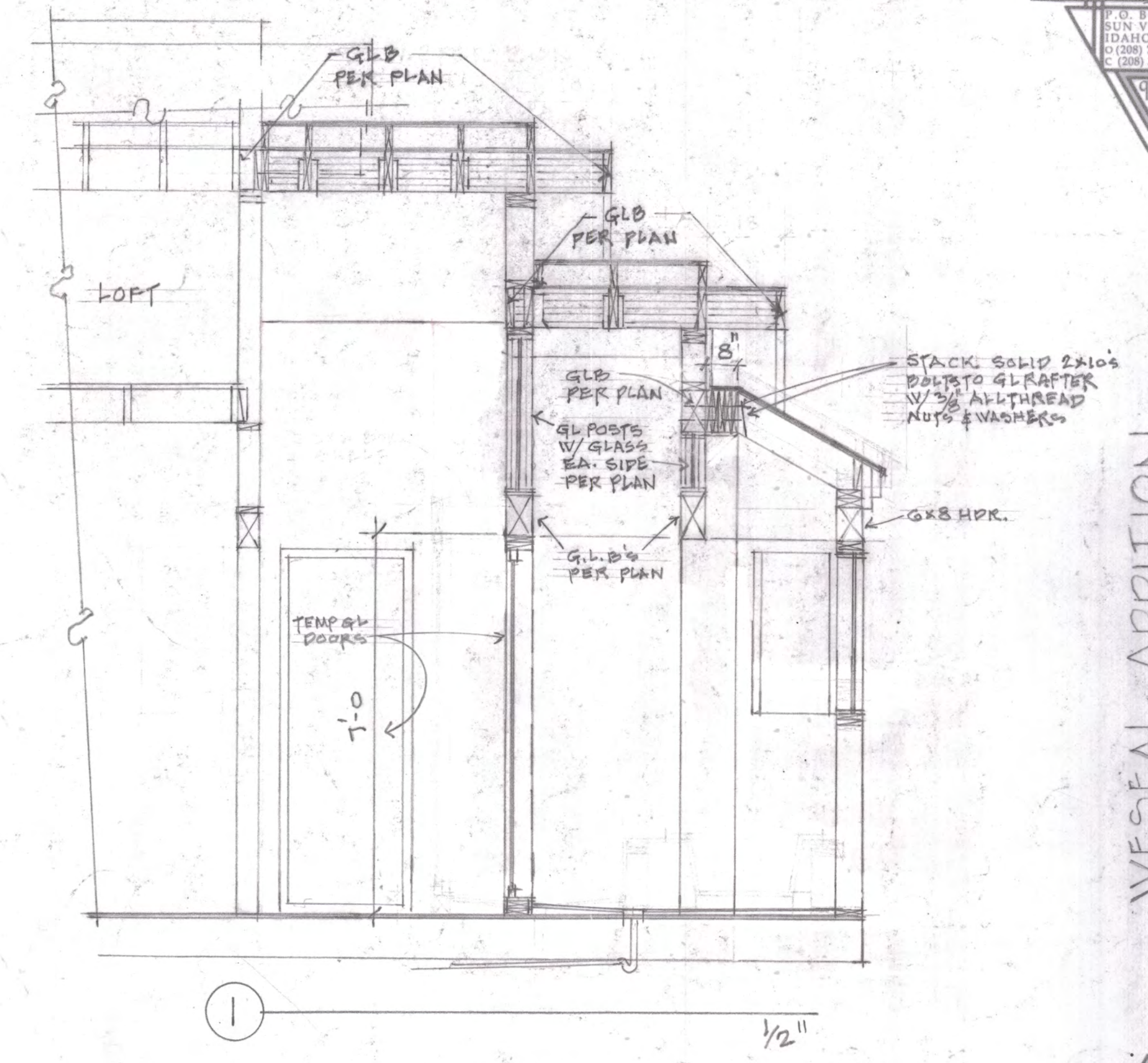
SECTION D-D



SECTION E-E



SECTION F-F



SECTIONS

DRAWINGS SCALE 1/4" = 1'-0" (U.N.O.)

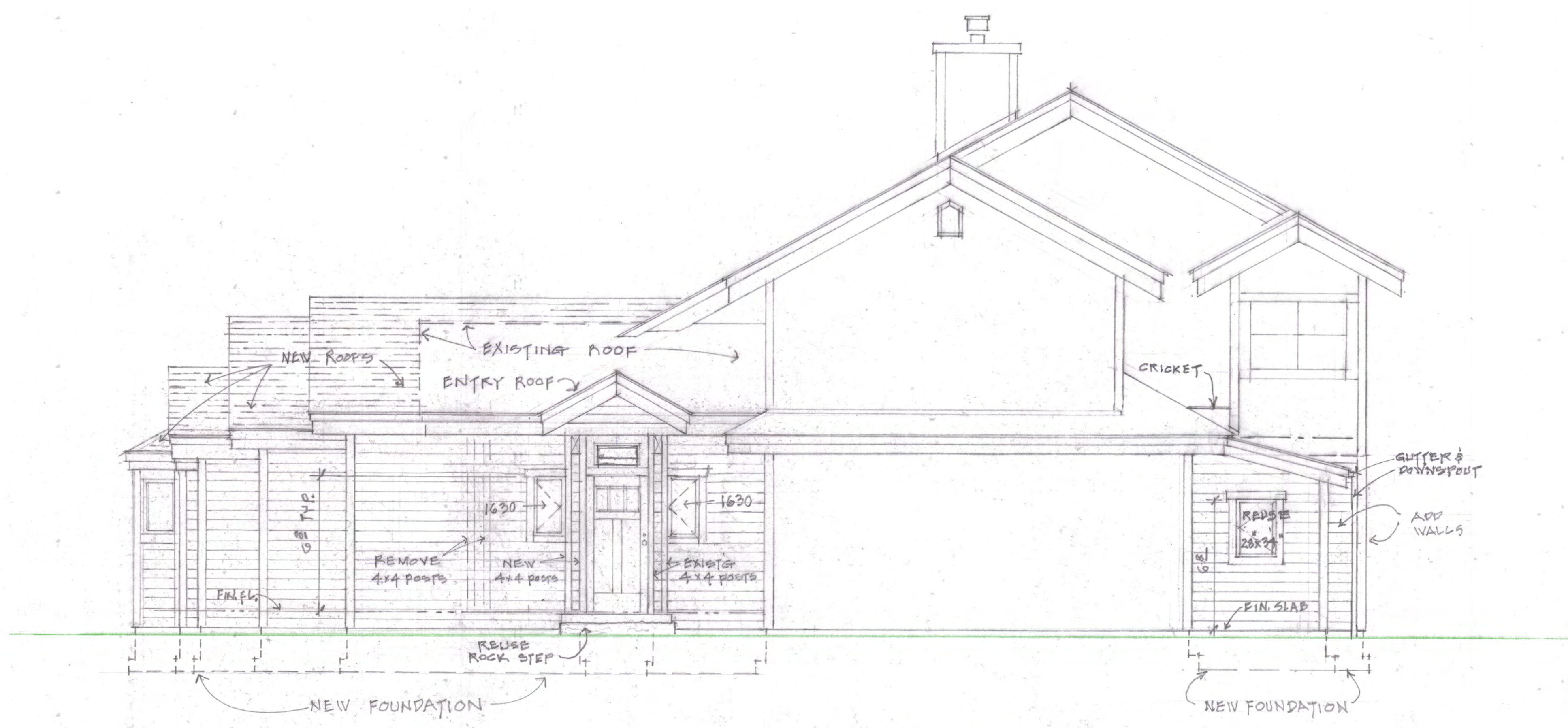
SECTIONS & DETAILS



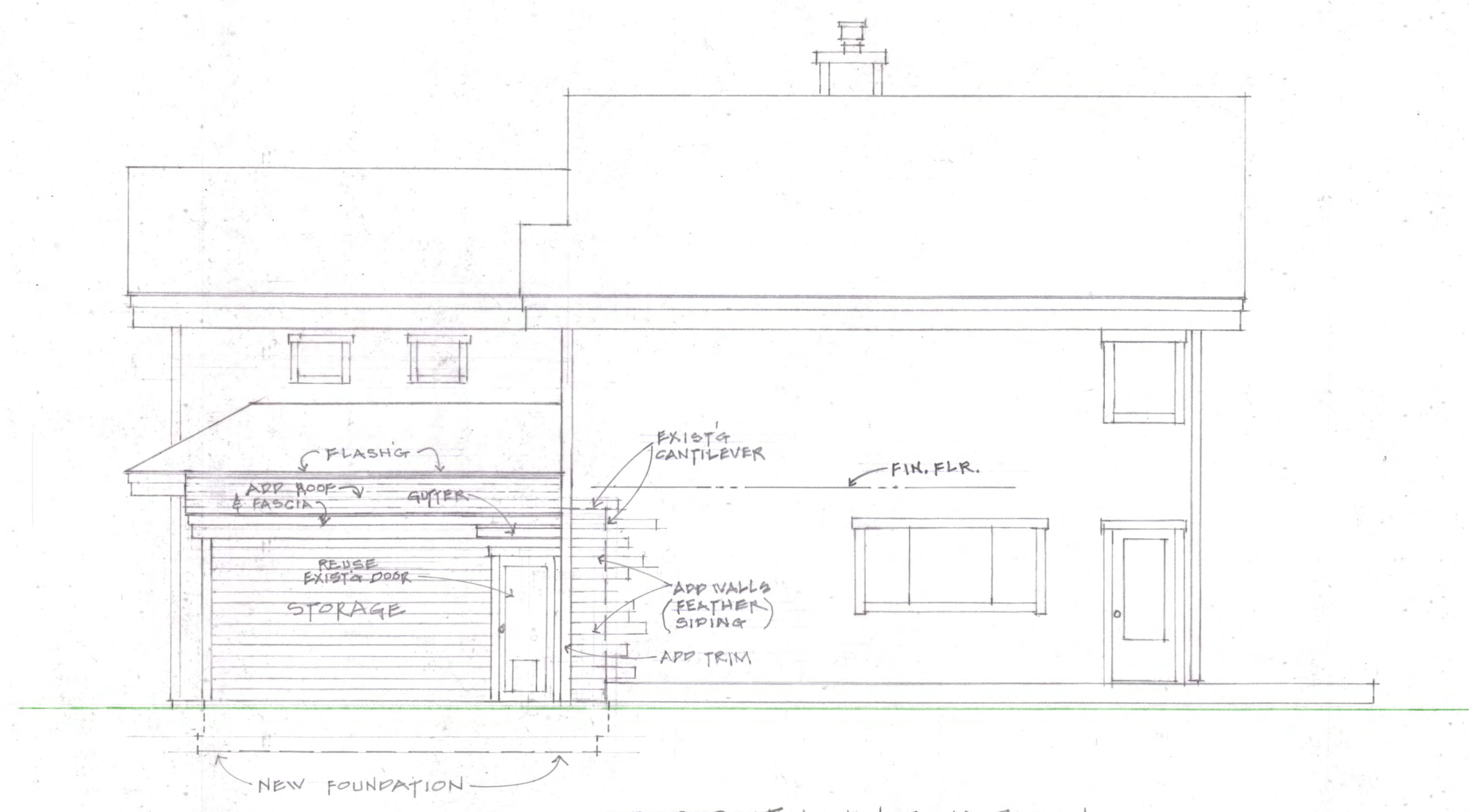
WESEAL ADDITION  
 402 EVERGREEN - KETCHUM, IDAHO

DATE  
 JAN. 21, 21  
 FEB. 16  
 3-26

APR. 6  
 PERMIT APRIL 14, '21



WEST ELEVATION



SOUTH ELEVATION

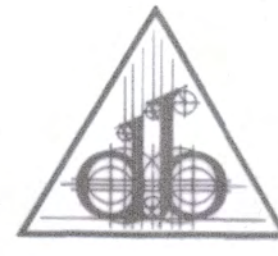
ELEVATIONS S&W



WESEAL ADDITION  
 402 EVERGREEN - KETCHUM, IDAHO

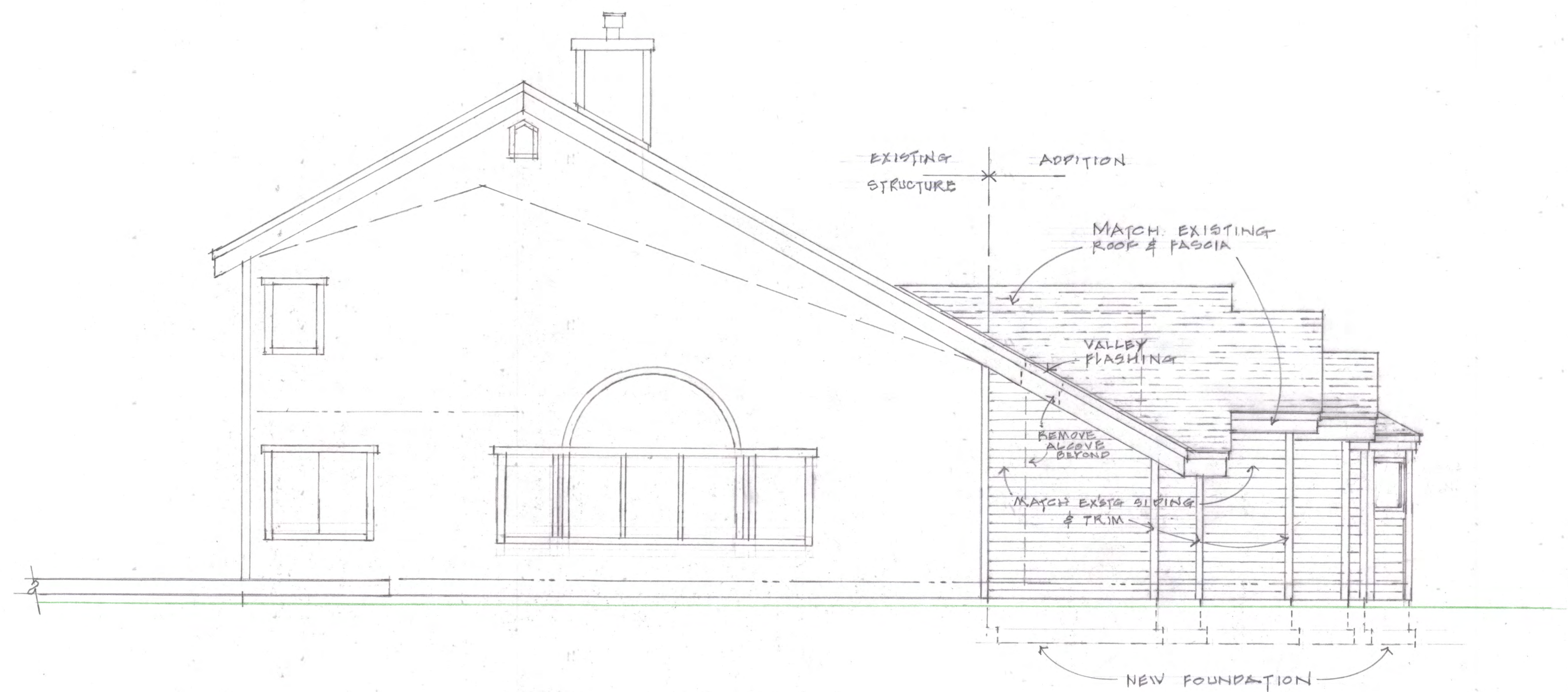


DRAWINGS SCALE 1/4" = 1'-0" (UNITS)

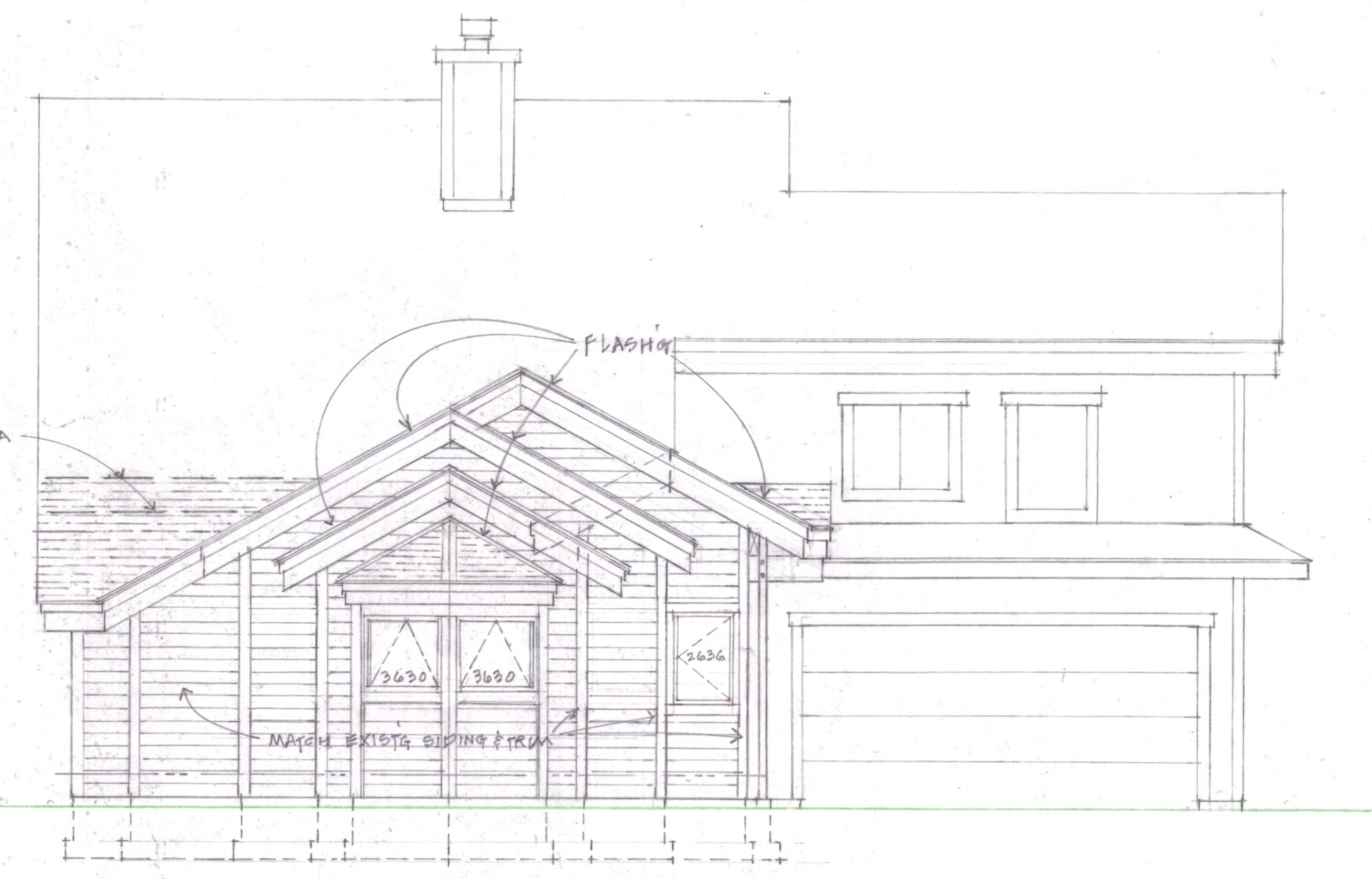


DATE  
 JAN. 21, '21  
 FEB. 16  
 MAR. 14  
 3-26

APR. 6  
 PERMIT APRIL 14, '21



EAST ELEVATION



NORTH ELEVATION

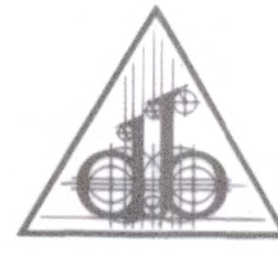
ELEVATIONS N & E

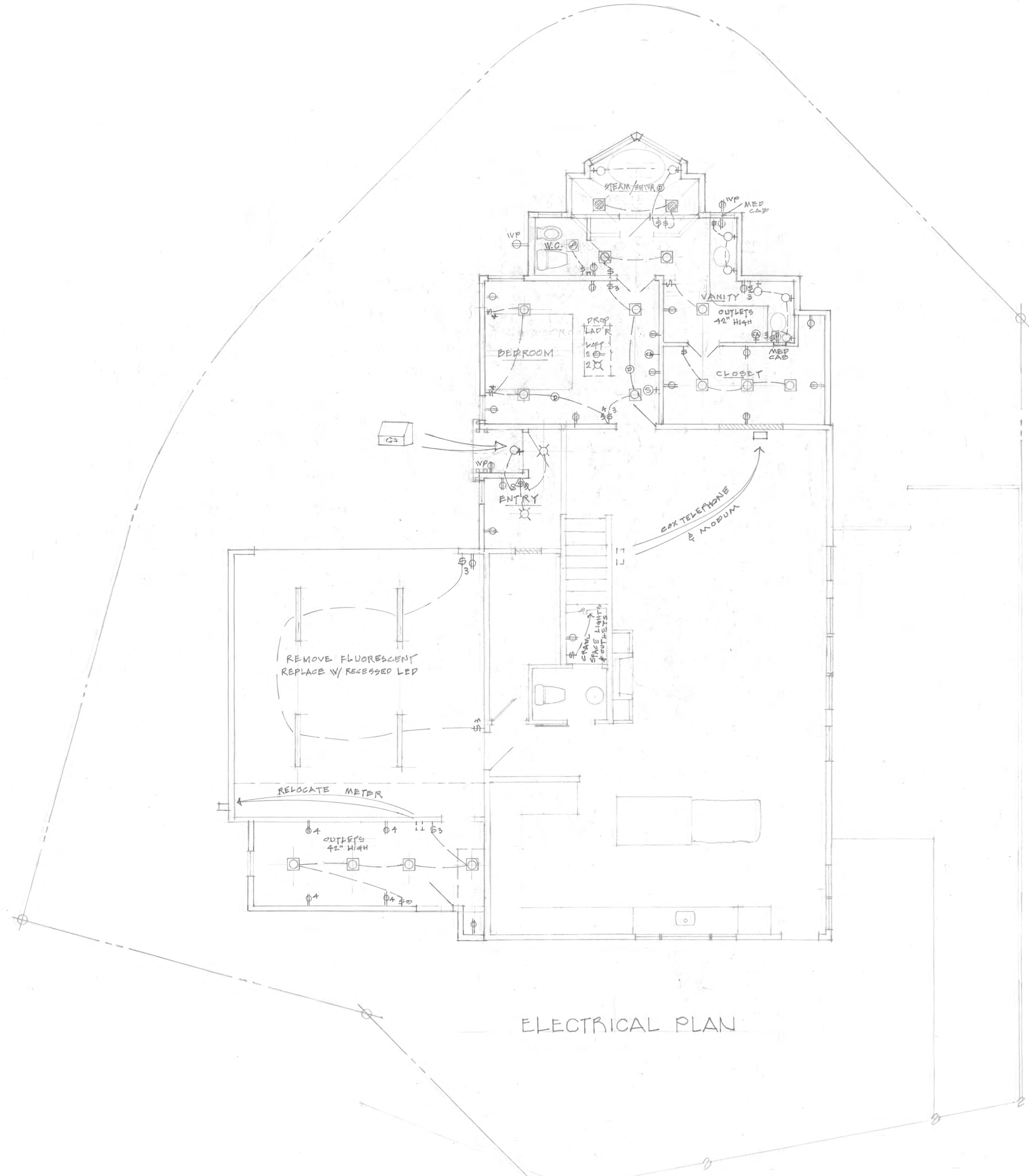
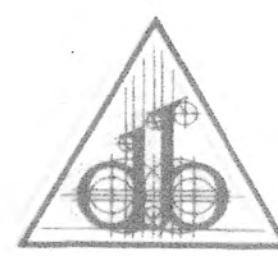


WESEAL ADDITION  
 402 EVERGREEN - KETCHUM, IDAHO

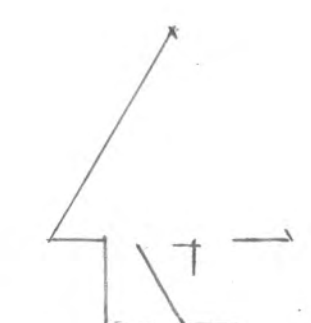


DRAWINGS SCALE 1/4" = 1'-0" (C.N.O.)





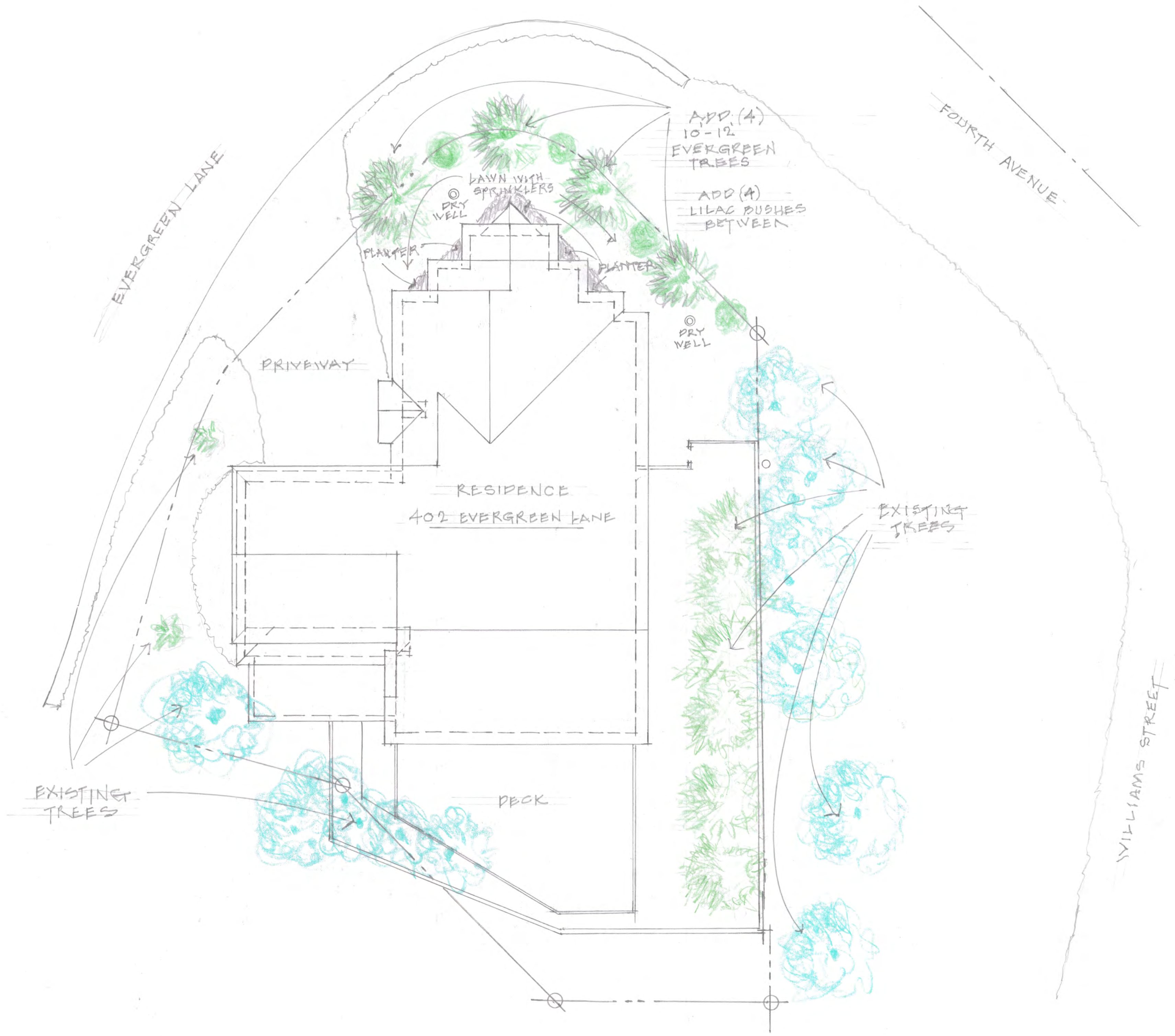
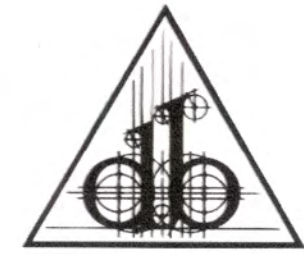
ELECTRICAL PLAN



	surface mount ceiling fixture		single pole switch
	wall mount fixture		three way switch (4 way)
	recessed ceiling fixture		double floor outlet
	recessed downlight fixture with exhaust fan		duplex receptacle
	recessed downlight fixture with heater & exhaust fan		3-prong 220 volt receptacle
	recessed downlight fixture with variable optical trim		1/2 switched duplex receptacle
	recessed downlight fixture with damp-proof lens		weather proof duplex receptacle
	fluorescent fixture		cable outlet
	decorative surface wall fixture		telephone outlet
	exterior surface fixture		smoke detector
	light track (number of fixtures)		low-voltage lights
	dimmer		door switch
	ceiling mount fluorescent fixture		fan with light
			MOTION ACTIVATION LIGHT

VESEAL ADDITION  
402 EVERGREEN - KETCHUM, IDAHO





LANDSCAPE PLAN

0 5 10 15 20 30

SCALE 1/8" = 1'-0"

LANDSCAPE PLAN



WESCAL ADDITION  
402 EVERGREEN, KETCHUM, IDAHO

Materials



Lighting





## Attachment B

### The Pines PUD Conditional Use Permit

APPLICATION FOR CONDITIONAL USE PERMIT

Name of Applicant: DSK Partners

Name of Owner of Record: MMS Investments

Phone Number (home): 622-3054 (business): 726-4521

Mailing Address: Ronald J. Sharp, Post Office Box 1440, Sun Valley, Idaho 83353

Legal Description and Street Address of Property Requiring a Conditional Use Permit: (attach if necessary):

Attached hereto

Description of Proposed Conditional Use: The Pines Townhouse P.U.D.

Subdivision is a 26 Unit Single Family Detached Home Subdivision on approximately 3.8 acres.

Zoning District: GR-L

Overlay District: Flood  Avalanche  Pedestrian

Applicant's Signature: Ronald J. Sharp

Date: 3/30/89

-----Administrative Use Only-----

Date Application Received: 3/30/89

Date of Commission/Council Public Hearing: 4/24/89

Date Legal Notice Published: 4/5/89

Conditional Use Permit Fee: 125<sup>00</sup> Date Paid: \_\_\_\_\_

Mailing Fee: \_\_\_\_\_ Date Paid: \_\_\_\_\_

Date Applicant Notified: \_\_\_\_\_

Comments from Agencies: \_\_\_\_\_

Administrative Comments: \_\_\_\_\_

Action(s)/Findings Taken: \_\_\_\_\_

Permit Number: 89-005

CITY OF KETCHUM

PLANNED UNIT DEVELOPMENT  
CONDITIONAL USE PERMIT

P.U.D. Ordinance Number 382

APPLICANT: H. D. McNee, Jr. and Sharon L. McNee, Trustees under Trust dated July 14, 1971

MAILING ADDRESS: Box 2028, Sun Valley, Idaho 83353

LEGAL DESCRIPTION: Attached hereto as Exhibit A and made a part hereof.

ZONING DISTRICT: General Residential - Low Density (GR-L)

APPLICATION DATED: March 30, 1989

DESCRIPTION OF CONDITIONAL USE: The Pines Townhouse Planned Unit Development (P.U.D.) consisting of twenty-six (26) single family detached townhouse units on approximately 3.8 acres of land. The development includes a recreation facility for common ownership and use by the owners within the P.U.D. Attached hereto as Exhibit B and made a part hereof is a site plan illustrating the layout of the approved Master Plan. The Master Plan in its entirety is on file in the Planning and Zoning Department of the City of Ketchum.

DATE OF PUBLIC HEARING AND ACTION BY KETCHUM PLANNING AND ZONING COMMISSION: April 24, 1989 - recommended approval

DATE OF CONSIDERATION AND ACTION BY KETCHUM CITY COUNCIL: May 1, 1989 - approved, subject to certain conditions contained hereinbelow

CONDITIONS OF PERMIT:

1. Garage spaces shall not be converted to living space or uses other than parking of vehicles and household storage.
2. The access entry width at Sixth Street shall be narrowed by additional landscaping or other means to be approved by the Ketchum Planning and Zoning Commission through design review to help deter general public use of Pine Lane. Said width shall remain satisfactory to the Ketchum Fire Department and shall not reduce width of road easement.

3. Parking on streets shall be limited to one side to facilitate access and snow storage/removal with applicable signage to be installed by developer.

4. Forty (40) foot wide road easements shall not be obstructed by trees or otherwise for purpose of adequate snow storage.

5. Owners are responsible for all maintenance of private streets and driveways including snow removal when necessary to maintain function for access and parking.

6. The five (5) of fourteen (14) existing trees identified on the P.U.D. Master Plan shall be preserved and addressed in owners documents.

7. Right-of-way agreement regarding landscaping in public right-of-ways shall be executed and referred to on all final plats. Applicants shall post a bond to secure completion of said landscaping in the rights-of-way of Buss Elle and Fourth Avenue that is not installed as part of the Phase I improvements. Said bond shall be in full force and effect through August 15, 1991, and shall be submitted to the City prior to issuance of the first building permit for the project.

8. Prior to future paving or seal coating of road(s), the owners shall notify the City Water and Wastewater Departments to ensure protection of valves and manholes on water and sewer mains.

9. Sufficient percolation to be provided for on Parcel B for adequate drainage of snow storage site.

10. All phases of development shall comply with P.U.D. Master Plan and phasing of construction shall be in accordance with the schedule as follows:

1989 Phase I:                   Nine (9) dwelling units; and site improvements:

1. Roads, plans to be approved by City prior to construction.
2. Sewer/Water, plans to be approved by City prior to construction.
3. Utilities.

4. Common area sprinklers and landscaping as shaded on the P.U.D. Master Plan and including the entry landscaping on Buss Elle.
5. Drainage for entire site as shown on landscape plan.
6. Preparation of building pad for each building.
7. Recreation facilities, including cabana, barbecue and spa.

1990 Phase II: Eight (8) dwelling units.

1991 Phase III: Nine (9) dwelling units

All of the first phase elements shall be completed prior to City approval of the first final plat of any townhouse sub-lot. Further, no permits shall be issued for any second phase construction until the first phase is complete.

THIS CONDITIONAL USE PERMIT IS HELD BY THE APPLICANT AND IS NON-TRANSFERABLE.

EFFECTIVENESS OF THIS CONDITIONAL USE PERMIT IS SUBJECT TO COMPLIANCE WITH CONDITIONS STATED ABOVE.

The undersigned does hereby accept the above Conditional Use Permit subject to all terms, provisions, conditions, restrictions and obligations therein. Non-compliance therewith shall be grounds for revocation of the Permit by Ketchum.

SIGNATURE OF APPLICANT

By *H. D. McNee, Jr.*  
H. D. McNee, Jr.  
Trustee

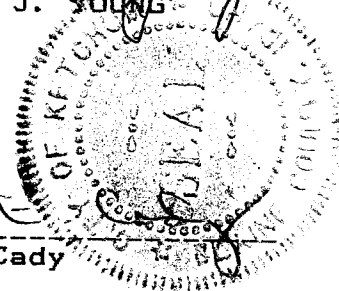
By *Sharon L. McNee*  
Sharon L. McNee  
Trustee

CITY OF KETCHUM

By *Lawrence J. Young*  
LAWRENCE J. YOUNG  
Mayor

ATTEST:

*Sandra E. Cady*  
Sandra E. Cady  
City Clerk

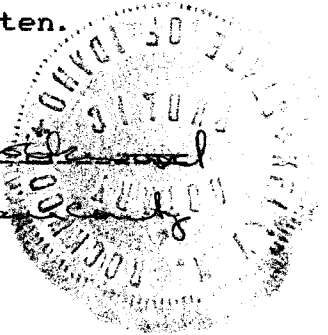


STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this 5th day of June, 1989, before me, a Notary Public in and for said State, personally appeared H. D. McNEE, JR. AND SHARON L. McNEE, TRUSTEES under Trust dated July 14, 1971, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of said Trust.

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

Kelly M. Robinson  
Notary Public  
Residing at: Blaine, Idaho

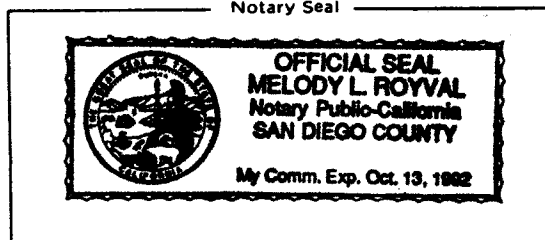


Individual Acknowledgment PLANNED  
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO } ss.  
On this 2ND day of JUNE, in the year 1989, before me, the undersigned, a Notary Public in and for said County and State, personally appeared

\* \* \* H. D. MCNEE, JR., TRUSTEE \* \* \* \* \*  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person  
whose name is subscribed to this instrument and acknowledged that he executed it.

WITNESS my hand and official seal.

Melody L. Royval  
Notary Public in and for said County and State



Through the courtesy of  
Fidelity National Title  
INSURANCE COMPANY

A parcel of land located within Government Lot 3, Section 13, Township 4 North, Range 17 East, Boise Meridian, City of Ketchum, Blaine County, Idaho, being more particularly described as follows:

Commencing at the brass cap marking the Southeast corner of said Government Lot 3; thence North 21°42'09" West 520.73 feet to a 5/8" bar, which point is the REAL POINT OF BEGINNING; thence North 89°11'03" West 360.39' to a 5/8" bar; thence North 0°04'11" West 337.14 to a 1/2" bar on the South side of Buss Elle Road; thence South 88°49'32" East 382.55' along Buss Elle Road to a 5/8" bar on the Southwesterly side of Fourth Avenue; thence South 44°40'27" East 212.76' to a 5/8" bar on the Westerly side of Williams Street; thence South 0°11'27" East 71.83' to a 5/8" bar; thence South 89°15'27" East 1.01' to a 5/8" bar; thence South 0°04'12" East 114.35' along Williams Street to a 1" pipe; thence North 89°11'03" West 172.70' to the REAL POINT OF BEGINNING, containing 3.8 acres more or less.

Also referred to as the Wood River Motel property located adjacent to Williams, and Fourth Streets and Buss Ell Road.

3 0 6 3 4 7

BLAINE CO. REQUEST  
OF: FIRST AMERICAN TITLE CO.

89 JUN 12 PM 3 19

MARY GREEN, CLERK

FEES \$ 21.00

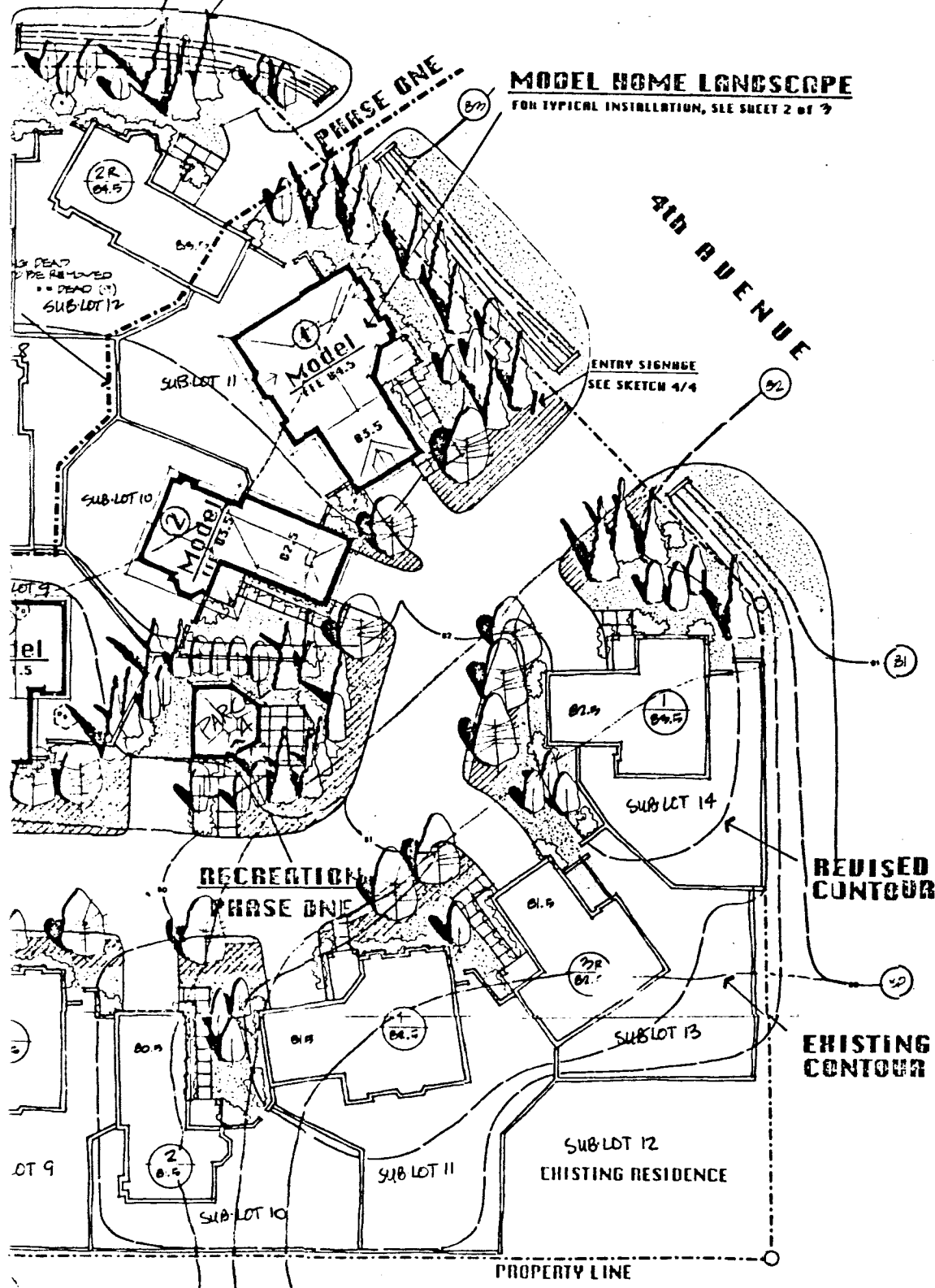
EXHIBIT A

**COMMON AREA LANDSCAPE**

SOLID AREA DENOTES EXTENT OF ASSOC. COMMONS

**MODEL HOME LANDSCAPE**

FOR TYPICAL INSTALLATION, SEE SHEET 2 OF 9



SITE LANDSCAPE  
**THE PINES P.U.D.**  
**MASTER PLAN**

**Steven e. Job**  
 LANDSCAPE ARCHITECTURE - LAND PLANNING  
 BOX 837 SUN VALLEY, IDAHO 83333  
 208/756-1887



**SNOW STORAGE CALCULATIONS**

21,000 SQ. FT. TOTAL ROADWAY
12,360 SQ. FT. A.O.W. STORAGE
5,240 SQ. FT. PARCEL IN STORAGE
17,600 SQ. FT. TOTAL SQ. FT. STORAGE



SCALE 1" = 20'-0"

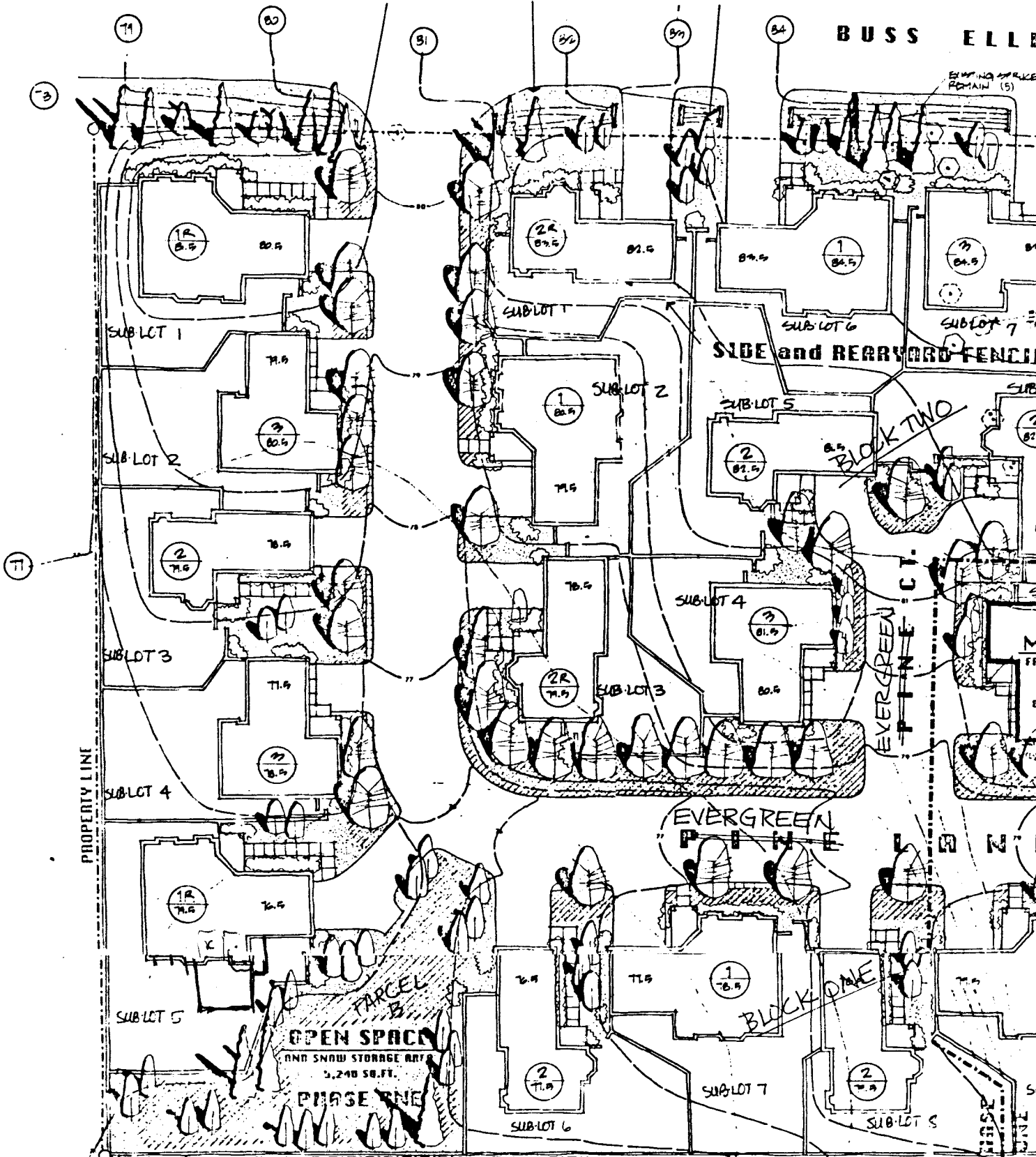


10'-12" FLOWERING CHERRY  
typical symbol

10'-12" EUROPEAN SPRUCE  
typical symbol

10'-12" QUAKING ASPEN  
typical symbol

BUSS ELLI



# THE PINES

A SITE AND LANDSCAPE DEVELOPMENT FOR  
**DSK PARTNERS**  
 KETCHUM, IDAHO

**SNOW STORAGE AREA**  
 TOTAL CAPACITY 17,600 SQ. FT.  
 (SHOWN BY HATCHED SHADING)

EXHIBIT B

CITY OF KETCHUM  
CITY COUNCIL

THE PINES P.U.D.

The Ketchum City Council received the recommendation of the Ketchum Planning and Zoning Commission on May 1, 1989, and evaluated the proposed P.U.D. according to the seventeen standards contained in P.U.D. Ordinance Number 382. The Council accepted the evaluation standards as written and adopted them as findings of fact:

1. Minimum lot size of three (3) acres. All land within the development shall be contiguous except for intervening streets and waterways;

The property contains approximately 3.8 acres.

2. That the proposed project will not be detrimental to the present and permitted uses of surrounding areas;

The property abuts General Residential - Low Density (GR-L) zoned lands on three (3) sides, which generally are developed with duplex structures. On the west, the adjacent property is zoned Limited Residential (LR) and is developed as single family.

3. That the proposed project will have a beneficial effect not normally achieved by standard subdivision development;

A standard subdivision would require 8,000 square foot lots, each being eligible for one (1) single family dwelling or one (1) duplex (2-unit) structure. The project is planned for detached single family townhouse units on individual sub-lots that cannot be achieved through a standard subdivision development.

4. The development shall be in harmony with the surrounding area;

No commercial uses or other uses not normally permitted in the GR-L are proposed. Single family townhouse units providing for individual ownership, yet common ownership and maintenance of amenities, landscaping and roads, are harmonious with surrounding single family and duplex uses.

5. Densities and uses may be transferred between zoning districts within a P.U.D. as permitted under this Ordinance including but not limited to the limitations on development of lands zoned Limited Residential Zoning District 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, except, that the Council may grant additional density to any project which constructs employee housing or low cost housing, as determined by the City Council, and guarantees the use, rental cost, or resale cost thereof shall be based upon the method approved by the City Council;

Total project area: 3.852 acres = 167,800 square feet

GR-L Zoning allows 1 unit per 4,000 square feet of land in P.U.D. = a maximum of 41 units without area devoted to streets, etc.

Net project area (less roads, open space and amenities = 127,800 square feet

P.U.D. proposed density = 26 units = 1 per 4,915 square feet

GR-L base density = 31 units = 1 per 4,000 square feet

P.U.D. proposed sub-lot sizes range from 3,920 square feet to 7,841 square feet and average 5,194 square feet

6. That the proposed vehicular and non-motorized transportation system is:

- a. Adequate to carry anticipated traffic consistent with existing and future development of surrounding properties;

The interior road is proposed to be privately owned and maintained and is designed solely for access to the P.U.D. and is not needed as access to any adjacent or surrounding properties. The points of access onto Buss Elle and Fourth Avenue are suitable for this development considering their relationship to existing intersections and road pattern.

- b. Will not generate vehicular traffic to cause "undue congestion" of the public street network within or outside the P.U.D.;

Parking per unit (2 spaces) exceeds the minimum required in GR-L (1 1/2 spaces) and private covenants, as proposed, prohibit conversion of garage spaces to living space or uses other than parking of vehicles and household storage. There are two points of entry and exit onto public streets. Narrowing the access at the bottom of Sixth Street by additional landscaping (not narrowing the road easement width) would help deter general public use of the private road for other than access by residents and guests, i.e. unfamiliar persons either thinking the road extends through to Wood River Drive or others envisioning a "short-cut". Vehicular traffic generated by twenty-six (26) single family units would be expected to be less than traffic generated by the maximum number of units (41) allowed on the property or the net maximum of 31 units.

The driveways for Lots 1, 6 and 7, as designed, require cars to back out onto Buss Elle. This is acceptable provided the City continues to control speed on Buss Elle, i.e. with speed bumps. The majority of existing homes along Buss Elle have driveways which require backing out onto the road. Lot 12, accessing onto Fourth Avenue, does have back-up area so that cars may head.

- c. **Designed to provide automotive and pedestrian safety and convenience;**

Sidewalks adjacent to interior roads are provided on the south and west side of Pine Lane. Pedestrian pathways need not be provided for access to recreation facility by those lots (6, 7 and 12 in Block 2) with vehicular access from Buss Elle Road and not from the interior road system (all other lots are adjacent to the interior road system). Open grassy area is provided along Buss Elle to accommodate pedestrian access off the travel lanes.

- d. **Designed to provide adequate removal, storage and deposition of snow;**

Private covenants require parking on one side of the interior streets only which will facilitate snow storage and removal. Parcel B is set aside as a commonly owned lot for purpose of snow storage in winter. Access to Parcel B appears adequate for its function. The forty (40) foot wide road easement, if unobstructed by trees and other planting, with twenty-eight (28) feet of paving is adequate for snow storage until it can be removed by owners. Gross area available on-site for snow storage equals approximately 47% of the area to be kept clear of snow.

Private covenants specifically call for no obstruction by landscaping to 40-foot road easement to facilitate snow storage. The placement of trees on Parcel B should be carefully scrutinized to provide for maximum area available for snow storage.

7. That 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;

Comprehensive Plan: Preserve and protect existing residential neighborhoods (Population I.A.1.); Preserve...provide adequate land areas for new, long-term residential...varying densities...(Residential Land Use Policy A); Allow minimum lot sizes appropriate for townhouse...(Residential Land Use Policy F); Protect solar access...(Energy II.B.6.)

Zoning Ordinance: P.U.D. plan conforms to the Zoning Ordinance with the two (2) modifications specifically approved in Evaluation Standard #17 herein.

Other applicable codes: Plans for water and wastewater extensions and services, fire protection water supply and roads are to be approved by the City using applicable ordinances prior to construction.

8. That the development plan incorporates the site's significant natural features;

Five (5) out of fourteen (14) existing mature pine trees will be saved. Drainage of site is planned to culminate at open space/snow storage Parcel B. Sufficient percolation will be provided for on Parcel B for adequate drainage of the snow storage site.

9. Substantial buffer planting strips or other barriers are provided where no natural buffers exist;

Landscaping in public right-of-way of Buss Elle, Williams and Fourth require approval and standard right-of-way agreement executed. Perimeter fencing of the P.U.D. parcel is contemplated to be built as part of the individual privacy fences upon construction of each unit.

Landscaping around perimeter of Parcel B should conceal from neighbors potential snow piles in winter, but be placed to provide maximum snow storage.

10. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner;

Utilities and road work for whole development including individual service connections, the recreation facilities, and common area landscaping will be completed during the first of three planned phases. The proposed phasing schedule is attached. The first phase improvements shall be completed before the first final plat of a townhouse sub-lot and, therefore, each phase will be able to stand on its own. Eight or nine units per year for three years is a reasonable development period.

11. 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 thereof;

Parcel A is 2,700 square feet in size and Open Space/Snow Storage Parcel B is 6,200 square feet, totaling 8,900 square feet of usable open space and recreation facilities. This is 7% of the net project area that is in addition to open space created by zoning regulations such as setbacks and lot coverage. The proposed private covenants provide for management and maintenance through an association of owners and board of directors.

12. 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;

The concept of "zipper lots" indicate privacy has been addressed. Fencing is proposed to further the concept. Design review is required prior to construction. The orientation of the property and relationship to adjacent streets is such that the development (limited to 1 and 2 story buildings) does not significantly affect solar access by adjacent properties.

13. "Adequate recreational facilities" 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 thereof to the City of Ketchum for development of additional active park facilities;

The cabana, spa and barbecue, constituting the recreation facilities, and the open space lot (snow storage in winter) are to be built/landscaped in first phase, and will, therefore, be available to all owners. Adequate recreation facilities are located in close proximity to the P.U.D.

14. There shall be special development objectives and special characteristics of the site or physical conditions that justify the granting of the P.U.D. - Conditional Use Permit;

One special development objective is to offer single family, detached townhouse units and a special characteristic of the site is the location in and adjacent to GR-L zoning and adjacent to LR zoning. Private yards are provided for each unit.

15. The development will be completed within a reasonable time;

The 3-year schedule is reasonable for the construction of 26 townhouses with the common facilities, road and utilities completed in the first phase during the first year 1989.

16. That public services, facilities and utilities are adequate to serve the proposed project and anticipated development within the appropriate service areas;

Public water and sewer service shall comply with City requirements and be approved prior to construction. Prior to future paving or seal coating of road(s), the owners shall notify the City Water and Wastewater Department to ensure protection of valves and manholes. All necessary utility easements shall be provided prior to construction and on all final plats.



17. That the project complies with all applicable ordinances, rules and regulations of the City of Ketchum, Idaho except as modified or waived pursuant to Section 8(a) hereinafter. "...Modification or waiver from certain standard zoning and subdivision requirements may be permitted subject to such conditions, limitations and/or additional development standards...as the City Council may prescribe to mitigate adverse impacts 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..."

A. Modification requested is to Section 7A.1 Uses Permitted, "(4) Townhouse development limited to a single building containing two (2) townhouse units". A P.U.D. is a conditional use in GR-L. Section 8(a) of the P.U.D. Ordinance provides for modifications as stated above. The proposal is to allow detached single family townhouse units rather than requiring that all units be contained within duplex structures.

Using a standard subdivision approach, fifteen (15) lots of 8,000 square feet each would be allowed with the proposed road system. Thirty (30) units in fifteen (15) structures (duplexes) would be permitted. Single family use is a use permitted in the GR-L Zone. Many surrounding property owners expressed support of the single family detached townhouse concept, as proposed. The 3-acre P.U.D. as proposed is unique in its location in West Ketchum. The modification is appropriate to further land use policies in the Comprehensive Plan.

B. Modification is requested to Section 7A.6, which requires a fifteen (15) foot setback on the front-defined as that property line which divides the property from the street (public or private) - to accommodate the design features of the "zipper lots". Specifically those lots are: in Block 1, Lots 2, 4, 7, 9, 11 and 14; and in Block 2, Lots 1, 2 and 3.

The rear yard living spaces are enhanced by being away from the road. Staggered building fronts along the interior road are a positive design feature as well as facilitate the yard/privacy concept.



PLANNING AND ZONING DEPARTMENT P.O. BOX 2315 KETCHUM, IDAHO 83340

June 9, 1989

Jan Burrell  
First American Title Company  
P. O. Box 756  
Ketchum, Idaho 83340

Re: The Pines PUD Conditional Use Permit

Dear Jan:

Enclosed herewith is the original of the Conditional Use Permit No. 89-005, fully executed and ready for recordation.

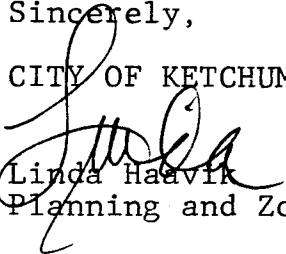
As instructed by Ron Sharp, I am forwarding it to you to record prior to recordation of The Pines Subdivision plat, and to reference the Instrument Number under which it is recorded on the face of the Subdivision plat.

The original of the Permit should be returned to the City after recordation.

Thank you for your attention to this matter. If you have any questions, please let me know.

Sincerely,

CITY OF KETCHUM

  
Linda Haavik  
Planning and Zoning Administrator

cc: Ron Sharp  
Galena Engineers

MEMORANDUM

*CUP app.  
update  
Dec'd  
4/18/89*

TO: Linda Haavik, Planning and Zoning Administrator  
FROM: D.S.K. Partners  
RE: Conditional Use Permit for Pines Project  
DATE: April 18, 1989

---

Please include in our Conditional Use Permit Application for The Pines, a request for Single Family Detached Units as shown on the proposed Application. This request is specifically in difference to Section 7A.1(4) of the Zoning Ordinance which calls for "townhouse" developments to be limited to a single building containing two (2) townhouse units.

We are also requesting that the Preliminary Plat approval for the 26 Townhouse Sublots be extended for a three (3) year period in order to allow each final plat of Townhouse Units and Sublots to come in directly for Final Plat (rather than to Preliminary Plat approval each time) so long as each Townhouse is consistent with the Master Plan and Preliminary Plat of the Townhouse Sublots.

The front yard setback for Lots 2, 4, 7, 9, 11 and 14 of Block 1, and Lots 1, 2 and 3 of Block 2 are less than fifteen (15) feet to break up the line of the homes along the private lane. To accommodate this design feature, we request that the fifteen (15) foot setback along the private lane be waived.

DSK\HAAVIK.MEM

*CUP app*

*old*

MEMORANDUM

TO: Linda Haavik, Planning and Zoning Administrator  
FROM: D.S.K. Partners  
RE: Conditional Use Permit for Pines Project  
DATE: March 30, 1989

---

Please include in our Conditional Use Permit Application for The Pines, a request for Single Family Detached Units as shown on the proposed Application. This request is specifically in difference to Section 7A.1(4) of the Zoning Ordinance which calls for "townhouse" developments to be limited to a single building containing two (2) townhouse units.

We are also requesting that the Preliminary Plat approval for the 26 Townhouse Sublots be extended for a three (3) year period in order to allow each final plat of Townhouse Units and Sublots to come in directly for Final Plat (rather than to Preliminary Plat approval each time) so long as each Townhouse is consistent with the Master Plan and Preliminary Plat of the Townhouse Sublots.

NOTICE OF PUBLIC HEARING BEFORE THE  
KETCHUM PLANNING AND ZONING COMMISSION UPON  
APPLICATIONS FOR A CONDITIONAL USE PERMIT FOR A  
PLANNED UNIT DEVELOPMENT OF TOWNHOUSE UNITS AND FOR  
DESIGN REVIEW

NOTICE IS HEREBY GIVEN that on Monday, April 24, 1989, at 7:00 p.m., in City Hall at 480 East Avenue North, Ketchum, Idaho, the Ketchum Planning and Zoning Commission will hold a Public Hearing upon the applications of DSK PARTNERS for a conditional use permit for a planned unit development and design review with regard to the following described property:

A parcel of land located within Government Lot 3, Section 13, Township 4 North, Range 17 East, Boise Meridian, City of Ketchum, Blaine County, Idaho, being more particularly described as follows:

Commencing at the brass cap marking the Southeast corner of said Government Lot 3; thence North 21°42'09" West 520.73 feet to a 5/8" bar, which point is the REAL POINT OF BEGINNING; thence North 89°11'03" West 360.39' to a 5/8" bar; thence North 0°04'11" West 337.74' to a 1/2" bar on the South side of Buss Elle Road; thence South 88°49'32" East 382.55' along Buss Elle Road to a 5/8" bar on the Southwesterly side of Fourth Avenue; thence South 44°40'27" East 212.76' to a 5/8" bar on the Westerly side of Williams Street; thence South 0°11'27" East 71.83' to a 5/8" bar; thence South 89°15'27" East 1.01' to a 5/8" bar; thence South 0°04'12" East 114.35' along Williams Street to a 1" pipe; thence North 89°11'03" West 172.70' to the REAL POINT OF BEGINNING, containing 3.8 acres more or less.

Also referred to as the Wood River Motel property located adjacent to Williams, and Fourth Streets and Buss Elle Road.

The proposed Pines Townhouse Planned Unit Development (P.U.D.) consists of twenty-six (26) single family detached townhouse units on approximately 3.8 acres of land. The development includes a recreation facility for common ownership and use by the owners within the P.U.D. Twenty-one (21) units are accessed from a private road on the interior of the P.U.D. and four (4) access directly from Buss Elle Road and one (1) accesses from Williams Street. The application is being processed under the P.U.D. Ordinance Number 382 of the City of Ketchum. The Ketchum Planning and Zoning Commission recommends to the Ketchum City Council based on seventeen (17) evaluation standards contained in the Ordinance. The Ketchum City Council upon receipt of the recommendation takes final action on the application.

The property is zoned General Residential - Low Density (GR-L) Zoning District which permits on a conditional use basis a P.U.D. as well as townhouse development. The applicant is requesting a modification to Section 7A.1(4) of Zoning Ordinance Number 208 which limits townhouse development in the GR-L Zoning District to single buildings containing two (2) townhouse units, or duplex structures. The modification if allowed through the P.U.D. Ordinance Number 382 would provide for the detached, single family units as proposed.

As part of the P.U.D. the preliminary plat of the twenty-six (26) townhouse sub-lots is proposed. If approved, that preliminary plat will be the basis for all future final plat approvals of each of the townhouse units as they are completed. The applicants are requesting that the year limit on such preliminary plat approval be extended to three (3) years to accommodate the proposed phasing schedule.

The proposed phasing is that site improvements, including roads, utilities, partial landscaping, and eight (8) units be completed during 1989. One unit exists on the property presently. Eight (8) additional uses are proposed to be built in 1990 and nine (9) for 1991.

The Ketchum Planning and Zoning Commission will conduct its design review of each unit proposed in the P.U.D. at this meeting. The applicants are requesting that the approval period be extended from six (6) months to three (3) years to accommodate the proposed phasing of the project. Should there be any change to the project or design of the units after approval is granted, those changes would have to be re-submitted and reviewed by the City before approved.

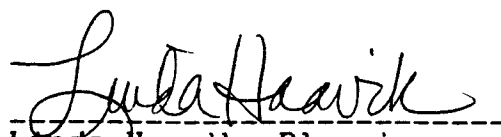
Copies of the plans for the P.U.D. and for the design review of the dwelling units may be reviewed in City Hall by contacting the Planning Department.

NOTICE IS FURTHER GIVEN that at the aforementioned time and place, all interested persons may appear and shall be given an opportunity to comment on the matter stated above.

Comments and questions prior to the hearing should be directed to the Ketchum Planning Department. Written comments received prior to the hearing shall be made part of the public record at the hearing.

BY ORDER OF THE KETCHUM PLANNING AND ZONING COMMISSION.

DATED this 31st day of March, 1989.



\_\_\_\_\_  
Linda Haavik, Planning and  
Zoning Administrator

Publish: April 5, 1989  
Idaho Mountain Express  
P.O. Box 1013  
Ketchum, Idaho 83340

DSK Partners  
c/o Ron Sharp  
P.O. Box 1440  
Sun Valley, Idaho 83353

Bailey Taplin  
20621 Goshawk Lane  
Huntington Beach, CA 92646

Steamboat Bay Development  
P.O. Box 2121  
Sun Valley, Idaho 83353

Richard & Shirley Metz  
34677 Camino Capistrano  
Capistrano Beach, CA 92624

Robert Monge  
c/o Tom Monge  
P.O. Box 307  
Sun Valley, Idaho 83353

Joe Henderson, etux  
1950 Miller Ave.  
Burley, Idaho 83318

Ski Resort Development Corp.  
150 White Plains Rd.  
Tarrytown, NY 10591

Gladys Wingate  
P.O. Box 58  
Ketchum, Idaho 83340

Richard Walton  
1790 Alta Vista Dr.  
Vista, CA 92083

Janice Corkery  
P.O. Box 1063  
Ketchum, Idaho 83340

Michael McCray  
P.O. Box 2354  
Ketchum, Idaho 83340

Barry Luboviski  
Janet Wygle  
P.O. Box 1172  
Ketchum, Idaho 83340

Maria Schenkel  
P.O. Box 142  
Ketchum, Idaho 83340

Dale Hobson  
615 Opal St.  
Boise, Idaho 83705

MMS Investments  
P.O. Box 1440  
Sun Valley, Idaho 83353

Paul & Chris Potters  
P.O. Box 416  
Ketchum, Idaho 83340

William & Lisel Irons  
1127 Fierro Dr.  
Ojai, CA 93023

Alan & Elaine Durkheimer  
P.O. Box 2321  
Ketchum, Idaho 83340

Barbara Bowen  
Michael Cullen  
313 Granite St.  
Ashland, OR 97520

Suzanne Werner  
P.O. Box 1309  
Sun Valley, Idaho 83353

Barbara McQueen  
P.O. Box 702  
Bellevue, Idaho 83313

William & Margaret Orr  
19470 Sunshine Way  
Bend, OR 97702

Norman & Charlene Daluiso  
P.O. Box 3013  
Ketchum, Idaho 83340

Christopher Negreponte  
Paul Negreponte  
P.O. Box 2277  
Ketchum, Idaho 83340

Robert Silacci  
Gary Grimes  
Steve Silacci  
P.O. Box 1540  
Ketchum, Idaho 83340

Candice Anderson  
P.O. Box 3784  
Ketchum, Idaho 83340

Charles & Joan Scherban  
Harry & Sandra Balmer, IV  
P.O. Box 3326  
Ketchum, Idaho 83340

Sander, Steen, Charon  
P.O. Box 1382  
Sun Valley, Idaho 83353

Kevin & Sharon Sosch  
2815 Monte Cresta  
Belmont, CA 94002

Michael & Jane Donovan  
P.O. Box 235  
Ketchum, Idaho 83340

Phyllis Hall  
c/o Havenhall Management  
650 Sepulveda Blvd., Ste. 3  
Los Angeles, CA 90049

Charles Webb, etux  
P.O. Box 892  
Sun Valley, Idaho 83353

Frank & Kate Gleeson  
2800 Breezy Heights Rd.  
Wayzata, MN 55391

Marshall & Pricilla White, Jr.  
214 Williams  
Ketchum, Idaho 83340

Idaho Mountain Express  
P.O. Box 1013  
Ketchum, Idaho 83340

CERTIFICATION OF MAILING

I, LINDA HAAVIK, the Planning and Zoning Administrator of the City of Ketchum, Idaho, hereby certify that I did on the 31st day of March, 1989, mail a copy of the Notice of Public Hearing upon the applications of DSK PARTNERS for a Conditional Use Permit for a Planned Unit Development and for design review to the attached list of property owners and newspaper:

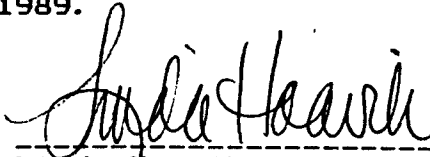
I, FURTHER, CERTIFY that the cost of processing these applications for hearing before the Ketchum Planning and Zoning Commission is as follows:

Notices	35 at .20 each	\$ 7.00
Postage	35 at .25 each	8.75
Publication		74.75

Administration Fees:

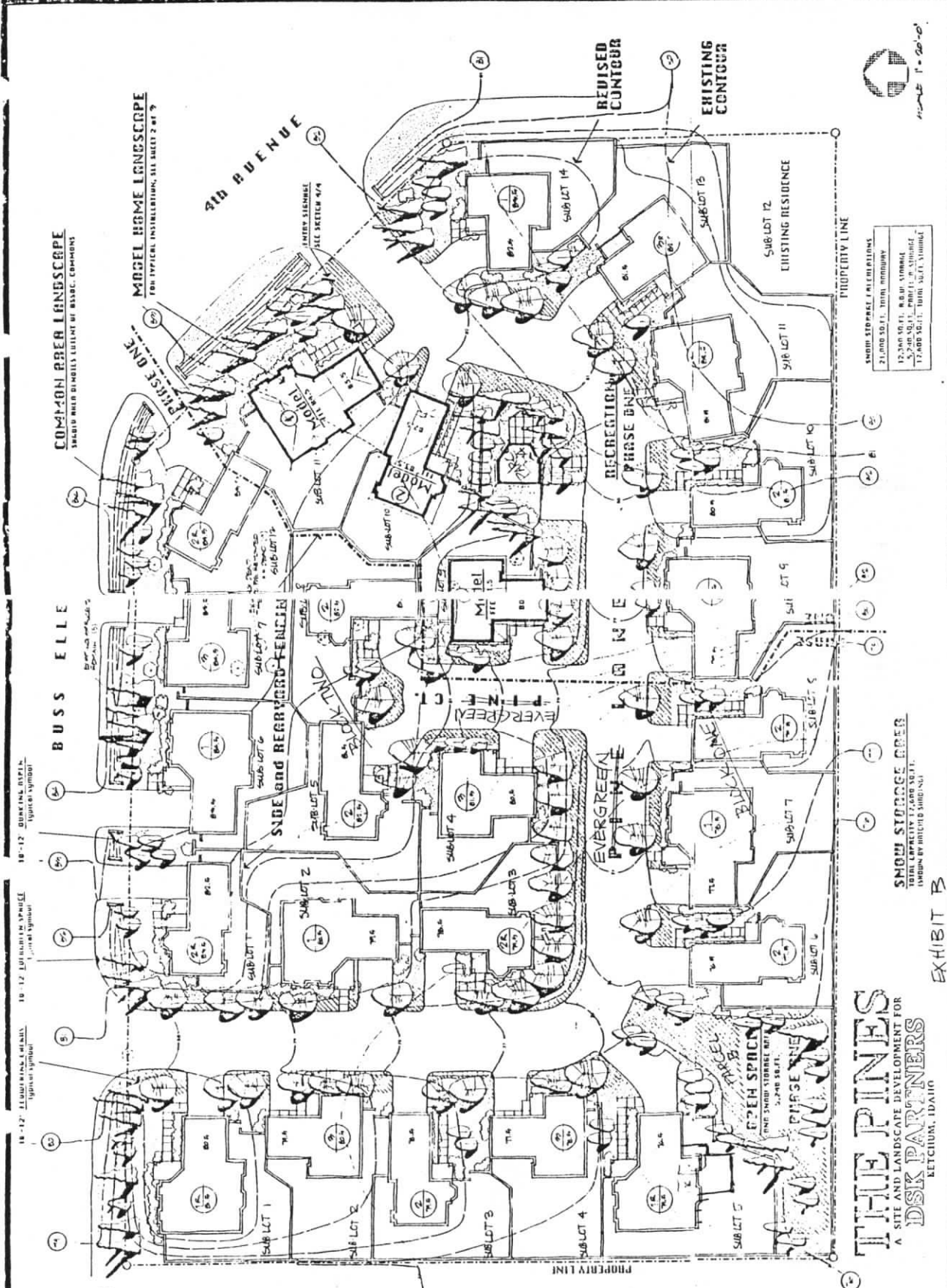
2-lot Large Block Subdivision Plat	300.00
26-lot Townhouse Plat (PUD) (Paid 3-2-89)	(3,900.00)
PUD Conditional Use Permit Application	125.00
Design Review of 25 Townhouse Units	<u>1,000.00</u>
TOTAL DUE	\$1,515.50

CERTIFIED this 31st day of March, 1989.

  
-----  
Linda Haavik  
Planning and Zoning  
Administrator



Attachment C  
Pines Master Plan



18-12' OPEN SPACE  
 (typical symbol)

18-12' EVERGREEN PLANTING  
 (typical symbol)

18-12' BUSHES  
 (typical symbol)

18-12' OPEN SPACE  
 (typical symbol)

COMMON PEAR LANDSCAPE  
 (TYPICAL SYMBOLS LISTED IN BASIC COMMENTS)

MODEL HOME LANDSCAPE  
 FOR TYPICAL INSTALLATION, SEE SHEET 2 OF 9

SMALL STORAGE PLACEMENTS

21,000 SQ. FT. TOTAL STORAGE
12,000 SQ. FT. W.D. STORAGE
5,000 SQ. FT. PAPER & SUPPLY
4,000 SQ. FT. TOOL & EQUIPMENT

SMALL STORAGE PLOT  
 TOTAL CAPACITY 27,000 SQ. FT.  
 (BASED ON 10' X 10' PLOTS)

**THE PINES**  
 A SITE AND LANDSCAPE DEVELOPMENT FOR  
**DSK PARTNERS**  
 LETCHUM, IDAHO

EXHIBIT B

# Attachment D

## PUD Evaluation Standards

**Planned United Development Standards**

Planned Unit Developments: 16.08.080 – Standards:				
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 A	<p>Minimum lot size of three 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:</p> <ol style="list-style-type: none"> <li>1. Include a minimum of 30 percent of community or employee housing, as defined in section 16.08.030 of this chapter;</li> <li>2. Guarantee the use, rental prices or maximum resale prices based upon a method proposed by the applicant and approved by the Blaine County Housing Authority and/or the Ketchum City Council; and</li> <li>3. Are on parcels that are no less than one and one-half acres (65,340 square feet). 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.</li> <li>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.</li> </ol>
			<i>Staff Comment</i>	<i>The subject property is currently within the Pines PUD which has a lot area greater than three (3) acres. The applicant is requesting a modification to the existing PUD.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 B	<p>The proposed project will not be detrimental to the present and permitted uses of surrounding areas.</p>
			<i>Staff Comment</i>	<i>The subject property is currently zoned General Residential – Low Density (GR-L) and exists as a single family residence. Other properties adjacent to the subject property and across Fourth Avenue are zoned the same and have either single family homes or duplexes.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 C	<p>The proposed project will have a beneficial effect not normally achieved by standard subdivision development.</p>
				<i>The proposed project is not proposing a subdivision development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 D	<p>The development shall be in harmony with the surrounding area.</p>
			<i>Staff Comment</i>	<i>The subject property is currently zoned General Residential – Low Density (GR-L) and exists as a single family residence. Other properties adjacent to the subject property and across Fourth Avenue are zoned the same and have either single family homes or duplexes. Staff has requested the commission determine if proposed addition is in harmony with the Pines PUD.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 E (1)	<p>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:</p> <p>a. Include a minimum of 30 percent of community or employee housing, as defined in section 16.08.030 of this chapter; and</p> <p>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.</p>
			<i>Staff Comment</i>	<i>Densities are not proposed to be transferred.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 E (2)	<p>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.</p>
			<i>Staff Comment</i>	<i>No waiver requested as density transfer not being proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 F	<p>The proposed vehicular and nonmotorized transportation system:</p> <ol style="list-style-type: none"> <li>1. Is adequate to carry anticipated traffic consistent with existing and future development of surrounding properties.</li> <li>2. Will not generate vehicular traffic to cause undue congestion of the public street network within or outside the PUD.</li> <li>3. Is designed to provide automotive and pedestrian safety and convenience.</li> <li>4. Is designed to provide adequate removal, storage and deposition of snow.</li> <li>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.</li> <li>6. Includes the use of buffers or other physical separations to buffer vehicular movement from adjacent uses.</li> <li>7. Is designed so that roads are placed so that disturbance of natural features and existing vegetation is minimized.</li> <li>8. Includes trails and sidewalks that create an internal circulation system and connect to surrounding trails and walkways.</li> </ol>
			<i>Staff Comment</i>	<i>There will be no changes to the vehicular and nonmotorized transportation system.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 G	<p>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:</p> <ol style="list-style-type: none"> <li>1.</li> </ol>

				<p>Pursuant to subsection 16.08.070.D 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.</p> <p>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.</p> <p>3. The site design should cluster units on the most developable and least visually sensitive portion of the site.</p>
			<i>Staff Comment</i>	<i>To be determined by the Commission</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 H	<b>The development plan incorporates the site's significant natural features.</b>
			<i>Staff Comment</i>	<i>Several trees which were situated on the northern side of the subject property have recently been removed. Due to the Pines PUD establishing this as a gateway to the project, the Commission must determine if the proposed addition meets this standard.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 I	<b>Substantial buffer planting strips or other barriers are provided where no natural buffers exist.</b>
			<i>Staff Comment</i>	<i>The east side of the property currently has a row of aspen trees to shield view of the PUD from 4<sup>th</sup> Avenue &amp; Williams St. As stated above, the northern side of the subject property used to contain evergreen trees to create a gateway to the development. The Commission must determine if this finding can be made.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 J	<b>Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner.</b>
			<i>Staff Comment</i>	<i>The proposed project will be completed in one phase.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 K	<b>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.</b>
			<i>Staff Comment</i>	<i>The Pines PUD was approved with more open space than otherwise would be required for development in the GR-L District. This open space was a tradeoff for waivers to reduce required building setbacks for some properties. The Commission must determine if the addition and reduction of open space is consistent with the PUD.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 L	<b>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.</b>
			<i>Staff Comment</i>	<i>A majority of the addition will be located on the northern side of the subject property. No other lots are adjacent to this portion of the project. The southern portion of the subject property is where the proposed storage room would be located. This proposed addition is located 5ft from the sub lot line. A fence also exists between the subject property and property to the south.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.08.080 M	<b>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</b>

				<p>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.</p>
			<i>Staff Comment</i>	<i>The proposed project is on an existing lot and is not proposing a new development which would require recreational facilities.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 N	<p><b>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.</b></p>
			<i>Staff Comment</i>	<i>The special objective of the original PUD was to create a cohesive and planned development with a consistent development pattern. The Commission must determine if this addition is in keeping with the design objectives of the PUD development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 O	<p><b>The development will be completed within a reasonable time.</b></p>
			<i>Staff Comment</i>	<i>The proposed project should be completed within one building season.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 P	<p><b>Public services, facilities and utilities are adequate to serve the proposed project and anticipated development within the appropriate service areas.</b></p>
			<i>Staff Comment</i>	<i>The existing lot is a single family residence which will not change. Existing public services will not be significantly impacted from the proposed addition.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.08.080 Q	<p><b>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.</b></p>
			<i>Staff Comment</i>	<i>The proposed project will require PUD amendment and building permit approval by the City. All applicable ordinances, rules and regulations of the City of Ketchum will be complied with through these processes.</i>

Attachment E  
Public Comment



**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: Conditional Use Permit application for 402 Evergreen at the entrance to the Pines HOA townhouses  
**Date:** Monday, July 18, 2022 9:46:47 AM

---

**LISA ENOURATO | CITY OF KETCHUM**

**Public Affairs & Administrative Services Manager**

P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340

o: 208.726.7803 | f: 208.726.7812

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

---

**From:** Linda M Lynch <oohbayb@gmail.com>  
**Sent:** Sunday, July 17, 2022 8:02 PM  
**To:** Participate <participate@ketchumidaho.org>  
**Subject:** Conditional Use Permit application for 402 Evergreen at the entrance to the Pines HOA townhouses

Ketchum Department of Planning and Building:

Ketchum Planning Commission ( public hearing July 26<sup>th</sup> at 4:30 PM )

Regarding the above mentioned Pines HOA townhouse residence:

The majority of the addition will be built on the front yard greenbelt area at the corner entrance to the Pines. The Pines C, C & R's prohibit structures on the front yards facing Evergreen Lane as these areas are considered common area of the Pines PUD. That is why all front yards facing Evergreen Lane are maintained by the HOA. The scope of this addition at the entrance to the Pines could be considered a negative impact on the Pines development as a result of architectural non-conformity and a significant reduction of the greenbelt area at the entrance to the Pines. Therefore I do not want this request for the addition granted.

I am a resident of the Pines HOA & live at 611 4th Ave N, Ketchum

Linda

M Lynch

**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: Oppose conditional use permit for 402 Evergreen Lane home addition  
**Date:** Monday, July 18, 2022 12:53:19 PM

---

**LISA ENOURATO | CITY OF KETCHUM**

**Public Affairs & Administrative Services Manager**

P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340

o: 208.726.7803 | f: 208.726.7812

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

---

**From:** Kendall Nelson <kendalltnelson@gmail.com>  
**Sent:** Monday, July 18, 2022 12:06 PM  
**To:** Participate <participate@ketchumidaho.org>  
**Subject:** Oppose conditional use permit for 402 Evergreen Lane home addition

Dear Department of Planning and Building,

I am writing to let you know I am OPPOSED to the building application to build an addition at 402 Evergreen Lane at the entrance of the Pines subdivision. The scope of this addition at the entrance to the Pines would be a negative impact on the Pines development as a result of architectural non-conformity and a significant reduction of the greenbelt area at the entrance to the Pines.

Additionally, our CCR's clearly prohibit such structures/additions. Please respect the other homeowners and deny this application.

Thank you for your kind consideration,

Kendall Nelson  
Pines Homeowner, 508 Evergreen Lane

**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: July 26, 2022 meeting regarding The Pines, 402 Evergreen Lane addition  
**Date:** Monday, July 18, 2022 9:46:37 AM

---

**LISA ENOURATO | CITY OF KETCHUM**

**Public Affairs & Administrative Services Manager**

P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340

o: 208.726.7803 | f: 208.726.7812

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

---

**From:** Mark Neumann <mark\_a\_neumann@hotmail.com>  
**Sent:** Monday, July 18, 2022 7:32 AM  
**To:** Participate <participate@ketchumidaho.org>  
**Cc:** 'rogerbergdahl@gmail.com' <rogerbergdahl@gmail.com>; Ryan Still <ryan@thomasjohnston.com>; Deidre Engelman <dlengelman@hotmail.com>  
**Subject:** July 26, 2022 meeting regarding The Pines, 402 Evergreen Lane addition

Dear City Planning Department,

I live in the Pines, 504 Evergreen Lane and would like to see the amended building addition plans be sent back to Pines HOA board for review as the original plans of approximately 2 years or so ago were approved, but not the amended and updated plans. In my perspective this would be the appropriate course of action. I also think an experienced real estate attorney can help guide our HOA to a proper decision.

Though, it appears that the addition does not conform to the Pines HOA CC&R's per paragraph 1.10 of the attached Pines CC&R's stipulates **“Front Yard Areas (a defined term) shall hereinafter initially mean and refer to that portion of a Lot that is facing the Private Road or other street, unobstructed by any fence or structure.”** So, it appears that the building expansion into the Front Yard violates The Pines H.O.A CC&R's.

I believe it would be beneficial to have this reviewed by a real estate attorney with P.U.D. HOA experience to help us with an informed decision. It is my understanding that P.U.D.s act more like a condominium association than a single-family dwelling property, therefore front yard common areas, which are maintained by the H.O.A. are not to have any building or structure in the space. It is my understanding that the P.U.D. maintains an equal use of space for all homeowners and not case by case circumstances based on frontage space, similar to that of a townhouse or condominium P.U.D.

Anyway, I think it best to have this updated plan reviewed by the HOA board and a real estate attorney with P.U.D. experience. This would help simplify the decision and process for HOA board and homeowner. Then an appropriate decision can be made one way or the other.

Sincerely,  
Mark Neumann

**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: The Pines - Public Meeting | Object to CUP P22-033  
**Date:** Tuesday, July 19, 2022 4:37:31 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)

---

**LISA ENOURATO | CITY OF KETCHUM**

Public Affairs & Administrative Services Manager  
P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340  
o: 208.726.7803 | f: 208.726.7812  
[lenourato@ketchumidaho.org](mailto:lenourato@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

---

**From:** Jon Pharris <[jon@caprock-partners.com](mailto:jon@caprock-partners.com)>  
**Sent:** Tuesday, July 19, 2022 2:52 PM  
**To:** Participate <[participate@ketchumidaho.org](mailto:participate@ketchumidaho.org)>  
**Subject:** The Pines - Public Meeting | Object to CUP P22-033

Ketchum Department of Planning and Building  
P.O. Box 2315  
Ketchum, Idaho 83340

RE: Conditional Use Permit P22-033  
402 Evergreen Lane Building Expansion

Dear Planning Commissioners,

We are the owners of 507 Evergreen Lane in The Pines PUD project and as such we object to the proposed building addition to 402 Evergreen Lane and their proposed Conditional Use Permit application. Our concerns are as follows:

1. PUD developments such as the Pines PUD typically provide for consistent and conforming building design and footprints throughout the project.
2. From inspection of the proposed elevations and building plans we believe the proposed design and size are inconsistent with the overall architectural integrity of the Pines development.
3. The proposed addition will increase the building square footage by 32% which goes beyond the purview of the Pines PUD development.
4. The proposed addition will remove a significant portion of the greenbelt at the South corner of The Pines entrance from Fourth Street which will create an unbalanced landscape element at the main gateway to the Pines. As it is, three beautiful mature evergreen trees have ALREADY been by the applicant.
5. If a Conditional Use Permit for the addition is approved a precedent will be set for other home additions which would further detract from the Pines architectural integrity.
6. All these issues subtract from the harmonious look and feel of the Pines development and can negatively affect property values in The Pines.
7. Modifications dated March 19, 2022 have been made to the proposed building expansion plans which may not have been seen or approved by the Pines HOA board.

**And, Paragraph 1.10 of the attached Pines CC&R's stipulates "Front Yard Areas (a defined term) shall hereinafter initially mean and refer to that portion of a Lot that is facing the Private Road or other street, unobstructed by any fence or structure." Thus, it appears that the building expansion into the Front Yard violates The Pines HOA CC&Rs.**

For all of these reasons, I strongly urge the commissioners to **NOT** approve the CUP.

Thank you,



**Jon Pharris**  
CO-FOUNDER & PRESIDENT

[jon@caprock-partners.com](mailto:jon@caprock-partners.com) | [www.caprock-partners.com](http://www.caprock-partners.com)



This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in the future then please respond to the sender to this effect.



**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: 402 Evergreen encroachment  
**Date:** Tuesday, July 19, 2022 4:37:02 PM

---

LISA ENOURATO | CITY OF KETCHUM  
Public Affairs & Administrative Services Manager  
P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340  
o: 208.726.7803 | f: 208.726.7812  
lenourato@ketchumidaho.org | www.ketchumidaho.org

-----Original Message-----

From: Hillary Ridland <HIC007@ridland.net>  
Sent: Tuesday, July 19, 2022 12:55 PM  
To: Participate <participate@ketchumidaho.org>  
Cc: Robert Ridland <robert@ridland.net>  
Subject: 402 Evergreen encroachment

Hello,

My husband and I own the home at 401 Evergreen and have strong objections regarding the Conditional Use Permit at 402 Evergreen. While we have not seen the plans as of yet, 620 additional sq feet of house right in front of us is not acceptable. Our home value will be affected as will the beautiful entrance to The Pines. In addition, our CC&R's don't allow it! I request you hold hard before permitting this to take places and look into what may follow if you grant this permit. I am available at any time to discuss.

949-633-4040

Hillary Ridland

Robert Ridland

Sent from  
H Paige 007

**From:** [Participate](#)  
**To:** [Suzanne McCollum](#)  
**Subject:** FW: Conditional use permit for 402 Evergreen Lane  
**Date:** Monday, July 18, 2022 11:38:11 AM

---

LISA ENOURATO | CITY OF KETCHUM  
Public Affairs & Administrative Services Manager  
P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340  
o: 208.726.7803 | f: 208.726.7812  
lenourato@ketchumidaho.org | www.ketchumidaho.org

-----Original Message-----

From: Mary Ann Timbuck <timbuckrivera@yahoo.com>  
Sent: Monday, July 18, 2022 10:50 AM  
To: Participate <participate@ketchumidaho.org>  
Subject: Conditional use permit for 402 Evergreen Lane

Mary Ann and Lyle Rivera, address 510 Evergreen Lane, want to go on record as AGAINST the Conditional Use Permit for a building addition at 402 Evergreen Ln.  
The Pines CC&Rs prohibit a structure like this and we feel it would be detrimental to the Pines community .  
Thank you, Lyle and Mary Ann Rivera  
Sent from my iPhone



**From:** [Participate](#)  
**To:** [Adam Crutcher](#)  
**Subject:** Fwd: 402 Evergreen Lane  
**Date:** Monday, July 18, 2022 6:20:55 PM

---

FYI—for the project file.

Begin forwarded message:

**From:** Marnie <mholen@comcast.net>  
**Date:** July 18, 2022 at 3:42:17 PM MDT  
**To:** Participate <participate@ketchumidaho.org>  
**Subject:** 402 Evergreen Lane

Dear Building Department,

I am a Pines owner, 100 Buss Elle and I do not agree with the addition to 402 Evergreen Lane.

As a former architect; setbacks are designed to keep distance between neighbors, for safety, for green space and conservation of land. It's one thing to apply for a variance on your own property, and something completely different when they were asking to use green space allotted to the whole Pines neighborhood. We were never asked as an entire neighborhood how we felt about this. It is my understanding that a small subcommittee gave approval. I'm also wondering about the trees cut down on this lot as well.

I am one of the longest owners in the Pines. I think I have owned it 20 years and I grew up in Ketchum. What I love about the Pines; is that the homes are small, tasteful, not overbearing to their lots and they are all about the same size. This makes property values and resale equal amongst us.

If you can't build a big enough house for your needs within your own building envelope, then find a bigger home somewhere else. The rest of us aren't taking neighborhood land to extend our homes.

Thanks for your time, Marnie Holen

Sent from my iPhone

July 18, 2022

Ketchum Department of Planning and Building  
P.O. Box 2315  
Ketchum, Idaho 83340

**RE: Conditional Use Permit P22-033  
402 Evergreen Lane Building Expansion**

Dear Commissioners,

We are the owners of 416 Evergreen Lane in The Pines PUD project and as such we object to the proposed building addition to 402 Evergreen Lane and the Conditional Use Permit application. Our concerns are as follows: 1.) PUD developments such as the Pines PUD typically provide for consistent and conforming building design and footprints throughout the project. 2.) From inspection of the proposed elevations and building plans we believe the proposed design and size are inconsistent with the overall architectural integrity of the Pines development. 3.) The proposed addition will increase the building square footage by 32% which goes beyond the purview of the Pines PUD development. 4.) The proposed addition will remove a significant portion of the greenbelt at the South corner of The Pines entrance from Fourth Street which will create an unbalanced landscape element at the main gateway to the Pines. As it is, three mature evergreen trees have been removed by the applicant. 5.) If a Conditional Use Permit for the addition is approved a precedent will be set for other home additions which would further detract from the Pines Architectural integrity. 6.) All these issues subtract from the harmonious look and feel of the Pines development and can possibly have a negative effect on property values in The Pines.

7.) Furthermore paragraph 1.10 of the attached Pines C, C & R's stipulates "**Front Yard Areas (a defined term) shall hereinafter initially mean and refer to that portion of a Lot that is facing the Private Road or other street, unobstructed by any fence or structure.**" So, it appears that the building expansion into the Front Yard violates The Pines HOA C, C, & R's. 8.) Finally, modifications dated March 19, 2022 have been made to the proposed building expansion plans which may not have been seen or approved by the Pines HOA board.

Thank you for your consideration of our concerns. If you have any questions regarding the aforementioned, please call us at 208-726-2106 or send an email to [jim.biondi@nmrk.com](mailto:jim.biondi@nmrk.com).

Sincerely,

James and Jean Biondi  
416 Evergreen Lane  
Ketchum, ID 83340

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR THE PINES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 13th day of November, 1989, by DEVELOPMENT ASSOCIATES (hereinafter referred to as "Declarant").

RECITALS

A. Declarant is the owner in fee of all of the following described real property (the "Property") situated in the County of Blaine, State of Idaho, to-wit:

The Pines P.U.D., Ketchum, Idaho, defined as Lots 1 through 14 inclusive, Block 2 and Lots 1 through 12 inclusive, Block 1, and Outlots A & B, T4N, R17E, Boise Meridian, Blaine County, Idaho.

B. Declarant desires to establish on the Property a residential community which is designed to maximize the use of available land and which contains residential dwelling units thereon known as "zipper lot" homes, with open spaces, private roads and drives and parking areas created for the benefit of said community through the granting of specific rights, privileges and easements of enjoyment which may be shared and enjoyed by all the residents thereof.

C. Declarant desires to assure the attractiveness of the individual lots and common facilities within the Property; to prevent any future impairment thereof; to prevent nuisances; to preserve, protect and enhance the values and amenities of the Property; and to provide for the maintenance of said open spaces, private drives and parking areas. In order to achieve these objectives, the Declarant is desirous of subjecting the Property to the covenants, conditions, restrictions, easements, charges and liens set forth herein, each and all of which is and are for the benefit of the Property and each Owner thereof.

D. In order to preserve, protect and enhance the values and amenities of the Property, and to assure the residents' enjoyment of the rights, privileges and easements granted herein, the Declarant has deemed it desirable to create an organization, which shall be delegated and assigned the powers of owning, controlling, and administering all or various portions of the Property, and also administering and enforcing the covenants and restrictions herein set forth, together with collecting, dispersing and accounting for the assessments and charges herein contemplated. To this end, the Declarant has caused to be incorporated under the laws of the State of Idaho, a non-profit corporation, The Pines Homeowners Association.

SECTION I  
DEFINITIONS

1.1 Association. "Association" shall hereinafter mean and refer to The Pines Homeowners Association, an Idaho non-profit corporation, its successors and assigns. The Association shall act by and through its Board of Directors and its elected officers.

1.2 Board. "Board" shall hereinafter mean and refer to the Board of Directors of the Association.

1.3 Class I Lot. "Class I Lot" shall hereinafter mean and refer to any Lot owned by any Owner other than the Declarant.

1.4 Class II Lot. "Class II Lot" shall hereinafter mean and refer to any Lot owned by the Declarant.

1.5 Common Area. "Common Area" shall hereinafter mean and refer to those parcels of real property identified as Outlots 1 and 2 on the plat for The Pines, as recorded in the office of the Clerk and Recorder of Blaine County, Idaho. The term "Common Area" shall include all common parking areas for the use of Owners, their guests and invitees, detention and snow removal areas, cabana and deck.

1.6 Common Fence. "Common Fence" shall hereinafter mean and refer to any fence erected as part of the original construction or as a subsequent replacement therefor, other than a Private Yard Fence, which separates Lots from one another along property lines; except for the situation that arises when a windowless exterior wall of the Residence faces the living area of an adjacent Residence. Whenever this situation occurs, the alignment of the common Fence shall deviate from the Property line in order to attach to the windowless exterior wall, thereby creating a special use easement for the benefit of the adjacent Resident. Such fences are depicted on the Plat of The Pines, recorded in the County of Blaine, State of Idaho.

1.7 Common Fence Owner. "Common Fence Owner" shall hereinafter mean and refer to an Owner of a Residence appurtenant to which is a Common Fence.

1.8 Declarant. "Declarant" shall hereinafter mean and refer to Development Associates, and its successors and assigns.

1.9 Declaration. "Declaration" shall hereinafter mean and refer to this Declaration of Covenants, Conditions and Restrictions.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS - 2

1.10 Front Yard Areas. "Front Yard Areas" shall hereinafter initially mean and refer to that portion of a Lot that is facing the Private Road or other street, unobstructed by any fence or structure.

1.11 Lot. "Lot" shall hereinafter initially mean and refer to The Pines P.U.D., Lots 1 to 14, Block 2; and Lots 1 to 12, Block 1; located on the Plat for The Pines, as recorded in the office of the Clerk and Recorder of Blaine County, Idaho, subject to lot line modification by the Declarant pursuant to Article 2.42 of ordinance 316, Subdivision Ordinance of Ketchum, Idaho, prior to closing individual lots; and shall include any Residence constructed thereon. "Lot" shall hereinafter also mean and refer to any platted lot located within the Property.

1.12 Mortgage. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging a Lot as security for the payment of a debt or obligation.

1.13 Mortgagee. "Mortgagee" shall mean any person, corporation, partnership, trust, company or other legal entity which takes, holds, owns, or is secured by a mortgage.

1.14 Motor Vehicle. "Motor Vehicle" shall mean passenger vehicles and pick-up trucks up to 3/4 ton G.V.W.

1.15 Outlot. "Outlot" shall hereinafter initially mean and refer to Outlot A, B and Lot 12 of Block 2 in the plat for The Pines, as recorded in the office of the Clerk and Recorder of Blaine County, Idaho. Outlots A and B shall initially consist of the Recreation Facility and snow storage detention area and Lot 12 of Block 2 shall consist of an existing single family structure and shall not be subject to this Declaration.

1.16 Owner. "Owner" shall hereinafter mean and refer to any record owner, whether a natural person or an entity, of a fee simple title interest (including a contract seller and excluding a contract purchaser) to any Lot; but excluding, however, any such record owner having such an interest therein merely as a Mortgagee. When a person who is an Owner conveys or otherwise assigns of record his fee simple title interest to a Lot, then, retroactive to the date of such conveyance or assignment, such person shall thereafter cease to be an Owner; provided, however, the foregoing shall not in any way extinguish or otherwise void any unsatisfied obligation of such person which existed at the time of such conveyance or assignment, specifically including without limiting the generality of the foregoing, any unsatisfied obligation to pay Association assessments.

1.17 Private Yard Fence. "Private Yard Fence" shall hereinafter mean and refer to any fence erected as a part of the original construction, or as a subsequent replacement therefor,

which connects two Residences and which separates the front yard of both Residences from the side or backyard of either Residence.

1.18 Private Yard Fence Owner. "Private Yard Fence Owner" shall hereinafter mean and refer to the Owner of a Residence whose side or backyard faces a Private Yard Fence.

1.19 Property. "Property" shall hereinafter mean and refer to the following-described real property, to-wit:

The Pines P.U.D., Ketchum, Idaho, defined as Lots 1 through 14 inclusive, Block 2 and Lots 1 through 12 inclusive, Block 1, and Outlots A & B, T4N, R17E, Boise Meridian, Blaine County, Idaho.

1.20 Residence. "Residence" shall hereinafter mean and refer to a single-family home or other similar single-family residential unit constructed upon a Lot for the permanent occupancy of an Owner and his or her family.

SECTION II  
OWNER'S PROPERTY RIGHTS IN COMMON AREA  
AND ON PRIVATE ROADS

2.1 Easements of Enjoyment, Ingress and Egress. Every Owner shall have, in conjunction with all other Owners, a right and easement of enjoyment in and to the Common Area and a right and easement of ingress and egress upon and across the Common Area and Private Roads for the purpose of getting to and from such Owner's Lot, which rights and easements shall be appurtenant to and pass with the conveyance of title to the Owner's Lot and Residence; provided, however, that such rights and easement shall be subject to the following:

2.1.1 The covenants, conditions, restrictions, easements, reservations and other provisions contained in this Declaration and contained in the plat of the Property recorded in the office of the Clerk and Recorder of Blaine County;

2.1.2 The right of the Association to suspend the rights of any Owner to vote upon Association matters and to suspend any and all rights of any Owner to the use of the Common Area for any period during which any Association assessment against such Owner or against such Owner's Lot remains result of the Owner's infraction, or the infraction by any member of the Owner's family or by the Owner's guests, of any published rule or regulation of the Association;

2.1.3 The right of the Association to dedicate or otherwise transfer, convey, or assign all or any part of the

Common Area, or grant easement or any other interest therein or any facility located thereon, to any public agency, public authority, or utility company for such purposes and subject to such conditions as may be agreed to in the instrument or instruments evidencing such dedication or transfer, conveyance, or assignment; provided, however, that any such dedication or transfer, conveyance, or assignment shall require the approval of at least two-thirds (2/3) of the Class I voting membership of the Association in attendance, in person, or by proxy, at a meeting duly called for such purposes and the approval of the Class II member, if any, such approvals to be reflected in an instrument recorded with the Clerk and Recorder of Blaine County, Idaho;

2.1.4 The right of the Association to adopt, from time to time, rules and regulations concerning pedestrians and vehicular traffic and travel upon, in, under, and across the Common Area and Private Roads; and

2.1.5 The right of the Association to adopt, from time to time, reasonable rules and regulations concerning use of the Common Area as the Association may determine as necessary and prudent.

2.1.6 In addition to any other enforcement rights described in this Declaration and the By-Laws, or authorized by law and subject to any restrictions on the Association's enforcement rights, including and due process requirements, imposed by this Declaration, the By-Laws or the law, the Association may take any of the following actions against any person or entity whose act or failure to act violates or threatens to violate any provisions of this Declaration, the By-Laws, or Association Regulations:

- (a) Impose monetary penalties including late charges and interest;
- (b) Suspend voting rights in the Association;
- (c) Suspend use privileges for the Common Area; and
- (d) Commence a legal action for damages, injunctive relief, or both.

The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. Any legal action may be brought in the name of the Association on its own behalf and on behalf of the Owner who requests such action, and the prevailing party and any such action shall be entitled to recover costs and reasonable attorney's fees. The Association may take more than one of the foregoing enforcement actions against any one violation



or threatened violation, providing that a suspension of use privileges shall not exceed thirty (30) days (unless a suspension is for delinquent assessments) and a monetary penalty shall not exceed \$500.00 (excluding late charges imposed for delinquent assessments) for any violation. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action, under such terms and conditions as it considers appropriate.

Amounts owing by Owners pursuant to this Section may be collected by the Association by assessment as provided by this Declaration and any amendments thereto.

An Owner shall be given fifteen (15) days prior notice before the imposition of any disciplinary action and the reasons for such action. The notice shall be hand delivered, or mailed certified, return receipt requested, to the Owner's last known address. The Owner shall have the opportunity to be heard, orally or in writing by a majority of the Board of Directors not less than five (5) days before the imposition of the penalty.

The Association may not cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot except by judgment of a court or decision arising out of arbitration or on account of foreclosure or sale under power of sale for a failure of the Owner to pay assessments duly leveled by the Association.

The Association may exercise any other right or privilege given to it 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 it herein or are reasonably necessary to effectuate any such right or privilege.

2.2 Delegation of Use. Every Owner shall have the right, subject to rules and regulations promulgated by the Association, to extend the rights and easements of enjoyment vested in him herein to each of his occupants and to each member of such Owner's family who resides with him or her within the Property and such other persons as may be permitted by the Association.

2.3 Conveyance of Common Area. Declarant shall convey fee simple title to the Common Area within the Property to the Association prior to the first closing of the sale of a Lot within the Property.

SECTION III  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Membership. Every Owner of a Lot shall be a member of the Association. Membership in the Association shall be

appurtenant to and may not be separated from fee simple title ownership of such Lot.

3.2 Present Status of Lots. As of the date of execution of this Declaration, all Lots are Class II Lots, and Declarant is the Owner of all Lots in the Property.

3.3 Classes of Voting Membership. Subject to Section 3.4, the Association shall have two classes of voting membership whose voting rights shall be as follows:

3.3.1 The first class of voting membership shall be known as "Class I Voting membership" and shall be comprised of all Owners of Class I Lots. Each Owner of a Class I Lot shall be entitled to one (1) vote. Whenever more than one person is an Owner of a particular Class I Lot, all of the Owners of such Class I Lots shall be members of the Association and the vote applicable to such Class I Lot shall be exercised as such Owners may among themselves determine, but in no event shall more than one vote be cast with respect to each Class I Lot; and

3.3.2 The second class of voting membership shall be known as "Class II Voting Membership" and the Declarant shall be the sole Class II member. The Declarant shall be entitled to three (3) votes for each Class II Lot owned.

3.4 Termination of Class II Voting Membership. Upon the happening of either of the events set forth below in Paragraphs 3.4.1, 3.4.2 or 3.4.3 (whichever first occurs) the Association shall thereafter have one class of voting membership which shall be Class I membership. Subsequent to such event, all Owners, including the Declarant, shall be entitled to one vote for each Lot owned. Such events are:

3.4.1 When the total votes outstanding in the Class I Voting Membership equal the total outstanding in the Class II Voting Membership; or

3.4.2 On January 1, 1999; or

3.4.3 On such date as Declarant shall voluntarily relinquish its Class II voting membership.

3.5 Owner's Address for Notices. Unless an Owner shall have notified the Association by registered or certified mail of a different address, any notice required to be given, or otherwise give, by the Association under this Declaration to any Owner may be mailed to such Owner in a postage prepaid envelope and mailed by first class, registered or certified mail, to the address of the Lot shown upon the Association's records as being owned by such Owner. A notice in accordance with the foregoing will be deemed

to have been given by the Association on the date that it is mailed.

3.6 Personal Liability. No member of the Board or of any committee of the Association, or any officer of the Association, shall be personally liable to any Owner, or any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person or entity, if such person or entity has, on the basis of such information as may be possessed by him or her, acted in good faith without willful or intentional misconduct.

#### SECTION IV ASSESSMENTS

4.1 Covenant of Personal Obligation of Assessments. Every Owner of every Class I Lot, by acceptance of the deed (or other instrument of conveyance) is deemed to personally covenant and agree, jointly and severally, and hereby does so covenant and agree, to pay to the Association: (a) monthly assessments; (b) special assessments; and (c) default assessments applicable to such Class I Lot; such assessments to be established and collected as hereinafter provided. No Owner may waive or otherwise escape personal liability for the payment of the assessments provided for herein by non-use of the Common area or by abandonment or leaving of such Owner's Class I Lot.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, convenience, and general welfare of the Owners, including the improvement and maintenance of the Common Area. Proper use of the assessments levied by the Association shall include, but are not limited to, the expenditures or funds for taxes, fees, expenses, charges, levies, premiums, expenditures, or other costs incurred by the Association for:

- (a) Repairing, replacing, insuring and maintaining the Common Area and improvements thereon;
- (b) Installation, maintenance (including snow removal), and repair of Private Roads and underground utilities upon, across, over and under any part of the Common Area and over and under any part of the Front Yard Areas;
- (c) Installation, maintenance and repair of asphalt paving, curbs, gutters and drainage swales on any Private Roads located in the Property;
- (d) Providing services to the Common Area such as mowing grass, caring for the grounds and sprinkling and

irrigation system, landscaping, trees, shrubs, grass, walkways and pathways;

- (e) Repair and maintenance of all Common Parking Areas as hereinafter described;
- (f) Carrying out the powers and duties of the Association;
- (g) Providing services to the front yards of all Lots, such as mowing grass, caring for the grounds and sprinkling and irrigation system, landscaping, trees, shrubs, grass, walkways and pathways;
- (h) Providing for the establishment of an adequate reserve fund for the maintenance, repair and replacement of Common Areas on a periodic or "as needed" basis, which reserve fund shall be a part of the regular monthly assessments;
- (i) Initial installation of Private Yard Fences and Common Fences exclusive of gates. Declarant shall make gate details available to Lot Owner upon request; and
- (j) Any other purposes and uses that the Board shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of reserves for repair, maintenance, taxes and the other uses specified above.

4.3 Assessment Years. The first assessment year for the levying of the Association's monthly assessments shall commence upon the first day of the month immediately following the date of the recording with the Clerk and Recorder of Blaine County of the Declarant's first conveyance of the Common Area to the Association (provided, however, that if the date of recording of such conveyance of the Common Area shall be on the first day of a month, then such date shall be the commencement date for the first assessment year) and shall continue thereafter until the following 31st of December. Subsequent assessment years shall thereafter commence on the first day of January and continue until the following 31st of December.

4.4 Amount of Monthly Assessments. The Association's monthly assessments to be levied by the Association on all Class I Lots with single-family Residences thereon for the first two (2) years after the date of recording of this Declaration shall be in an amount, as determined by the Board, not to exceed One Hundred Dollars (\$100.00) per month. The maximum monthly assessments for any particular assessment year shall be in such amount, as is determined by the board.

4.5 Determination of Amount of Monthly Assessments. So long as the Association's monthly assessments for a particular assessment year shall not exceed the maximum monthly assessments for the first two (2) assessment years, as provided in Section 4.4 above, or thereafter be increased by the Board by more than eight percent (8%) per annum, the Board may determine and levy such monthly assessments without a vote or approval being required of either Class of voting membership of the Association. If, however, the Board shall desire to levy monthly assessments for a particular assessment year which shall be in excess of the amount of the monthly assessments for the assessment year immediately preceding the particular assessment year plus eight percent (8%), then the Board shall give written notice thereof to all Owners at least thirty (30) days in advance of the commencement date of the particular assessment year and the approval of sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) of the Class I members plus the Class II member, if any, for a particular assessment year in accordance with the foregoing sentence, then the monthly assessments for that particular assessment year shall be deemed to be the same as the monthly assessments for the assessment year immediately preceding that particular assessment year.

4.6 Special Assessments. Generally, in addition to the monthly assessments authorized above, the Board may, at any time and from time to time, determine and levy in any assessment year a special assessment applicable to that particular assessment year for the purpose of defraying, in whole or in part, the costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, or maintenance of the Common Area, and Front Yard Areas specifically including any fixtures, personal property and other improvements related thereto and repaid and maintenance of Private Roads within the Property, if any; provided, however, that any such special assessment shall be approved by at least two-thirds ( $\frac{2}{3}$ ) of the Class I voting membership of the Association in attendance, in person or by proxy, at a meeting duly called for such purpose and by the Class II member, if any.

4.7 Reserve for Improvements, Repairs and Replacements. As a part of any annual or special assessments described aforesaid, the Association may levy and establish in any assessment year, a reserve fund for the maintenance, repair and replacement of Common Areas, Private Roads and Front Yard Areas within the Property and any improvements thereon, if any, or for the future construction or improvement thereon. Any funds so collected shall be designated by the Board of Directors of the Association as capital contributions by the members thereof and shall be segregated and placed in a separate bank account of the Association to be utilized solely for the purposes aforesaid.

4.8 Notice and Quorum Requirements for Certain Actions. Written notice of any meeting of the classes of voting membership of the Association shall be given by the Board to each Owner not

less than ten (10) days prior to such meeting and shall notify the Owner of the purpose, date, time and location of such meeting. At such meeting called, the attendance, in person or by proxy, of at least fifty percent (50%) of the Class I membership of the Association and the Class II member thereof shall constitute a quorum. If the required quorum is not present at such meeting called, then subsequent meetings may be called, subject to the same notice requirements and the required quorum at each subsequent meeting shall be one-half (1/2) of the required Class I members required at the preceding plus the Class II member. No such subsequent meeting shall, however, be held less than ten (10) nor more than thirty (30) days following the preceding meeting.

4.9 Due Dates for Assessment Payments. Unless otherwise determined by the Board, the monthly assessments and any special assessments which are to be paid in monthly installments shall be paid monthly, in advance, and shall be due and payable to the Association at its office, without notice, on the first day of each month. If any such assessment shall not be paid within fifteen (15) days after it shall have become due and payable, then the Board may assess a "late charge" thereon in an amount not exceeding Ten Dollars (\$10.00) which amount may be adjusted by the Board from time to time to cover the extra expenses involved in handling delinquent assessment payments.

4.10 Exempt Property and Declarant's Financial Obligations.

(a) The following property subject to this Declaration shall be exempt from the monthly and special assessments created herein:

(i) All property dedicated to and accepted by a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Idaho; provided, however, that none of such properties which are devoted to residential dwelling use shall be exempt from such assessments;

(ii) The Common Areas;

(iii) All Class II Lots;

(iv) All Class I Lots owned by Declarant, except as provided in Subsection 4.10(b) below;

(v) All Outlots.

(b) Declarant shall be obligated, until its Class II membership shall terminate pursuant to Section 3.4 hereof, to contribute monthly to the Association such amounts, if any, as will offset any deficits of the Association, excluding from such contributions, however, any deficits resulting from any

special assessments pursuant to Section 4.6, or any reserve for improvements pursuant to Section 4.7.

4.11 Liens for Assessments. The monthly and special assessments provided for in this Section IV, and any and all default assessments arising under the provisions of Sections 6.4, 7.2, 9.1 and 9.2, (together with any and all interest, costs, late charges, expenses, and reasonable attorney's fees which may arise under this Section IV), shall be burdens running with, and a perpetual lien in favor of the Association upon, the specific Lot and Residence to which such assessments apply. To evidence and perfect such lien upon a specific Lot and Residence, the Board shall prepare a written lien notice setting forth the description of the Lot, the amount of assessments thereon which are unpaid as of the date of such lien notice, the name of the Owner thereof, and any and all other information that the Board may deem proper. The lien notice shall be signed by the President or a Vice-President of the Association, or such other person as may be so authorized by the Board whose signature shall be attested by the Secretary or an Assistant Secretary of the Association, and shall be recorded in the office of the Clerk and Recorder of Blaine County, Idaho.

4.12 Effect of Non-Payment of Assessments. If any monthly assessment or special assessment, or any monthly installment thereof, is not fully paid within thirty (30) days after the same becomes due and payable, or if any default assessment shall arise under the provisions of Sections 6.4, 7.2, 9.1 or 9.2, then in any of such events, interest shall accrue at the rate of ten percent (10%) per annum from the due date on any amount thereof which was not paid within such thirty (30) day period or on the amount of the assessment in default, whichever shall be applicable. The Association shall, within a reasonable time after perfecting its lien as described in 4.11 above, if such assessments remain unpaid, thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same and shall also proceed to foreclose its lien against the specific Lot and Residence in the manner and form provided by Idaho for foreclosure of mechanics' liens in and through the courts. In the event that any such assessment is not paid in full when due and the Association shall commence such an action (or shall counterclaim or cross-claim in any such action) against any Owner personally obligated to pay the same or shall proceed to foreclose its lien against the specific Lot and Residence, then the late charges under Section 4.9, the Association's costs, expenses, and reasonable attorney's fees incurred for preparing and recording any lien notice, and the Association's costs of any such action or proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds from the foreclosure sale of the specific Lot and Residence in satisfaction of the Association's lien. Foreclosure or attempted foreclosure by the Association of its foregoing lien shall not be deemed to estop or otherwise preclude the Association from

thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments which are not fully paid when due or for any subsequent default assessments. The Owner of any Lot being foreclosed upon shall be required to pay to the Association all monthly assessments for the Lot during the period of foreclosure, and the Association shall be entitled to a receiver appointed to collect the same. The Association shall have the power and right to bid in or purchase any Lot and Residence at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the Association vote appurtenant to ownership thereof, convey, or otherwise deal with the same.

4.13 Successors' Liability for Assessments. Notwithstanding the personal obligation of each Owner of a Lot to pay all assessments thereon and notwithstanding the Association's perpetual lien upon a Lot for such assessments, all successors in interest to the fee simple title of a Lot shall be jointly and severally liable with the prior Owner thereof for any and all unpaid assessments, interest, late charges, costs, expenses and attorney's fees against such Lot (as more fully described in Section 4.12), without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor; provided, however, that a successor in interest to the fee simple title of a specific Lot shall be entitled to rely upon the existence and status, or absence thereof, of unpaid assessments, interest, late charges, costs, expenses, and attorney's fees as shown upon any certificate issued by the Association to such named successor in interest pursuant to Section 4.14.

4.14 Certificate of Status of Assessments. Upon request in writing by any person and payment of a reasonable charge therefor, the Association shall furnish within fourteen (14) days after such request is received, a certificate setting forth the amount of any unpaid assessments, interest, late charges, costs, expenses and attorney's fees then existing against a specific Lot, the amount of the current monthly assessments and the date that the next monthly assessment is due and payable, and the amount of any special assessments and default assessments then existing against the Lot and the date of the payment or payments thereof. Upon the issuance of such a certificate signed by the officer of the Association, the information contained therein shall be conclusive upon the Association.

## SECTION V INSURANCE

### 5.1 Public Liability and Additional Insurance Coverage.

(a) Each Owner shall obtain in his own name, and keep in force at all times during his ownership of a Residence, public



liability insurance in minimum amounts prescribed from time to time by the Association.

(b) Any Owner may, if he so desires and at the Owner's sole expense, carry any and all other insurance coverage the Owner deems advisable.

5.2 Association's Duty to Obtain and Maintain Insurance. The Association shall obtain and maintain in force at all times a broad form public liability insurance policy, or similar substitute, covering the Common Area, Private Roads, Front Yard Areas and the acts of the Association and its agents. Such insurance may include coverage against vandalism and the Association may maintain any and all other insurance coverage as the Board may deem advisable including, but not limited to liability insurance for officers and Directors. Such insurance coverage may be written in the name of the Association, as trustee, for all Owners.

5.3 Damage or Losses from Association's Insured Hazards. In the event of loss, damage, or destruction by fire or other casualty to any property covered by insurance written in the name of the Association or for which the Association is named as co-insured, whether in its own name or as trustee, the Board shall, upon receipt of the insurance proceeds, contract to repair, reconstruct, or rebuild any damaged or destroyed portions of the Common Area or Front Yard Areas to as good condition as formerly existed. All insurance proceeds received by the Association shall be deposited in a bank, savings and loan association, or other financial institution with the proviso agreed to by said bank, or association, or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board. The Board or, if it shall be agreed to by the Board, the insurance company or companies providing insurance proceeds, shall advertise for sealed bids from any licensed contractor, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction, or rebuilding of such destroyed Common Area.

5.4 Fidelity Bonds. The Association shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all other persons responsible for the handling of funds of the Association. Such fidelity bonds shall meet the following requirements:

(a) All such fidelity bonds shall name the Association as an obligee;

(b) Such fidelity bonds shall be written in an amount equal to at least One Hundred Fifty Percent (150%) of the estimated annual operating expenses of the Association, including reserves; and

(c) Such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who served without compensation from any definition of "employee" or similar expression.

SECTION VI  
ARCHITECTURAL AESTHETICS

6.1 Architectural Controls. In order to maintain the architectural aesthetics of the Property, no improvements, building or other structures, and no fences (including Private Yard Fences and Common Fences), gates, walls, patios, planters or other similar items shall be commenced, constructed, erected, altered (specifically including the altering of the exterior of any Residence) remodeled, or maintained upon a Lot, nor shall any exterior addition, change, or alteration thereon be made until the plans and specifications accurately showing the nature, kind, shape, dimensions, materials, color and location of the same shall have been submitted to, and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, by the Board or by an Architectural Review Committee composed of three or more representatives appointed by the Board. In the event the Board, or the Architectural Review Committee, if one then exists, fails to approve or disapprove such plans and specifications within sixty (60) days after the same have been submitted, then such plans and specifications shall be deemed to have been approved as submitted.

6.2 Standards for Approval. Approval shall be based, among other things, on: conformity and harmony of exterior design, colors and materials with neighboring structures; relations of the proposed improvements to the natural topography, grade and finished ground elevation; relation of the structure to that of neighboring structures and natural features of the Property; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Board or the Architectural Review Committee shall have the right to require and approve landscaping plans. Said landscaping plans shall be submitted within 120 days after purchase and landscaping improvements shall be installed within 180 days therefrom, unless inclement weather makes performance impossible. Should such weather conditions exist, the Architectural Review Committee may extend the date for completion. The Board or the Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

6.3 Development by Declarant. The provisions of Section 6.1 shall not apply to Declarant, nor to Declarant's development of the Common Area, Lots, Residences, Private Yard Fences and Common Fences.

6.4 Right to Maintain and Repair Exteriors of Residences. In the event that the Owner of any Residence shall fail to maintain his Lot, his Residence and the other improvements situated thereon in a manner satisfactory to the Board or the Architectural Review Committee, the Association shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the same and the exterior of the Residence and any other improvements erected thereon in such manner as is deemed necessary and appropriate by either of said entities. The cost of such exteriors maintenance shall thereupon be a default assessment determined and levied against the Lot on which such Residence is located and the Association may proceed in accordance with the applicable provisions of Section IV.

6.5 Non-Liability for Actions. Neither Declarant, the Board, nor the Architectural Review Committee, nor their respective successors or assigns, shall be liable in damages to anyone submitting plans to the Board or the Architectural Review Committee for approval, or to any Owner affected by this Declaration, by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every Owner or other person who submits plans to the Board or the Architectural Review Committee for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Board or the Architectural Review Committee or the Declarant to recover any such damages. Approval by the Board or the Architectural Review Committee shall not be deemed to constitute compliance with the requirements of any local building codes, and it shall be the responsibility of the Owner or other person submitting plans to the Board or the Architectural Review Committee to comply therewith.

6.6 Address. Unless otherwise changed by the Board or by the Architectural Review Committee by due notice thereof given to the Owners, all plans and specifications required under Section 6.1 shall be submitted in person or by registered or certified mail to the following address:

The Pines  
Post Office Box 1440  
Sun Valley, Idaho 83353

or such other address as may be designated by the Board of Directors or Architectural Review Committee by written notice mailed to Owners.

SECTION VII  
MAINTENANCE BY THE ASSOCIATION

7.1 Common Area, Private Roads and Front Yards. The Association shall, as authorized and directed by the Board, have full responsibility for and control over: all maintenance, repairing, replacing of the Common Area, specifically including without limiting the generality of the foregoing, the planting and caring for the grass, trees, shrubbery, flowers, and similar landscape items, the installation and maintenance of a sprinkling or other irrigation system; the caring for the grass, shrubs, trees and sprinkling system for the Front Yard Area; the repairing and maintaining of Common Parking Areas described in Section 10.3 below; the removal of snow; and the maintenance and repair of curbing, gutters, and Private Roads located within the Property.

7.2 Owner's Negligence. In the event that the need for maintenance, repair, or replacement of any item covered within the provisions of Section 7.1 is caused through or by the negligent or willful act or omission of an Owner, or any member of an Owner's family, or of an Owner's guests or invitees, then the costs and expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner; and if not repaid to the Association within seven (7) days after the Association shall have given notice to the Owner of the total amount, or any portions thereof from time to time, of such costs and expenses, then the failure to so repay shall be a default by the Owner under the provisions of this Section 7.2 and such costs and expenses shall automatically become a default assessment determined and levied against such Lot and the Association may proceed in accordance with the applicable provisions of Section IV.

7.3 Agents. The Board may hire and delegate to any and all employees, agents, independent contractors, or other persons or firms its deems necessary in order to perform its duties and obligations hereunder; provided, however, that such delegation shall not relieve the Association of its duties and responsibility hereunder.

SECTION VIII  
USE RESTRICTIONS

8.1 Compliance with Zoning. All Residences shall be used primarily for residential purposes only and shall not be used for any business, manufacturing, or commercial purpose; provided, however, if the appropriate zoning so allows, an Owner may use a specifically designated portion of the Owner's Residence as a home business office. In no event shall garages be converted into additional living space without the approval of the Architectural Review Committee and the City of Ketchum.

8.2 Conveyance of Lots. The Lots, whether or not the instrument of conveyance of assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, and other provisions contained in this Declaration, as it may be amended from time to time pursuant to Section XIII.

8.3 Declarant's Use. Notwithstanding any provisions contained in this Declaration to the contrary, it shall be expressly permissible and proper for Declarant and Declarant's employees, agents, independent contractors, successors, and assigns involved in the construction of Residences or in the development of the Property, to maintain during the period of development of the Property and upon such portion of the Property as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, necessary, or incidental to the construction and sale of Residences and to the development of the property, specifically including without limiting the generality of the foregoing, business offices, storage areas, construction yards, signs, model units, and sales offices or sales trailers. It is expressly understood and agreed that Declarant and Declarant's employees, agents, independent contractors, successors, and assigns involved in the construction of Residences or in the development of the Property, shall have the right to use the Common Area, Private Roads, and the facilities of the Association for sales and business offices purposes and that Declarant may conduct business activities within the Property in connection with its construction of the Residences and development of the Property.

8.4 Household Pets. No bees, livestock, poultry or animals of any kind shall be raised, bred, kept or boarded on the Common Area or on any Lot, except that a maximum of three household pets, no more than two of which shall be dogs, may be kept on any Lot, provided that: they are not kept, bred, boarded or maintained for any commercial purpose; they are kept in fenced backyards; they do not violate the provisions of Paragraph 8.13; and if taken outside of an Owner's backyard, such pets are kept leashed and under an Owner's control at all times. Each Owner of a pet shall be responsible for clean-up and removal from the Common Area and any Lot of such pet's excrement. Should this section be amended to reduce the maximum allowable number of pets, said reduction shall not apply to pets legally in residence under the previous maximum allowance.

8.5 Signs and Advertising. No signs, advertising, billboards, unsightly objects, or nuisances shall be placed, erected, or permitted to remain on any Lot, nor shall any Lot be used in any way or for any purpose which may endanger the health, safety, or life, or any person, or which may unreasonably disturb the other owners. Notwithstanding the foregoing, it shall be permissible and proper for an Owner to place upon his Lot and to

allow to remain thereon for a reasonable length of time, one sign, at any one time, of not more than five square feet, advertising that such Lot is "For Sale" or "For Rent"; provided, however, that the prior approval of the Board or Architectural Review Committee as to the color, size, and location of such sign must be obtained before it is placed on such Lot; and further provided, however, that if at the time an Owner desires to place such a sign on his Lot, the Board or Architectural Review Committee is providing "For Sale" and "For Rent" signs for the use of Owners, then such sign as provided by the Board or Architectural Review Committee and no other shall be used. No signs, advertising, billboards, unsightly object, or nuisance shall be placed, erected, or permitted to remain upon the Common Area, the Side Yard Fences, or the Common Fences, unless the prior approval of the Board or Architectural Review Committee shall be obtained in writing, which approval may be revoked and terminated thereafter at any time. The Board or Architectural Review Committee, or the agent of either, may summarily remove and destroy any unauthorized sign, advertising, billboard, unsightly object, or nuisance. The foregoing provisions of this section 8.5 shall not apply to any signs, advertising, or billboards of the Declarant in connection with its rental or sale of Residences or otherwise in connection with its development of the Property, nor shall such provisions apply to the Association.

8.6 Visible Objects and Window Sun Screening. All basketball backboards, equipment, garbage and trash containers, wood piles, and storage piles shall at all times be kept screened by adequate planting or fencing so as to conceal them from public view. All silver foil or other sun screening material utilized on exterior windows of a Residence shall be subject to prior approval by the Board or the Architectural Review Committee.

8.7 Planting. Except in any individual rear fenced yard or patio areas appurtenant to the Residences, no planting or gardening shall be done, and no fences, hedges, or walls shall be erected, planted, or maintained upon the Common Area, the Private Yard Fences, the Common Fences or upon the Lots except such as are erected, planted, or installed in accordance with the initial construction of the Residences or in the development of the Property or as otherwise may be approved by the Board or Architectural Review Committee. In no event shall planting in Outlot B and within the Private Road right-of-way reserved for snow storage be permitted.

8.8 Private Use Areas. Maintenance, upkeep, repairs, and replacement of side and rear yards and patios shall be the sole responsibility of the Owner of the specific Lot to which a Private Use or a Private Use Easement Area (described in Section XI) is appurtenant, and shall not in any manner be the responsibility of the Association.

8.9 Utilities Within Lots. All utilities and related equipment installed within or located on a Lot commencing at a point where the utility lines, pipes, wires, conduits, systems or other related equipment enters the Lot shall be maintained and kept in repair by the Owner of the Lot. Notwithstanding the foregoing, no Owner shall do any act that will unreasonably impair the ability of any other Owner to maintain and repair the utilities and related equipment installed within such other Owner's Lot.

8.10 Antennas. Without prior written approval of the Board or Architectural Review Committee, no exterior television, radio, or other communication antennas, aerials or satellite dishes of any type shall be placed, allowed or maintained upon any portion of the Residences, Private Yard Fences, Common Fences or Lots.

8.11 Commercial Vehicles. No commercial vehicles and no trucks shall be parked on any road within the Common Area or on the Private Roads except while temporarily engaged in transport to or from a Residence. For the purposes of this Section 8.11, a 3/4-ton or smaller truck, commonly known as a "pickup truck", shall not be deemed to be a commercial vehicle or truck.

8.12 Mailboxes. No mailbox shall be erected upon any Residence or Lot unless approved by the Board or Architectural Review Committee.

8.13 Nuisances. No noxious or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the Owners of other Lots, including the barking of dogs, playing of loud music, or other loud and disturbing noise. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derricks or other structures designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.

8.14 Refuse. All rubbish, trash, garbage, and other refuse shall be regularly removed from the Lots and shall neither be allowed to accumulate thereon or be burned in outside incinerators, barbecue pits, or the like. All containers or other equipment for the storage or disposal of rubbish, trash, garbage or other refuse shall be kept in a clean, sanitary condition and shall be kept in the attached garage until the designated trash collection day. The Board or Architectural Review Committee, or the designated representative of either shall, upon prior notice to an Owner to remove any rubbish, trash, garbage or other refuse from his Lot and upon the Owner's failure to so remove, have the right at any reasonable time to enter upon such Lot and remove any such rubbish,

trash, garbage, or other refuse at the sole expense of the Owner of such Lot. Such entry shall not be deemed to be a trespass upon the Lot.

8.15 Truck, Recreation Vehicle and Boat Parking. Other than permitted vehicles, no trucks, trailers, mobile homes, motor homes, truck campers, detached camper units, buses, boats, commercial or construction vehicles or equipment shall be kept, placed, stored or maintained upon any Lot or on the Common Area (including the Common Parking Area) or Private Roads. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any Residence or other improvement permitted by this Declaration. Commercial vehicles engaged in the delivery or pickup of goods or services shall be exempted from the provisions of this paragraph providing that they do not remain within the Lot in excess of the reasonable period of time required to perform such commercial function. Recreation vehicles may be parked in the Owner's driveway for a reasonable period of time for loading or unloading, but in no case longer than thirty-six (36) hours. Such temporary parking shall not block access to other Lots.

8.16 Drainage. All Owners shall leave all drainage areas and easements, including swales, constructed on the Lots and on other portions of the Property in the state originally fixed by the Declarant or persons or entities acting on behalf of the Declarant; provided, however, that an Owner shall be permitted to modify the drainage areas on his Lot upon receiving written approval therefor from the Board or the Architectural Review Committee. Any Owner who in any way modifies such drainage areas without such consent shall be subject to the sanctions contained herein for violations of this Declaration.

#### SECTION IX FENCES

9.1 Private Yard Fences - Repair and Maintenance. Each Private Yard Fence Owner shall be responsible for maintaining and repairing his Private Yard Fence including gates, in a manner which is acceptable to the Board or the Architectural Review Committee and shall pay all costs in connection therewith. In the event that any Private Yard Fence Owner fails to meet such duties and obligations, the Association, upon its own initiative or upon the request of the Architectural Review Committee, shall have the right after giving thirty (30) days prior written notice to such Private Yard Fence Owner or his Lot and the Association may proceed in accordance with the applicable provisions of Section IV of this Declaration.



9.2 Common Fences - Repair and Maintenance. The costs of repairing, maintaining and rebuilding Common Fences including gates, shall be the responsibility of the Common Fence Owners who make use of such Fences in proportion to each such Owner's use thereof; provided, however, that if the Common Fence Owners cannot agree upon the repair, maintenance, or rebuilding of their Common Fences, then upon ten (10) days prior written notice to all such Common Fence Owners, any one or more of such common fence Owners may take such action as is reasonably deemed necessary to repair, maintain or rebuild a Common Fence and the acting Common Fence Owner may make demand upon the non-acting Common Fence Owner or Owners for their contribution to the reasonable costs of such repair, maintenance or rebuilding. This Section 9.2 shall not be interpreted so as to preclude or prejudice any such acting or non-acting Common Fence Owner from demanding a higher percentage contribution from any other acting or non-acting Common Fence Owner under the rule of law regarding liability for negligent or willful acts or omissions. Furthermore, if any Common Fence Owner shall fail to maintain his Common Fence in a condition which is acceptable to the Board or the Architectural Review Committee, the Association, upon its own initiative or upon the request of the Architectural Review Committee, shall have the right, after giving thirty (30) days prior written notice to such Common Fence Owner or Owners or such failure, to take such action as is reasonably deemed necessary to repair, maintain or rebuild any such Common Fence. The costs of such action by the Association shall automatically become a default assessment determined and levied against the responsible Common Fence Owner or Owners or their Lot or Lots as the case may be, and the Association may proceed in accordance with the applicable provisions of Section IV of this Declaration.

9.3 Negligent or Willful Acts. Notwithstanding any other provision of this Section IX, any Owner, who by his negligent or willful acts causes a Side Yard Fence or Common Fence to be damaged shall bear the whole cost of repair, maintenance or rebuilding of any such fence.

9.4 Arbitration. In the event of any dispute concerning any common fence or any provision of this Section IX related thereto, other than the rights granted to the Board, the Architectural Review Committee and the Association, each Common Fence Owner shall choose one arbitrator, such arbitrators shall choose one additional arbitrator, and a decision with respect thereto shall be made by a majority of all the arbitrators, which decision shall be binding and may be enforced in any court having jurisdiction in the State of Idaho. The costs of such arbitration shall be paid as directed by such arbitrators.

SECTION X  
DIRECTOR LIABILITY

10.1 Director Liability. The personal liability of a director to the Association or its members for monetary damages for breach of fiduciary duty as a director is eliminated except as follows:

10.1.1 For any breach of the director's duty of loyalty to the Association or its Members;

10.1.2 For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;

10.1.3 Provided for under Section 30-1-48, Idaho Code, as may be amended or renumbered from time to time; or

10.1.4 For any transaction from which the director derived an improper personal benefit.

SECTION XI  
PARKING SPACES

11.1 Garages. Each Residence shall have a double car attached garage which shall be used for the purpose of parking permitted motorized vehicles and storage of common household items. Each double car attached garage shall be equipped with a mechanical garage door opener. In no event shall any part of the attached double car garage be altered, changed or improved in any way so as to change its function from a garage to a living area of the Residence unless with the express written approvals of the Architectural Review Committee and the City of Ketchum after complying with all applicable local rules and ordinances.

11.2 Private Driveways. Each Residence shall have a paved area between the double car attached garage and the Private Road, sufficient for two automobiles. Such Private Driveways shall be appropriate for the parking of permitted motor vehicles.

11.3 Street Parking. Additional parking shall be provided along one side of the Private Street as shown on the recorded plat of The Pines. The Board of Directors of The Pines shall designate the location of the parking area along the Private Street and may change the location from time to time. Parking shall be prohibited along the radius of the curves.

11.4 Common Area Parking. In addition to the above described parking areas, Declarant has set aside two (2) parking spaces adjacent to Outlot 1 for use of owners, their guests or invitees in the Common Area depicted on the recorded plat of the Pines.

SECTION XII  
SPECIAL EXTERIOR WALLS AND PRIVATE USE EASEMENTS

12.1 Special Exterior Walls. Each Residence shall contain one windowless exterior wall (the "Special Exterior Wall") which shall face an Adjacent Lot ("Adjacent Lot").

12.2 Special Use And Repair Easements. A perpetual exclusive easement covering the ground area between: (1) a line running the length of a Windowless Exterior Wall and extending to the sides of each lot containing the Wall, and (2) the property line of each Adjacent Lot is hereby created for the benefit of the owner of each such Adjacent Lot. Such easement areas are depicted on the plat attached hereto as Special Use Easements. All Special Use Easements may be used by the Owner of each Adjacent Lot for any purposes consistent with this Declaration. In addition to the Special Use Easement described above, each Owner of a residence shall have an easement on the property abutting an Adjacent Owner's Residence, whether the same is located on such other Owner's Lot or the Common Area, for the purpose of temporarily utilizing ladders and such other equipment as may be required to repair any Special Exterior Wall or other exterior wall or the roof of a Residence. Such easement shall be of a temporary nature and shall exist only for such reasonable period of time as is required to make such repairs or perform such maintenance. Such temporary easement shall extend onto such other Owners' Lot or the Common Areas for only such distance as is reasonably required to undertake and perform such repair and maintenance work.

12.3 Rights of Owner with Respect to Maintenance of the Windowless Exterior Wall. The Owner of the residence containing the Windowless Exterior Wall shall have the right at all reasonable times to enter the Special Yard Easement Area and such other portion of the Adjacent Lot as is reasonably necessary for the purpose of repairing, maintaining, or restoring the Windowless Exterior Wall; provided, however, that such access shall be permitted only at reasonable times during daylight hours and with the prior knowledge of the Adjacent Lot. It shall be the responsibility of the Owner of the Residence containing the Windowless Exterior Wall to repair any damage to plants or irrigation systems due to repairing or otherwise maintaining the Windowless Exterior Wall.

12.4 Restrictions on Owner of Adjacent Lot. The Owner of the Adjacent Lot shall avoid any action which shall in any way restrict the use of the Windowless Exterior Wall by its Owner including, but not limited to, refraining from attaching any objects to such wall, such as wires, trellises and plantings; defacing the wall in any manner; placing graphics or other design work (whether painted or otherwise) on the special exterior wall; or using the wall as a playing surface for any sport.

12.5 Restrictions on Owner with Residence Containing Windowless Exterior Wall. The owner of the Residence containing the Special Exterior Wall shall similarly be prohibited from attaching to such wall or from altering it in any way other than painting the wall in such a manner as shall be approved by the board or the Architectural Review Committee. Additionally, the Owner of such Residence shall not make any openings for windows or otherwise on such Wall and shall take no other action, except as specifically contemplated herein, in connection with such Wall which shall interfere with the privacy of the Owner of the Adjacent Lot.

SECTION XIII  
OTHER EASEMENTS

13.1 Easements Shown on Plat. The Property, and all portions thereof, shall be subject to the easements as shown on the plat for the Property recorded in the office of the Clerk and Recorder of Blaine County, Idaho. No fence, except for fencing installed by Declarant, wall, hedge, patio, barrier, or other improvement which interferes with the use and maintenance of any easement shall be erected or maintained along, on, across, or within the areas reserved for easements.

13.2 Encroachments upon Lots and Common Area. The Property and all portions thereof, shall be subject to an easement for encroachments created by construction, settling, and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance thereof shall exist.

13.3 Utility Easements. In addition to the easements contained in Section 12.1 and Section 12.2, there is hereby created for the benefit of the Declarant and the Association, an easement upon, across, over, and under all Common Areas, Private Roads, Private Yard Fences, Common Fences and Front Yards within the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephone, electrical, and a master television antenna system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical and telephone services to erect and maintain the necessary poles and other necessary equipment on the Common Areas and Private Roads within the Property and to affix and maintain electrical and telephone wires, circuits, and conduits on, above, across, and under the roofs and exterior walls of the Residences and all improvements situated on the Common Area. Notwithstanding anything to the contrary contained in this Section 12.3, no water, sewer, gas, telephone, electrical, or antenna lines, systems, or facilities may be installed or relocated over, across, and on the Lots, Common Area, Private Roads, Private Yard Fences or Common

Fences except as initially approved by Declarant, or thereafter as approved by Declarant, the Board or the Architectural Review Committee. Should any utility company furnishing a service covered by the general easement herein created request a specific easement by separate recordable document, Declarant shall have, and is hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Common Areas, Private Roads, Private Yard Fences or Common Fences of the Property without conflicting with the terms hereof. The easement provided for in this Section 12.3 shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

13.4 Underground Electric Service. In addition to the easements contained in Section 12.1 and Section 12.3, the utility company furnishing the electrical service shall have and is hereby granted a two-foot wide easement within each Lot along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the respective Residence. The foregoing easements for the underground electrical service may be crossed by driveways provided that prior arrangement with the appropriate utility company furnishing such electrical service has been made. Such easements for the underground electrical service shall be kept clear of all other improvements, including buildings, patios, or other pavings and no electrical utility company using the easements shall be liable for any damage done by it or its agents or employees to shrubbery, trees, flowers, or other improvements of the Owner of the Lot covered by said easement.

13.5 Emergency Easement. An easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all roads and upon the Property in the performance of their duties; including but not limited to, the right of police officials to issue parking and traffic tickets for violations occurring within or without the Property.

13.6 Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, and employees and to any management companies selected by the Association, upon, across, over, and under the Common Area, Private Roads, Lots, Residences, Private Yard Fences and Common Fences to perform any duties of maintenance and repair of the Residences, Common Area, Front Yards and Private Roads as provided for in this Declaration.

13.7 Drainage Easement and Roof Runoff. An easement is hereby granted to the Association, its officers, agents, and employees to enter upon, across, over, and under any Lot for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of a Lot so as to improve the drainage of water from the Lots or Common Area.

13.8 Private Road Easements. In addition to the easements created by this Section XII, every Owner of a Class I or Class II Lot, the members of such Owner's family and guests and invitees shall have a non-exclusive easement over, above and across the Private Roads.

13.9 Snow Storage Easement. That area outside of the 28 foot roadway but within the 40 foot Private Road right-of-way shall be reserved exclusively for snow storage excepting curb cuts for private driveways.

SECTION XIV  
BURDENS AND BENEFITS OF THIS DECLARATION

14.1 Covenants Running with the Property. The benefits, burdens and other provisions contained in this Declaration shall be covenants running with and binding upon the Property.

14.2 Binding Upon and Inure to Successors. The benefits, burdens and other provisions contained in this Declaration shall be binding upon, and inure to the benefit of the Declarant, the Association, and all Owners and upon and to their respective heirs, executors, administrators, successors and assigns.

SECTION XV  
DURATION AND AMENDMENT

15.1 Duration and Extension. This Declaration, every provision hereof and every covenant, condition, restriction and reservation contained herein shall run with and bind the land and shall continue in full force and effect for a period of fifty (50) years from the date hereof, and shall thereafter be automatically extended for successive periods of five (5) years unless otherwise terminated or modified as hereinafter provided.

15.2 Amendment and Modification. Subject to Section 14.3, this Declaration or any provision hereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified or amended, as the whole of the Property or any portion thereof, with the written consent of the members holding at least sixty-six and two-thirds percent (66 2/3%) of the Class I membership in the Association and the consent of the Class II members thereof, if any, during the first twenty-five (25) year period of these Covenants and thereafter by not less than a majority of the Class I membership in the Association and the consent of the Class II members thereof, if any. Such termination, extension, modification or amendment shall be immediately effective upon recording the proper instrument in writing, executed and acknowledged by such Owners (and by Developer as required herein) in the office of the Clerk and Recorder of Blaine County, Idaho.

15.3 Sections Which May Not Be Amended. Notwithstanding the foregoing, the following Sections of this Declaration are intended to be for the personal benefit of the Declarant, its successors and assigns, and may not be extinguished, amended or otherwise modified unless the written approval of the Declarant, its successors or assigns, thereto shall be obtained: Section I, Paragraph 3.3 (including Subparagraphs 3.3.1 and 3.3.2), Paragraph 3.4 (including Subparagraphs 3.4.1 and 3.4.2), Paragraph 8.2, Paragraph 8.3, Paragraph 8.5, Paragraph 8.9, Paragraph 8.16, Section IX, Section X, Section XI, Section XII and this Paragraph 14.3.

15.4 Annexation. Additional property may be added to the Property subject to this Declaration upon execution and recordation of a ratification of this Declaration signed by the owners of such additional property with the consent of the Association.

#### SECTION XVI ENFORCEMENT

16.1 Abatement and Suit. The conditions, covenants and restrictions herein contained shall run with the land, and be binding upon and inure to the benefit of the Declarant and the Owners and lessees of every Lot and Unit on the Property. These covenants, conditions and reservations may be enforced as provided hereinafter by Declarant acting for itself, the Architectural Review Committee and as Trustees on behalf of all of the Owners and by the Association. Each Owner by acquiring an interest in the Property appoints irrevocably the Declarant as his attorney-in-fact for such purposes; provided, however, that if an Owner notifies Declarant in writing of a claimed violation of these covenants, conditions and restrictions and Developer fails to act within thirty (30) days after receipt of such notification, then, and in that event only an Owner may separately, at his own cost and expense, enforce these covenants, conditions and restrictions as herein provided. Violation of any condition, covenant, restriction or reservation herein contained shall give to the Declarant the right to enter upon the portion of the property wherein said violation or breach exists and to summarily abate and remove at the expense of the Owner any structure, thing or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these conditions, covenants, restrictions and reservations to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

16.2 Deemed to Constitute a Nuisance. Every violation of these covenants or any part thereof is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed therefor by law or equity against an Owner, shall be

applicable against every such violation and may be exercised by Declarant or Owners pursuant to Paragraph 15.1 of this Section.

In any legal or equitable proceeding for the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

The failure of the Declarant to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations of or the right to enforce any other conditions, covenants, restrictions or reservations, and Declarant shall not be liable therefor.

16.3 Certificate of Compliance. Upon payment of a reasonable fee not to exceed Twenty Dollars (\$20.00) and upon written request of any Owner, Mortgagee, prospective owner, lessee or prospective lessee of any property covered by these covenants, Declarant shall issue an acknowledged certificate in recordable form setting forth the amounts of any unpaid assessments, if any, and setting forth generally whether or not to the best of Declarant's knowledge said Owner is in violation of any of the terms and conditions of these Covenants. Said written statement shall be conclusive upon Declarant in favor of the persons who rely thereon in good faith. Such statement shall be furnished by Declarant within a reasonable time, but not to exceed ten (10) days from the receipt of a written request for such written statement. In the event Declarant fails to furnish such statement within said ten (10) days, it shall be conclusively presumed that there are no unpaid assessments relating to the Property, Lot or Residence, as to which the request was made and that said Property, Lot or Residence is in conformance with the terms and conditions of these Covenants.

#### SECTION XVII

#### EFFECT OF DEVELOPMENT PLANS, PLAT AND OTHER DOCUMENTS FILED WITH THE COUNTY OF BLAINE AND AMENDMENT THEREOF

17.1 General Information Regarding Development Plan. The preliminary or final plat and other related documents which are on record in the Office of the Clerk of the County of Blaine or other applicable governmental agency (hereinafter referred to as the "Plan") has the effect and only the effect described by the Statutes of the State of Idaho, and the rules and regulations of said City. The Plan and related documents constitute part of the public controls imposed by the City upon developers, Owners, Residents and users of the development and do not create, and are not intended to create, any private property or contract rights in



the Owners and Residents of the development except as such rights may be created expressly by separate contracts, deeds and other documents, including this Declaration. The Plan on file in the office of the said Clerk or other applicable governmental agency describes a plan of development which Declarant believes will provide maximum benefit to the Residents, Owners and the public. During an extended development program, however, various factors can intervene which may hinder the effectiveness of the Plan and may threaten the benefits to be derived by the Residents, Owners and the public unless the Plan can be modified as prescribed by applicable law. Accordingly, this Declaration is not intended to nor does it grant or create any private property or contract rights in the said Plan and such plans continue to remain subject to modification by the proper governmental authorities in accordance with the procedures set forth in the Statutes, rules and regulations of the County of Blaine, State of Idaho.

17.2 Rights Reserved. Declarant expressly reserves to itself, its successors and assigns the right to amend any Plan for the property, so long as:

- (a) Such amendment does not alter the Lot lines of any Lot which has been conveyed to any Owner; and
- (b) Such amendment does not materially reduce the amount of Common Area within the Property available to an Owner for such Owner's use and enjoyment.

#### SECTION XVIII ANNEXATION

18.1 Annexation. The real property described as Wilson Subdivision, or any portion of it, may be annexed to the Property and made subject to this Declaration at the written election of the Declarant made at any time, and from time to time, within five (5) years following the recording of this Declaration with the Blaine County Recorder. Such election shall be made by the recording of a supplement to this Declaration (the "Supplement"). The Supplement shall describe the real property to be annexed, shall state that it is being effected pursuant to the terms of this Declaration for the purpose of annexing the property described in the Supplement to the Declaration. Any Supplement recorded in accordance with the terms of this Section shall be conclusive in favor of all persons who rely on it in good faith. Upon recording the Supplement in accordance with the provisions of this Declaration, the real property described in the Supplement shall be part of The Pines and subject to the provisions of this Declaration; and to the rights and powers of the Association pursuant to the terms of this Declaration, the Articles and the By-Laws, and thereafter all of the Owners of Lots and Units of The Pines constituting a portion of the annexed real property shall

automatically be members of the Association, with voting rights commencing on the date regular assessments commence.

SECTION XIX  
MISCELLANEOUS

19.1 Non-Waiver. Failure by the Declarant, the Association, or any Owner to enforce any covenant, condition, restriction, easement, reservation, or other provision contained in this Declaration shall in no event be deemed to be a waiver of the right to do so thereafter.

19.2 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 hereof, or any portion thereof, by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

19.3 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.

19.4 Captions. The captions to the Sections are inserted herein 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 nor the intent of any provisions hereof.

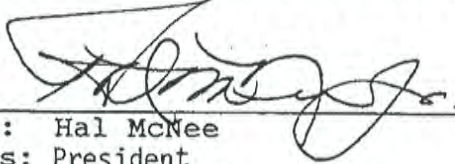
19.5 Notices. Any notice required to be sent to any member or Lot Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as such member or Owner on the records of the Association at the time of such mailing.

19.6 Non-Waiver. All of the conditions, covenants, restrictions and reservations contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions and reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall be thereby affected or impaired.

IN WITNESS WHEREOF, the parties hereunto placed their hands and seals the day and year first above-written.

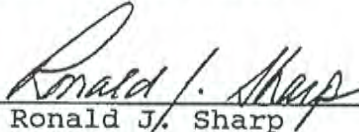
DEVELOPMENT ASSOCIATES, an Idaho  
General Partnership

WESTERN DEVELOPMENT COMPANY



By: Hal McNee  
Its: President  
General Partner

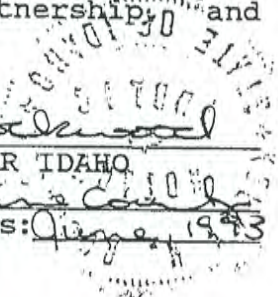
RONALD J. SHARP, INC.



By: Ronald J. Sharp  
Its: President  
General Partner

STATE OF IDAHO            )  
  ss.  
County of Blaine         )

On this 6th day of November, 1989, before me, the undersigned Notary Public in and for said State, personally appeared RONALD J. SHARP, known to me to be the President of Ronald J. Sharp, Inc., who signed the above instrument as a partner of DEVELOPMENT ASSOCIATES, an Idaho general partnership, and acknowledged to me that he executed the same.

  
Kelly M. Radtke  
NOTARY PUBLIC FOR IDAHO  
Residing at: Blaine, Idaho  
Commission Expires: June 1993

STATE OF IDAHO )  
 ) ss.  
County of Blaine )

On this 13<sup>th</sup> day of November, 1989, before me, the undersigned Notary Public in and for said State, personally appeared HAL McNEE, known to me to be the President of WESTERN DEVELOPMENT COMPANY, who signed the above instrument as a partner of DEVELOPMENT ASSOCIATES, an Idaho general partnership, and acknowledged to me that he executed the same.

K. O. W. L.  
NOTARY PUBLIC FOR IDAHO  
Residing at: Blaine, Idaho  
Commission Expires: June 1993



pinet/cc&rs

313854  
BLAINE CO. REQUEST IN TITLE CO.  
OF: Mrs.  
89 DEC 12 PM 4 00  
MARY GREEN, CLERK  
FEES \$ 99.00



City of Ketchum  
Planning & Building

STAFF REPORT  
KETCHUM PLANNING AND ZONING COMMISSION  
SPECIAL MEETING OF JULY 26, 2022

**PROJECT:** Extra Credit Event Space

**APPLICATION TYPE:** Conditional Use Permit (File No. P22-022)

**ASSOCIATED PERMITS:** Design Review (CR-91-13)  
Condominium Final Plat (94-033)  
Building Permit (B22-022)

**OWNER:** JSLINPC, LLC – Noah and Jami Levine

**APPLICANT:** JSLINPC, LLC – Noah and Jami Levine

**REQUEST:** Conditional Use Permit to permit an “assembly” space for a 1,294 special event space in the CC-2 zone district which includes approximately 669 square feet of event room area and approximately 625 square feet of common hallway and restroom areas.

**LOCATION:** 180 N First Ave Unit 4 (Cinema Square Condos, Lots 5 and 6, Block 39, Ketchum Townsite)

**ZONING:** Community Core – Mixed-Use Subdistrict (CC-2)

**OVERLAY:** None

**REVIEWER:** Morgan R. Landers, AICP – Senior Planner

**NOTICE:** 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 July 6, 2022. The public hearing notice was published in the Idaho Mountain Express the on July 6, 2022. A notice was posted on the project site and the city’s website on July 18, 2022. As of the date of this report, no public comment has been received.

**ATTACHMENTS:**

- A. Application Materials – CUP application and supporting documents
- B. Application Materials – Site Plans and Floor Plans
- C. Draft Findings of Fact, Conclusions of Law, and Decision

**BACKGROUND AND SUMMARY**

The Applicant is requesting a Conditional Use Permit (CUP) to establish an “assembly” use in one of the ground floor commercial spaces in the building located at 180 N First Ave (the “subject property”). The subject property contains one commercial building built in 1998 with two commercial condominium units, one unit on the upper floor and one unit on the ground floor. As originally constructed, the Magic Lantern theater occupied the upper floor with ticket sales, concessions, and large viewing theaters. The lower floor contained

small screening rooms associated with the Magic Lantern and other smaller commercial spaces. Today, the upper floor is still the location of the Magic Lantern movie theater. The lower floor is broken up into four spaces occupied by Sun Valley Needle Arts, Ketchum Eyecenter, a vacant commercial space fronting N 1<sup>st</sup> Ave, and the proposed assembly use behind the vacant space. The units containing the vacant commercial space and the proposed assembly use were previously the locations of the screening rooms for the Magic Lantern which closed permanently in April 2020 due to COVID-19.

The subject property is zoned Community Core Subdistrict 2 – Mixed Use (CC-2), which allows “Assembly, place of” only through the approval of a Conditional Use Permit. The Ketchum Municipal Code defines “Assembly, place of” as:

**“Assembly, place of:** The use of land for a meeting place where persons gather together for purposes of attending civic, social, religious functions, recreational events or entertainment performances on a regular or recurring basis including, but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, or indoor or outdoor recreational facilities, but excludes a "cultural facility" as defined by this chapter. A gathering of less than 25 persons shall not be considered a place of assembly provided the gathering is accessory and incidental to the principal use.”

As outlined in the cover letter in Attachment A, the proposed event space is intended for rent by organizations or businesses for the purpose of board meetings, wedding rehearsal dinners, functions for the non-profit community, birthday parties, and other gatherings. If approved, the proposed space would consist of 1,294 square feet including 669 square feet of event room area and 625 square feet of hallway and restroom areas dedicated to the event space. There is no outdoor area associated with the event space. The sound proofing from the original screening rooms is still in place and will remain if the assembly use is approved. As shown on the project plans in Attachment B, the proposed event space is accessed from N 1st Ave but does not have any frontage on the street other than an entry door to the hallway.

Capacity of the proposed space is dependent on the format of the event and maximum capacity set by the adopted Fire Code for the city of Ketchum. Per the requirements of the Fire Marshall, the maximum capacity is 45 people for a sit-down event with tables and chairs. For an informal event without fixed seats and mostly standing, the maximum capacity is 96 people. Events are anticipated to occur between 9am and midnight on weekdays, and noon to midnight on weekends with additional time for set up and takedown.

The current property owners purchased the lower level (Unit 1) of the building in 2021 and began the process of seeking tenants for the vacant space shortly thereafter. In January 2022, the owner submitted a building permit for the reconfiguration of the vacant screening rooms to increase marketability for a variety of potential tenants. The City of Ketchum received the Conditional Use Permit Application for an assembly use on April 19, 2022. The application was routed to all city departments for review and comment. Comments from all departments were provided to the applicant on June 15, 2022. As of the date of this staff report, all department comments have been adequately addressed in revised application materials.

Staff reviewed the application for conformance with the City of Ketchum’s zoning regulations including but not limited to uses permitted, parking, signage, and dark skies. Staff also reviewed the application for conformance with our 2014 Comprehensive Plan and conditional use permit criteria outlined in Section 17.116.030 of the Ketchum Municipal Code. Below are tables that outlined the analysis conducted by staff.

**Table 1. Comprehensive Plan Analysis**

<p><b>Land Use Category:</b> <i>Mixed-Use Commercial</i></p> <p><b>PRIMARY USES</b> <i>Offices, medical facilities, health/wellness-related services, recreation, government, residential, and services.</i></p> <p><b>SECONDARY USES</b> <i>Open space, places of worship and public uses are also appropriate.</i></p> <p><b>CHARACTERISTICS AND LOCATION</b> <i>The intent of the Mixed-Use Commercial category is to improve two areas: 1) the downtown area outside the retail core, and 2) the area surrounding St. Luke’s Hospital (McHanville/Cold Springs Canyon) where development must be sensitively sited for viewshed and wildlife habitat protection.</i></p>
<p><b>Analysis:</b> <i>The comprehensive plan does not outline what is specifically included in “services”, however, an event rental space is providing a type of service to the residents, businesses, and visitors of our community for a variety of events including board meetings, business gatherings, receptions, parties, or other. As stated in the “Characteristics and Location” description of the plan, the intent is to improve the downtown area outside the retail core. The location of the proposed event space has been vacant for two years and has an opportunity to create an active space in a location that has minimal visibility from the street. Allowing an active use in this space provides an opportunity to activate a vacant space that is not currently providing value to the community.</i></p>
<p><b>Comprehensive Plan Value: Vibrant Downtown</b> <i>Our downtown core is critical to the economic health and well-being of Ketchum. It functions as both an economic engine and the symbolic “heart and soul” of the City. We will preserve this vibrant commercial area as a place where local businesses can thrive and where people can congregate. Downtown must be a place that people can reach easily by foot, bike, and transit. We will continue to reinforce the downtown as the City’s primary business district, retail core, and key gathering place for residents and visitors for shopping, dining, and entertainment. Enhancements and efforts to support events, the arts, and Ketchum’s history and culture will make downtown an even greater community asset.</i></p>
<p><b>Analysis:</b> <i>The proposed use supports the city’s value of creating a vibrant downtown as it would activate a space that has been vacant for an extended period. Additionally, Ketchum’s downtown should be a “key gathering place for residents and visitors for shopping, dining, and entertainment”. The plan also states that efforts to support events will make downtown a greater community asset. An event space is a place for people to gather for any range of special events and helps support this goal for the downtown.</i></p>
<p><b>Policy E-1(b)</b> <b>Downtown as a Major Community Asset and Tourism Attraction</b> <i>The community will strive to maintain a single concentrated commercial and retail core. The City will reinforce the downtown core’s role as a major asset and visitor attraction by encouraging businesses that fit the downtown character and by developing policies, programs, investment strategies, and organizations that help retain downtown businesses.</i></p>
<p><b>Analysis:</b> <i>Allowing a small format event space in the downtown at this location not only activates a commercial unit with limited visibility, but it also draws visitors to a location within the downtown that does not have a lot of activation in the evenings. This further promotes the downtown as an entertainment destination. The event space will provide a location for residents and visitors to congregate and promote those event attendees to explore the other areas of downtown before or after the event.</i></p>

**Table 2. Conditional Use Permit Requirements**

Conditional Use Requirements				
EVALUATION STANDARDS: 17.116.030 and § 67-6512 of Idaho Code				
A conditional use permit shall be granted by the commission only if the applicant demonstrates the following:				
Compliance and Analysis				
Yes	No	N/A	City Code	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(A)</b>	<p><b>The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.</b></p> <p><i>Based on the capacity of the space, the hours of operation, and the nature of the proposed uses, the event space is similar to other permitted uses by-right in the community core such as food service, brewpubs, and conference and bar elements of hotels. The city has also approved other assembly uses in the community core, such as the Argyros Performing Arts Center. The CC-2 zone district permits multi-family residential in addition to commercial uses. Compatibility issues between event spaces and residential are primarily related to parking, hours of operation, and noise. Staff does not believe the proposed space will result in these issues as there is ample on street parking and bus service for event attendees, the hours of operation are reasonable compared to other uses with evening hours, the venue is small and accommodates a limited number of people, and the event space is completely soundproofed. Additionally, staff is recommending condition of approval #7 that reinforces the city’s provisions related to loud or unnecessary noise, which will limit prolonged noise from setup or takedown operations during the evening hours.</i></p>
			<b>Staff Comments</b>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(B)</b>	<p><b>The conditional use will not materially endanger the health, safety and welfare of the community.</b></p> <p><i>The building department and fire department have reviewed the proposed plans for the space. All life safety and building code requirements are being met. An additional event space in the community core will not endanger the health, safety, and welfare of the community. Having an additional event space of this size will provide an amenity to residents and businesses that is not widely available within the community core, thereby supporting the community.</i></p>
			<b>Staff Comments</b>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(C)</b>	<p><b>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.</b></p> <p><i>The proposed use is in a portion of the community core that has fully connected sidewalks providing a protected pedestrian path from surrounding businesses, transportation stops, and parking areas. Attendees of the events will have access to on street parking or can walk, bike, or bus to the event depending on where they are coming from. Some events, such as wedding receptions or corporate events, may hire shuttle services to transport guests rather than individual transportation arrangements. Pedestrian and vehicular traffic associated with the use is consistent with other pedestrian and vehicular traffic patterns and will utilize the grid structure of the community core to navigate the surrounding areas without conflict.</i></p> <p><i>Section 17.125.040.C.1 of the Ketchum Municipal Code outlines the types of uses exempt from parking requirements in the CC zone districts. Of that list, the following exemptions apply to assembly uses:</i></p> <ul style="list-style-type: none"> <li><i>d. Assembly existing on or before April 17, 2017.</i></li> <li><i>e. The first 5,500 gross square feet for new assembly uses. The first 5,500 gross square feet of an assembly use established or constructed after the date this chapter is passed is exempt, additional square footage is subject to the ratio of one parking space per 1,000 gross square feet.</i></li> </ul> <p><i>The initial screening rooms were constructed in 1998, however, the screening rooms ceased operation in 2020. Staff considers this application to be a new assembly space,</i></p>
			<b>Staff Comments</b>	



				<p>and therefore subject to the exemption outlined in subsection “e” above. As the space is less than 5,500 square feet, it is exempt from on-site parking requirements.</p> <p>The applicant has provided an on-site parking space for loading and unloading of event food and supplies. Staff believes that having a dedicated space for loading and unloading is critical for smooth operations of an event facility that has varying hours of operation. Generally, alleys are used for accessing off street parking, garbage management and removal, access to utilities, and deliveries to businesses and residents. Having a dedicated loading and unloading space for the use will limit potential conflicts in the alley between event operations and other maintenance and delivery operations that may take place. Staff recommends condition of approval #4 that outlines the use of the on-site parking space for event operations.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(D)</b>	<p><b>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.</b></p> <p><b>Staff Comments</b> As mentioned above, all departments have reviewed the proposed use including streets, fire, water, wastewater, building and engineering. Additionally, the proposed use is within a commercial building currently served by all other utilities necessary to service the use including electricity, gas, and garbage service.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(E)</b>	<p><b>The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this section.</b></p> <p><b>Staff Comments</b> As described in Table 2 of this staff report and 17.116.030(A) of this table, the conditional use aligns with, rather than conflicts with, the policies of the Comprehensive Plan and the basic purposes of this section.</p>

**STAFF RECOMMENDATION**

Staff recommends approval of the conditional use permit with conditions outlined below, and with any additional conditions deemed necessary by the Commission.

The Planning and Zoning Commission may attach additional conditions to the application approval as it determines necessary to ensure the use is compatible with the vicinity and adjoining uses, mitigate adverse impacts, and enhance public health, safety, and welfare. Such conditions may include, but are not limited to (KMC §17.116.050):

- A. Minimizing adverse impact on other development;
- B. Controlling the sequence and timing of development;
- C. Controlling the duration of development;
- D. Assuring that development is maintained properly;
- E. Designating the exact location and nature of development;
- F. Requiring the provision for on site or off site public facilities or services;
- G. Requiring more restrictive standards than those generally required in an ordinance; and
- H. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the city.

**RECOMMENDED MOTION**

“I move to approve the Extra Credit Event Space Conditional Use Permit with conditions 1-10, and adopt the Findings of Fact, Conclusions of Law, and Decision.”

**RECOMMENDED CONDITIONS**

1. This approval is based on the site plan and floorplans submitted by Carmen Finegan, and attached to the staff report, dated April 26, 2022 and May 5, 2022 respectively. Any change to the floor plan or change in the location or configuration of the uses from what is depicted in the plans, shall be subject

to an amendment to this Conditional Use Permit. The assembly use shall occur in the location depicted on the plans and shall not exceed 1,294 square feet.

2. This conditional use permit is non-transferrable to any other property owner or business other than as outlined on the Conditional Use Permit application dated April 19, 2022. Any change in property ownership or business operator requires an amendment to this Conditional Use Permit.
3. This conditional use permit is non-transferable from one parcel of land to another.
4. As depicted on the Site Plan (Sheet A.1) dated April 26, 2022, one parking space in the rear of the building accessed from the alley shall be dedicated for loading and unloading while the event space is rented, including setup and cleanup of events. No loading or unloading shall occur on the street or in the alley.
5. Prior to Certificate of Completion or Certificate of Occupancy, the owner shall submit an amendment to the active building permit (B22-002) revising the proposed use and occupancy codes for the proposed use, to reflect the approval and ensure all building and fire code requirements are met prior to occupancy.
6. Events shall not exceed a maximum occupancy of 96 people, as shown on Sheet A-002 of the project plans. Maximum occupancies shall be posted on site per the requirements of the City of Ketchum Fire Marshall. Event formats or layouts other than those outlined on Sheet A-002 may trigger different occupancy limits and must be reviewed and approved in writing by the City of Ketchum Fire Marshall.
7. Setup or takedown of events resulting in loud or unnecessary noises outside shall not occur between the hours of 10:00 pm and 7:30am and shall not exceed 60 decibels as outlined in Section 9.08.040.8 of the Ketchum Municipal Code. Noise levels at all times shall conform to KMC 9.08.040 C8.
8. All applicable conditions of approval shall be relayed to all lessees of the event space to ensure compliance with the conditional use permit requirements.
9. The Planning and Zoning staff may conduct site inspections, following notice to the property owner, to ensure all conditions of approval are being met.
10. If violations of the Conditional Use Permit are observed, the Commission shall have the discretion to hold a public hearing to evaluate this Conditional Use Permit and the nature of the violations. Said hearing may result in changes to the conditions of approval or revocation of the conditional use permit.



City of Ketchum

# ATTACHMENT A: CUP Application and Supporting Documents



City of Ketchum  
Planning & Building

OFFICIAL USE ONLY	
File Number:	P22-022
Date Received:	4/19/22
By:	SMC [Signature]
Fee Paid:	1100.
Approved Date:	
Denied Date:	
By:	

### Conditional Use Permit 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, 191 5th St. West, 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.

OWNER INFORMATION	
Project Name: Extra Credit	
Name of Owner of Record: JSLINPC, LLC	
Physical Address: 180-4 First Ave N Ketchum, ID 83340	
Property Legal Description: Cinema Square Condo Unit 1	
Property Zoning District:	
Contact Phone: 435-729-9205	Contact Email: noah.levine@ubs.com
PROJECT INFORMATION	
Description of Proposed Conditional Use: Event Space to accommodate board meetings, birthday parties, rehearsal dinners and other catered events.	
Description of Proposed and Existing Exterior Lighting: The space sits on the lower level of the magic lantern building in downtown Ketchum. There are no proposed changes to existing exterior lights.	
ADDITIONAL COMMENTS	
Please see attached supporting documentation	
ACCOMPANYING SUPPORTING INFORMATION REQUIRED	
<ul style="list-style-type: none"> <li>Existing Site Plan</li> <li>Proposed Site Plan</li> <li>Landscape Plan</li> <li>Grading and Drainage Plan</li> <li>Exterior Lighting Plan and Specifications</li> <li>Other plans and studies related to the social, economic, fiscal, environmental, traffic, and other effects of the proposed conditional use, as required by the Administrator</li> </ul>	

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.

4/13/2022

Applicant Signature

Date

## CONDITIONAL USE PERMIT

### APPLICANT COVER LETTER

To: City of Ketchum Planning and Zoning – [planningandzoning@ketchumidaho.org](mailto:planningandzoning@ketchumidaho.org)

Suzanne Bathke, Planning Technician – [sbathke@ketchumidaho.org](mailto:sbathke@ketchumidaho.org)

From: Noah Levine, Managing Member, JSLINPC, LLC [surpow@msn.com](mailto:surpow@msn.com) 435.729.9205

Jami Levine, Registered Agent, JSLINPC, LLC [jslinpc@msn.com](mailto:jslinpc@msn.com) 435.729.9204

RE: Conditional Use Permit Application for JSLINPC, LLC DBA “Extra Credit”

Date: June 16<sup>th</sup>, 2022

Dear Planning and Zoning Department and Planning Technician Bathke,

The intent of this cover letter is to address specific items associated with the attached Conditional Use Permit (CUP). Thank you for taking time to review.

#### History:

The subject of the CUP is a 1294 square foot part of the property known as Cinema Square Condominium, Unit 1. This is the lower level of the Magic Lantern building (Built 1998) located at 180 N. First Avenue in Ketchum, ID. The 1294 square foot space was a Movie Theater Screening Room which began operation in 1998 and ceased operation permanently in April 2020 as a result of the COVID 19 outbreak.

#### Narrative of key CUP points:

1. **Proposed Use** – The applicant seeks to rent out the space for events such as board meetings, wedding rehearsal dinners, functions for the non-profit community, birthday parties, and other gatherings.
2. **Square footage description** - The total square footage of the event space is 1294 square feet broken up as follows:
  - a. 625.22 square feet is made up of an entry hallway and two bathrooms (see “OccupancyLimitsFromFireMarshall.pdf”) and
  - b. 668.78 square feet is made up of the event room (see ‘A.2TheaterFloorPlan.pdf’)
3. **Event Space Characteristics** –
  - a. Soundproofing material from when the event space was a movie theatre has been retained. The entire 668.78 square foot event room is wrapped in soundproofing material.
  - b. There is no outdoor portion to the event space. All events are projected to be contained indoors.
4. **Anticipated Frequency of Use** – Market research had led applicant to conclude that the space would be rented 12 – 18 times per year. This will be more or less depending on actual demand.

5. **Hours of Use** – In general events are likely to occur during the following times and may occasionally occur outside of these hours:
  - a. Monday thru Friday: 9:00am to 12:00am
  - b. Saturday and Sunday: 12:00pm to 12:00am
  - c. Set up and takedown would be allocated 30 minutes before and after the above times
  
6. **Maximum Occupancy** – The Ketchum Fire Marshall has reviewed the space and site plan and determined that occupancy limits are as follows:
  - a. Concentrated assembly without fixed seats (chairs only)– Maximum Occupancy 96 people.
  - b. Unconcentrated assembly (tables & chairs) – Maximum Occupancy 45 people.
  
7. **Parking** – Prior to the 2022 renovation of this space, it was a movie theater established in 1998 and considered an assembly use. The applicant believes that because this was an assembly use in existence prior to April 17, 2017 they are exempt from needing to provide a dedicated parking space. That said, the space does enjoy use of a single parking space. Based on current square footage calculations, with this space being less than 1500 square feet, only one space is required. This spot will be used for deliveries and a catering vehicle while the space is rented. There is ample street and curbside parking surrounding the space.
8. **Exterior Lighting Plan** – There are no modifications proposed to the existing exterior lighting.
9. **ADA Accessibility** – The original use of this space was a movie theater and it was built to ADA spec. The 2022 remodel of this space preserved that accessibility. Building Inspector Jim Lynch has performed a site visit and indicated that it is ADA compliant.
10. **Pedestrian Access** – The space is accessible by the main entry door off of First Avenue or by the door in the alley behind the building between 1<sup>st</sup> and 2<sup>nd</sup> St.
11. **Signage** – The Space will be identified with a compliant sign or door numbering that reads 180-4 on or above each of the existing exterior doors.
12. **Grading and Drainage Plan** – No modifications are being made to the existing building or landscape plan.

**In addition to this, The CUP Applicant Cover Letter, please find the following information:**

- **PDF Titled - “180 N 1<sup>st</sup> Ave Occupancy Limits from Fire Marshall”**
  - Site Plan : This site plan refers to the subject space as “Suite B” and identifies it as 1294 square feet.
  - Occupancy: Fire Marshall Seth Martin has visited the property and reviewed the construction documents. In this PDF, please find his Maximum Occupancy Calculations as follows:
    - Concentrated assembly without fixed seats (chairs only)– Maximum Occupancy 96 people.
    - Unconcentrated assembly (tables & chairs) – Maximum Occupancy 45 people.
- **PDF Titled – “A2 THEATER FLOOR PLAN -CF”**
  - This document zooms in on the 668.78 event room providing visibility to the room and parking configuration.

Thank you for taking time to review the application. The applicant looks forward to the next steps in the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Noah", with a long horizontal flourish extending to the right.

Noah Levine

Managing Member, JSLINPC, LLC

A handwritten signature in black ink, appearing to read "Jami Levine", written in a cursive style.

Jami Levine

Registered Agent, JSLINPC, LLC

# City of Ketchum Building Permit: Exterior Lighting Submittal Requirements

(For Commercial and Residential)

Address: 180-4 First Avenue N. Ketchum, ID 83353

17.132.010 C.1: All existing lighting located on a subject property that is part of an application for a city planning department design review, conditional use, subdivision permit, or building permit is required to be brought into conformance with this chapter. Conformity shall occur prior to issuance of a certificate of occupancy, final inspection or final plat recordation, when applicable. For other permits, the applicant shall have a maximum of thirty (30) days from date of permit issuance to bring the lighting into conformance.

In addition to completing the tables below, you will need to submit **manufacturers' product specification sheets** for all proposed outdoor lighting. All applications for design review, conditional use, subdivision and/or building permits shall include lighting plans showing location, type, height, color temperature, lumen output and amount of all proposed and existing fixtures. Complex uses may require additional information.

Proposed Lighting:				
Fixture Model or Description	No. of Fixtures	Shielded (Y/N)	Full cutoff fixture (Y/N)	Light Color (Kelvin)
Ex: SPI-GDG-30W-SQ-SH	3	Y	y	2700
Sea Gull Lighting Model #8837401-57	3	y	y	1500K

Existing Exterior Lighting (complete to the best of your knowledge):				
Fixture Description	No. of Fixtures	Shielded (Y/N)	Full cutoff fixture (Y/N)	Light Color (Kelvin)
Fully Shielded 'Period' Style Fixture with shielded top and opaque glass	3	Y	N	1500K

*\*If you need additional space to detail your exterior lighting fixtures, please submit on a separate page*

## Exterior Lighting Requirements (Chapter 17.132 Dark Skies)

- ✓ **Exterior Lighting Fixtures.** All exterior lighting fixtures shall be full cutoff fixtures with the light source fully shielded, except as exempted in Chapter 17.132.
- ✓ **Color Temperature.** All exterior lighting shall utilize light sources not to exceed 2700 kelvin. Correlated color temperature refers to the 'color' of the light emitted. It is indicated on light packaging.
- ✓ **Light trespass.** All existing and/or new exterior lighting shall not cause light trespass and shall protect adjacent properties from glare and excessive lighting. Reference Chapter 17.132.030.B. Figure 1: Light Trespass Matrix for maximum foot-candle limits.
- ✓ **Uplighting.** Uplighting is prohibited in all zoning districts, except as where permitted in Chapter 17.132.
- ✓ **Prohibited Lights.** Any light source that does not meet the requirements of this chapter. Searchlights, beacons, and other high-intensity light fixtures. Except as otherwise allowed by this title, any lighting that is flashing, blinking, rotating, chasing, or rapidly changing in color or intensity is prohibited.
- ✓ **Nonessential Exterior Lighting.** All nonessential exterior commercial and residential lighting shall be turned off after business hours and/or when not in use. Lights on a timer shall be used. Sensor activated lights shall be used to replace existing lighting that is desired for security purposes.
- ✓ **Any other standard found applicable to the proposed exterior lighting.**





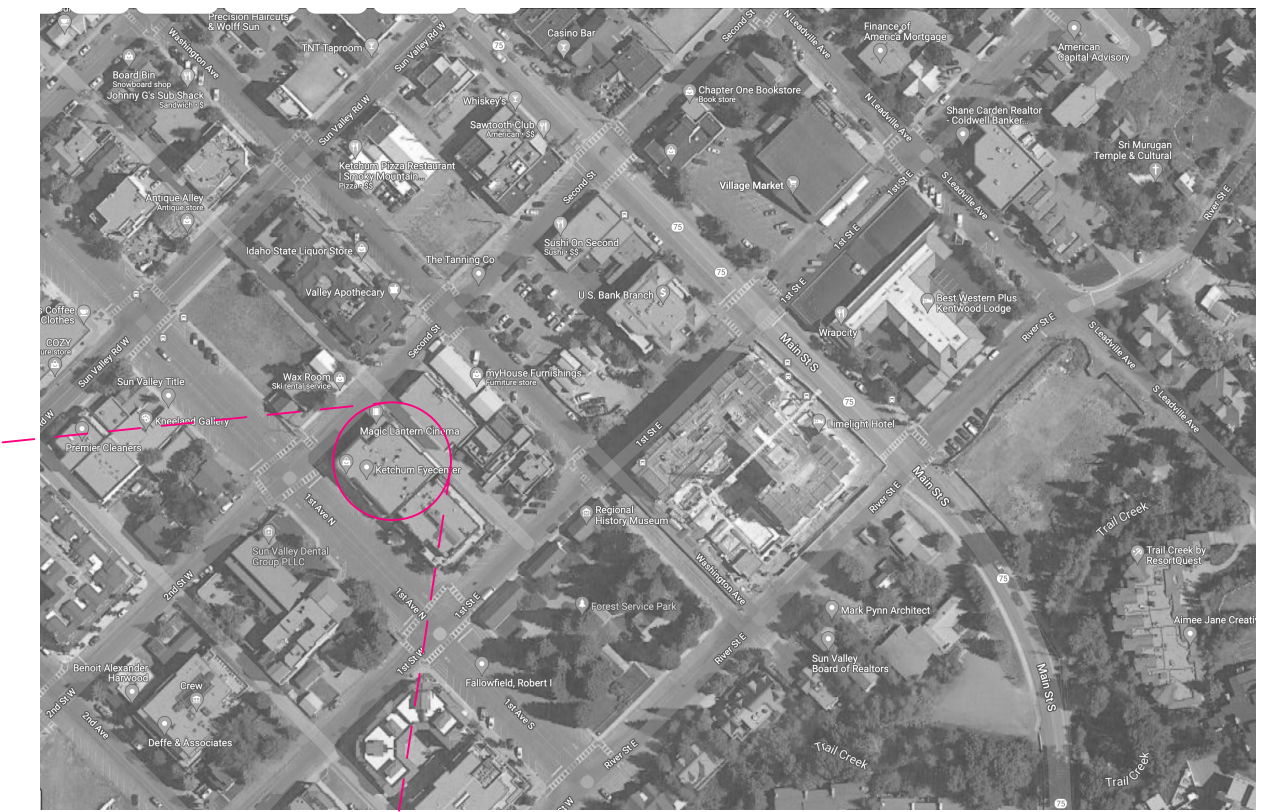
City of Ketchum

# ATTACHMENT B: CUP Site and Floor Plans

2ND STREET

ALLEY

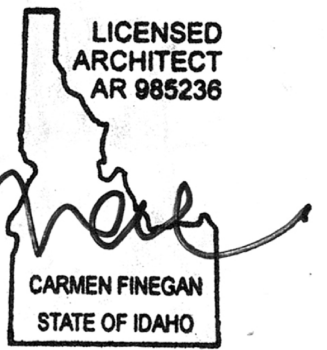
1ST AVENUE



180 1ST AVE. N, KETCHUM ID 83340



105 LEWIS ST. # 103B  
 KETCHUM, ID 83340  
 P.O. BOX 1148  
 SUN VALLEY, ID 83353  
 208.720.8508  
 CARMENFINEGAN.COM



DRAWINGS AND DESIGN  
 CONCEPTS ARE EXCLUSIVE  
 PROPERTY OF THE  
 ARCHITECT. ANY  
 UNAUTHORIZED USE OR  
 REPRODUCTION IS  
 PROHIBITED BY LAW © 2020.

**THEATER RENOVATION - EVENT UNIT**  
 KETCHUM, IDAHO 83340

SCALE

1/8" = 1'-0"

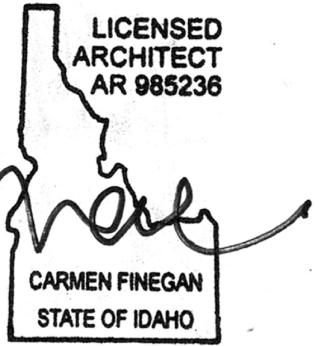
SHEET TITLE

SITE PLAN

**A.1**



105 LEWIS ST. # 103B  
 KETCHUM, ID 83340  
 P.O. BOX 1148  
 SUN VALLEY, ID 83353  
 208-720-8508  
 CARMENFINEGAN.COM



DRAWINGS AND DESIGN  
 CONCEPTS ARE EXCLUSIVE  
 PROPERTY OF THE  
 ARCHITECT. ANY  
 UNAUTHORIZED USE OR  
 REPRODUCTION IS  
 PROHIBITED BY LAW © 2020.

..

**THEATER RENOVATION - EVENT UNIT**  
 KETCHUM, IDAHO 83340

SCALE

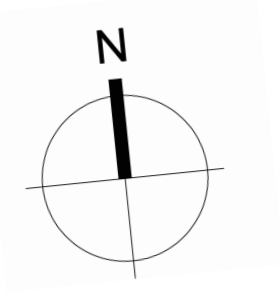
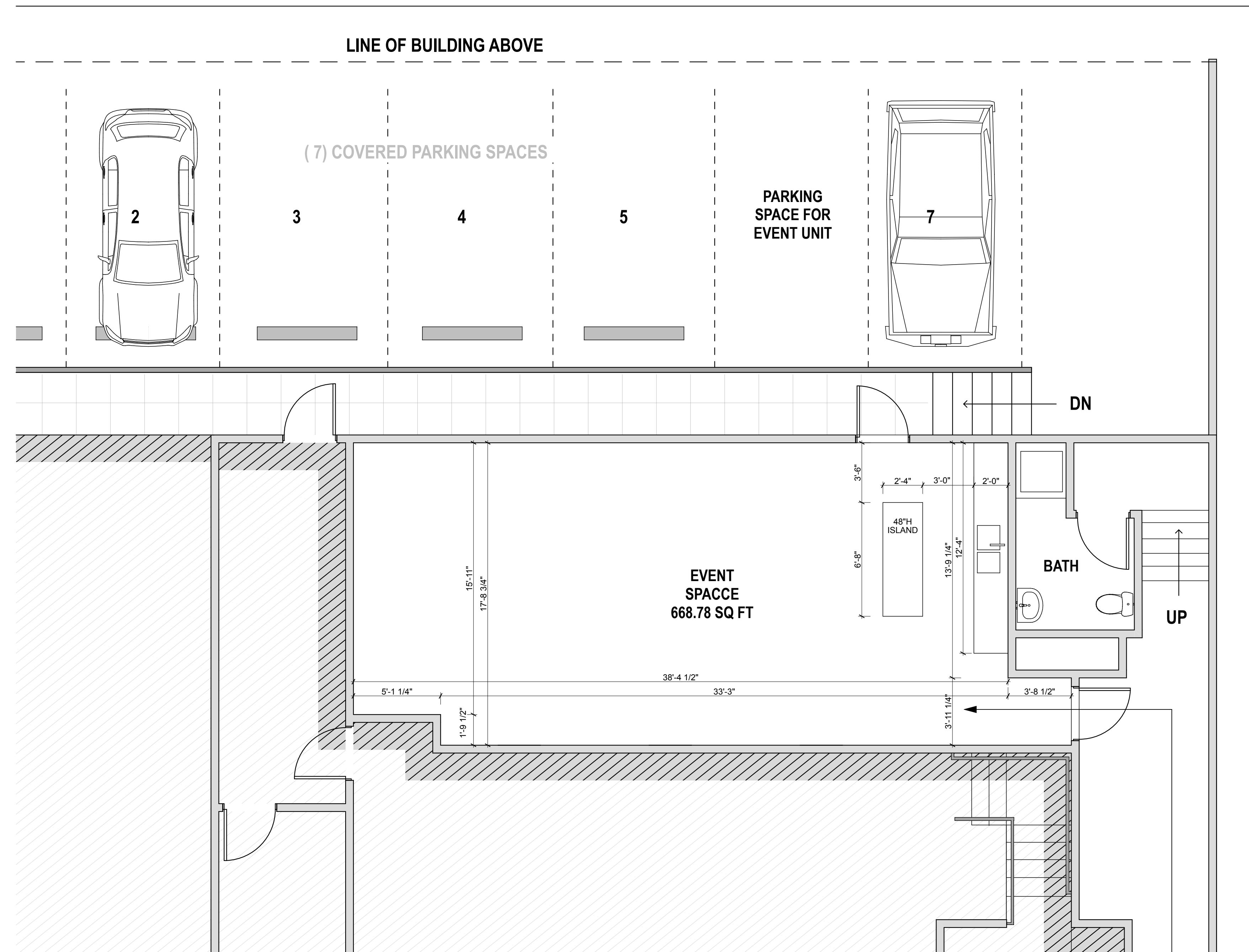
1/4" = 1'-0"

SHEET TITLE

FLOOR PLAN

**A.2**

PRINT DATE: Thursday, May 5, 2022



PLUMBING FIXTURE REQUIREMENTS - OFFICE

PER IBC TABLE 2902.1

AREA & OCC. TYPE	OCCUPANCY LOAD			WATER CLOSET				LAVATORIES				DRINKING FOUNTAINS		SERVICE SINK	
	TOTAL	MALE	FEMALE	MALE		FEMALE		MALE		FEMALE		REQUIRED	PROVIDED	REQUIRED	PROVIDED
				REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED	REQUIRED	PROVIDED				
SUITE A 'B'	11	6	6	1 PER 25 FOR THE FIRST 50 AND 1 PER 50 FOR THE REMAINDER EXCEEDING 50				1 PER 40 FOR THE FIRST 80 AND 1 PER 80 FOR THE REMAINDER EXCEEDING 80				1 PER 100		0	1
SUITE B 'B'	9	5	5	1 PER 25 FOR THE FIRST 50 AND 1 PER 50 FOR THE REMAINDER EXCEEDING 50				1 PER 40 FOR THE FIRST 80 AND 1 PER 80 FOR THE REMAINDER EXCEEDING 80				1 PER 100		0	1
STORAGE 'B'	1	1	1	1 PER 25 FOR THE FIRST 50 AND 1 PER 50 FOR THE REMAINDER EXCEEDING 50				1 PER 40 FOR THE FIRST 80 AND 1 PER 80 FOR THE REMAINDER EXCEEDING 80				1 PER 100		0	1
<b>TOTAL</b>	<b>21</b>	<b>12</b>	<b>12</b>	<b>.48</b>	<b>3</b>	<b>.04</b>	<b>3</b>	<b>.03</b>	<b>1</b>	<b>.03</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

PER IBC 2018 TABLE 2902.1 - FOOT NOTES

e. FOR BUSINESS OCCUPANCIES, EXCLUDING RESTAURANTS, AND MERCANTILE OCCUPANCIES WITH AN OCCUPANT LOAD OF THIRTY (30) OR FEWER, SERVICE SINKS SHALL NOT BE REQUIRED.  
f. DRINKING FOUNTAINS ARE NOT REQUIRED FOR AN OCCUPANT LOAD OF THIRTY (30) OR FEWER

2902.1.2 SINGLE-USER TOILET FACILITY AND BATHING ROOM FIXTURES: THE PLUMBING FIXTURES LOCATED IN SINGLE USER TOILET FACILITIES AND BATHING ROOMS, INCLUDING FAMILY OR ASSISTED-USE TOILET AND BATHING ROOMS THAT ARE REQUIRED BY SECTION 1109.2, SHALL CONTRIBUTE TOWARD THE TOTAL NUMBER OF REQUIRED PLUMBING FIXTURES OR A BUILDING OR TENANT SPACES. SINGLE USER TOILET FACILITIES AND BATHING ROOMS, AND FAMILY OR ASSISTED-USE TOILET ROOMS AND BATHING ROOMS SHALL BE IDENTIFIED FOR USE BY EITHER SEX.

2902.2 SEPARATE FACILITIES  
EXCEPTION 2: SEPARATE FACILITIES SHALL NOT BE REQUIRED IN STRUCTURES OR TENANT SPACES WITH A TOTAL OCCUPANT LOAD, INCLUDING BOTH EMPLOYEES AND CUSTOMERS, OF 15 OR FEWER.  
EXCEPTION 4: SEPARATE FACILITIES SHALL NOT BE REQUIRED IN BUSINESS OCCUPANCIES IN WHICH THE MAXIMUM OCCUPANT LOAD IS 25 OR FEWER.

CODE ANALYSIS - IBC 2018

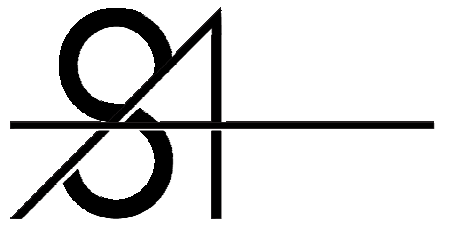
BUILDING STATISTICS	
CONSTRUCTION TYPE:	(E) - PRESUMED TYPE V-B PER PREVIOUS CONSTRUCTION DOCUMENTS
PROPOSED USE(S):	BUSINESS - OFFICE
OCCUPANCY CLASSIFICATION(S):	B
SPRINKLERED:	YES - EXISTING
FIRE ALARM:	YES - EXISTING
<b>MAXIMUM EGRESS TRAVEL DISTANCES</b> PER IBC TABLES 1017.2, 1006.2.1	
DISTANCE TO EXIT:	250' MAX. (FULLY SPRINKLERED), 200' (NON SPRINKLERED)
PROPOSED MAX DISTANCE TO EXIT:	81.9' PROPOSAL COMPLIANT
COMMON PATH OF EGRESS TRAVEL:	100' MAX. 'B' SPRINKLERED
PROPOSED (CPET):	42.2' PROPOSAL COMPLIANT
<b>EGRESS WIDTH PER OCCUPANT SERVED</b> PER IBC 1005.3.1 & 1005.3.2	
STAIRWAYS:	0.3' PER OCCUPANT
OTHER EGRESS COMPONENTS:	0.2' PER OCCUPANT
<b>MINIMUM NUMBER OF EXITS PER OCCUPANT LOAD</b> PER IBC TABLE 1006.3.1	
1-500 OCCUPANT LOAD / STORY:	MIN. 2 EXITS OR ACCESS TO EXITS FROM STORY PROPOSAL COMPLIANT
<b>EXIT ARRANGEMENT</b> PER IBC 1007.1.1	
TWO EXITS OR EXIT ACCESS DOORWAYS, EXITS SHALL BE PLACED A DISTANCE APART EQUAL TO NOT LESS THAN ONE-HALF OF THE LENGTH OF THE MAXIMUM OVERALL DIAGONAL DIMENSION OF THE BUILDING OR AREA TO BE SERVED MEASURED IN A STRAIGHT LINE BETWEEN THEM. EXCEPTION 2: WHERE A BUILDING IS EQUIPPED THROUGHOUT WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION 903.3.1.1 OR 903.3.1.2 THE SEPARATION DISTANCE SHALL BE NOT LESS THAN ONE-THIRD OF THE LENGTH OF THE MAXIMUM OVERALL DIAGONAL DIMENSION OF THE AREA SERVED EXCEPTION 2: WHERE A BUILDING IS EQUIPPED THROUGHOUT WITH AN AUTOMATIC SPRINKLER SYSTEM IN ACCORDANCE WITH SECTION 903.3.1.1 OR 903.3.1.2 THE SEPARATION DISTANCE SHALL BE NOT LESS THAN ONE-THIRD OF THE LENGTH OF THE MAXIMUM OVERALL DIAGONAL DIMENSION OF THE AREA SERVED. PROPOSAL COMPLIANT	
<b>ACCESSIBLE MEANS OF EGRESS</b> PER IBC 1009.1	
ACCESSIBLE SPACES SHALL BE PROVIDED WITH NOT LESS THAN ONE ACCESSIBLE MEANS OF EGRESS, WHERE MORE THAN ONE MEANS OF EGRESS ARE REQUIRED BY SECTION 1006.2 OR 1006.3 FROM ANY ACCESSIBLE SPACE, EACH ACCESSIBLE PORTION OF THE SPACE SHALL BE SERVED BY NOT LESS THAN TWO ACCESSIBLE MEANS OF EGRESS.	

OCCUPANT LOAD						
AREA NAME	OCCUPANCY CLASSIFICATION	FUNCTION OF SPACE	LOAD FACTOR	NET/GROSS (AREA TYPE)	AREA	OCCUPANTS
SUITE A	B	BUSINESS	150	GROSS	1610 SF	11
SUITE B	B	BUSINESS	150	GROSS	1294 SF	9
STORAGE	B	ACCESSORY STORAGE	300	GROSS	99 SF	1
<b>Grand total</b>					<b>3004 SF</b>	<b>21</b>

PROJECT  
**Theater  
Renovation**

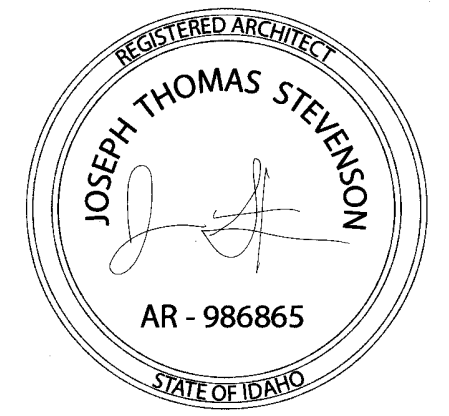
180 1st Ave. N  
Ketchum, ID 83340

ARCHITECT



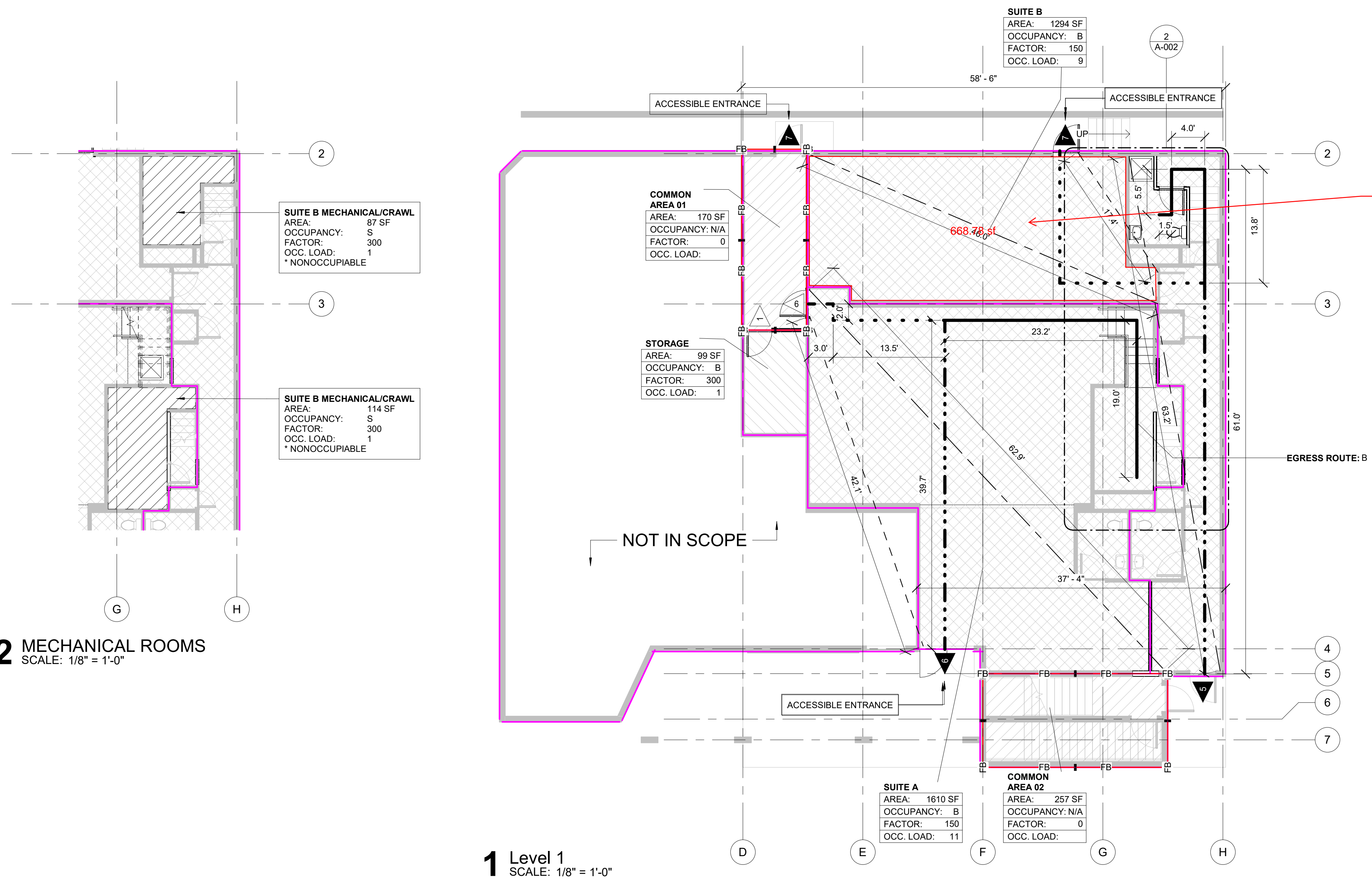
PROJECT TEAM

JOEY STEVENSON  
JOEY@STEVENSONARCHITECTURE.COM  
208.720.3025



COPYRIGHT 2021  
STEVENSON ARCHITECTURE LLC  
ALL RIGHTS RESERVED  
ALL DRAWINGS CREATED BY THIS OFFICE ARE  
COPYRIGHTED UNDER THE ARCHITECTURAL  
WORKS COPYRIGHT ACT OF 1991. ANY USE OF  
THE INFORMATION APPEARING HEREON,  
INCLUDING COPYING OR MODIFICATION OF THE  
ORIGINAL DESIGN, IS PROHIBITED WITHOUT  
EXPRESS WRITTEN CONSENT.

CONSULTANTS



**Occupancy Area #1:**  
668.78 sq/ft  
Concentrated assembly without fixed seats (chairs only)  
- Maximum Occupancy 96 People  
Unconcentrated assembly (Tables & Chairs)  
- Maximum Occupancy 45 People  
(Occupancy limits need to be posted. Any other configuration may trigger different occupancy limits and will need to be approved by the Fire Marshal)

LEGEND	
<b>BUILDING EGRESS</b>	
	MAX. OVERALL DIAGONAL OF THE BUILDING, PER IBC 1007.1.1
	DISTANCE BETWEEN EXITS PER IBC 1007.1.1
	EGRESS PATH
	COMMON PATH EGRESS TRAVEL (CPET)
	MAX TRAVEL PATH
	OCCUPANT LOAD & DIRECTION OF TRAVEL AT ACCUMULATION POINTS.
	OCCUPANT LOAD & DIRECTION OF TRAVEL, SUM OF MULTIPLE AREAS/ROOMS AT EXIT TO PUBLIC WAY.
<b>FIRE RESISTANT CONSTRUCTION</b>	
LB - LB	1 HR RTD. LOAD BEARING WALL
FB - FB	1 HR RTD. FIRE BARRIER
FP - FP	1 HR RTD. FIRE PARTITION
LB - LB	2 HR RTD. LOAD BEARING WALL
FB - FB	2 HR RTD. FIRE BARRIER
FB - FB	3 HR FIRE BARRIER WALL
	FIRE EXTINGUISHER CABINET

ISSUANCE  
**CONSTRUCTION DOCUMENTS**

ISSUE DATE  
**01/07/2022**

CURRENT REVISION

REVISION HISTORY

DRAWING SHEET TITLE  
**CODE PLANS**

**A-002**

**2** MECHANICAL ROOMS  
SCALE: 1/8" = 1'-0"

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



City of Ketchum

# ATTACHMENT C:

## Draft Findings of Fact, Conclusions of Law, and Decision



City of Ketchum  
Planning & Building

IN RE: )  
 )  
 Extra Credit Event Space ) **KETCHUM PLANNING AND ZONING COMMISSION**  
 Conditional Use Permit ) **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**  
 Date: July 26, 2022 ) **DECISION**  
 )  
 File Number: P22-022 )

**PROJECT:** Extra Credit Event Space – 180 N 1<sup>st</sup> Ave

**APPLICATION TYPE:** Conditional Use Permit

**FILE NUMBER:** P22-022

**ASSOCIATED APPLICATIONS:** Design Review (CR-91-13)  
 Condominium Final Plat (94-033)  
 Building Permit (B22-022)

**REPRESENTATIVE:** JSLINPC, LLC – Noah and Jami Levine

**OWNER:** JSLINPC, LLC – Noah and Jami Levine

**LOCATION:** 180 N First Ave Unit 4 (Cinema Square Condos, Lots 5 and 6, Block 39, Ketchum Townsite)

**ZONING:** Community Core – Mixed-Use Subdistrict (CC-2)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The City of Ketchum received the Conditional Use Permit Application for an assembly use on April 19, 2022. The application was routed to all city departments for review and comment. Comments from all departments were provided to the applicant on June 15, 2022. All department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

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 July 6, 2022. The public hearing notice was published in the Idaho Mountain Express on July 6, 2022. A notice was posted on the project site and the city's website on July 18, 2022.

The Planning and Zoning Commission (the "Commission") considered the 180 N 1<sup>st</sup> Ave Conditional Use Permit (Application No. P21-022) application for the Extra Credit Event Space during a special meeting on July 26, 2022. After considering staff's analysis, and public comment, the Commission approved the 180 N 1<sup>st</sup> Ave Conditional Use Permit application with conditions as proposed by staff.

### **BACKGROUND**

The Applicant is requesting a Conditional Use Permit (CUP) to establish an "assembly" use in one of the ground floor commercial spaces in the building located at 180 N First Ave (the "subject property"). The subject property contains one commercial building built in 1998 with two commercial condominium units, one unit on the upper floor and one unit on the ground floor. As originally constructed, the Magic Lantern theater occupied the upper floor with ticket sales, concessions, and large viewing theaters. The lower floor contained small screening rooms associated with the Magic Lantern and other smaller commercial spaces. Today, the upper floor is still the location of the Magic Lantern movie theater. The lower floor is broken up into four spaces occupied by Sun Valley Needle Arts, Ketchum Eyecenter, a vacant commercial space fronting N 1<sup>st</sup> Ave, and the proposed assembly use behind the vacant space. The units containing the vacant commercial space and the proposed assembly use were previously the locations of the screening rooms for the Magic Lantern which closed permanently in April 2020 due to COVID-19.

The subject property is zoned Community Core Subdistrict 2 – Mixed Use (CC-2), which allows "Assembly, place of" only through the approval of a Conditional Use Permit. The Ketchum Municipal Code defines "Assembly, place of" as:

**"Assembly, place of:** The use of land for a meeting place where persons gather together for purposes of attending civic, social, religious functions, recreational events or entertainment performances on a regular or recurring basis including, but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, or indoor or outdoor recreational facilities, but excludes a "cultural facility" as defined by this chapter. A gathering of less than 25 persons shall not be considered a place of assembly provided the gathering is accessory and incidental to the principal use."

The proposed event space is intended for rent by organizations or businesses for the purpose of board meetings, wedding rehearsal dinners, functions for the non-profit community, birthday parties, and other gatherings. If approved, the proposed space would consist of 1,294 square feet including 669 square feet of event room area and 625 square feet of hallway and restroom

areas dedicated to the event space. There is no outdoor area associated with the event space. The sound proofing from the original screening rooms is still in place and will remain if the assembly use is approved. As shown on the project plans in Attachment B, the proposed event space is accessed from N 1st Ave but does not have any frontage on the street other than an entry door to the hallway.

Capacity of the proposed space is dependent on the format of the event and maximum capacity set by the adopted Fire Code for the city of Ketchum. Per the requirements of the Fire Marshall, the maximum capacity is 45 people for a sit-down event with tables and chairs. For an informal event without fixed seats and mostly standing, the maximum capacity is 96 people. Events are anticipated to occur between 9am and midnight on weekdays, and noon to midnight on weekends with additional time for set up and takedown.

The current property owners purchased the lower level (Unit 1) of the building in 2021 and began the process of seeking tenants for the vacant space shortly thereafter. In January 2022, the owner submitted a building permit for the reconfiguration of the vacant screening rooms to increase marketability for a variety of potential tenants. The City of Ketchum received the Conditional Use Permit Application for an assembly use on April 19, 2022. The application was routed to all city departments for review and comment. Comments from all departments were provided to the applicant on June 15, 2022. As of the date of this staff report, all department comments have been adequately addressed in revised application materials.

### **FINDINGS OF FACT**

The Commission, 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:

### **FINDINGS REGARDING COMPREHENSIVE PLAN CONFORMANCE**

**Land Use Category:**

*Mixed-Use Commercial*

**PRIMARY USES**

*Offices, medical facilities, health/wellness-related services, recreation, government, residential, and services.*

**SECONDARY USES**

*Open space, places of worship and public uses are also appropriate.*

**CHARACTERISTICS AND LOCATION**

*The intent of the Mixed-Use Commercial category is to improve two areas: 1) the downtown area outside the retail core, and 2) the area surrounding St. Luke's Hospital (McHanville/Cold Springs Canyon) where development must be sensitively sited for viewshed and wildlife habitat protection.*

**Analysis:** *The comprehensive plan does not outline what is specifically included in "services", however, an event rental space is providing a type of service to the residents, businesses, and visitors of our community for a variety of events including board meetings, business gatherings, receptions, parties, or other. As stated in the "Characteristics and*



Location” description of the plan, the intent is to improve the downtown area outside the retail core. The location of the proposed event space has been vacant for two years and has an opportunity to create an active space in a location that has minimal visibility from the street. Allowing an active use in this space provides an opportunity to activate a vacant space that is not currently providing value to the community.

**Comprehensive Plan Value: Vibrant Downtown**

Our downtown core is critical to the economic health and well-being of Ketchum. It functions as both an economic engine and the symbolic “heart and soul” of the City. We will preserve this vibrant commercial area as a place where local businesses can thrive and where people can congregate. Downtown must be a place that people can reach easily by foot, bike, and transit. We will continue to reinforce the downtown as the City’s primary business district, retail core, and key gathering place for residents and visitors for shopping, dining, and entertainment. Enhancements and efforts to support events, the arts, and Ketchum’s history and culture will make downtown an even greater community asset.

**Analysis:** The proposed use supports the city’s value of creating a vibrant downtown as it would activate a space that has been vacant for an extended period. Additionally, Ketchum’s downtown should be a “key gathering place for residents and visitors for shopping, dining, and entertainment”. The plan also states that efforts to support events will make downtown a greater community asset. An event space is a place for people to gather for any range of special events and helps support this goal for the downtown.

**Policy E-1(b)**

**Downtown as a Major Community Asset and Tourism Attraction**

The community will strive to maintain a single concentrated commercial and retail core. The City will reinforce the downtown core’s role as a major asset and visitor attraction by encouraging businesses that fit the downtown character and by developing policies, programs, investment strategies, and organizations that help retain downtown businesses.

**Analysis:** Allowing a small format event space in the downtown at this location not only activates a commercial unit with limited visibility, but it also draws visitors to a location within the downtown that does not have a lot of activation in the evenings. This further promotes the downtown as an entertainment destination. The event space will provide a location for residents and visitors to congregate and promote those event attendees to explore the other areas of downtown before or after the event.

**FINDINGS REGARDING CONDITIONAL USE PERMIT CRITERIA**

Conditional Use Requirements				
EVALUATION STANDARDS: 17.116.030 and § 67-6512 of Idaho Code				
A conditional use permit shall be granted by the commission only if the applicant demonstrates the following:				
Compliance and Analysis				
Yes	No	N/A	City Code	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(A)	<b>The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.</b>
			<b>Staff Comments</b>	Based on the capacity of the space, the hours of operation, and the nature of the proposed uses, the event space is similar to other permitted uses by-right in the community core such as food service, brewpubs, and conference and bar elements of hotels. The city has also approved other assembly uses in the community core, such as the Argyros Performing Arts Center. The CC-2 zone district permits multi-family residential in addition to commercial uses. Compatibility issues between event spaces and residential are primarily related to parking, hours of operation, and noise. Staff does not believe the proposed space will result in these issues as there is ample on street parking and bus service for event attendees, the hours of operation are reasonable compared to other uses with evening hours, the venue is small and accommodates a limited number of people, and the event space is completely soundproofed. Additionally, staff is recommending condition of approval #7 that reinforces the city’s provisions

				<i>related to loud or unnecessary noise, which will limit prolonged noise from setup or takedown operations during the evening hours.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(B)</b>	<b>The conditional use will not materially endanger the health, safety and welfare of the community.</b>
			<b>Staff Comments</b>	<i>The building department and fire department have reviewed the proposed plans for the space. All life safety and building code requirements are being met. An additional event space in the community core will not endanger the health, safety, and welfare of the community. Having an additional event space of this size will provide an amenity to residents and businesses that is not widely available within the community core, thereby supporting the community.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(C)</b>	<b>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.</b>
			<b>Staff Comments</b>	<p><i>The proposed use is in a portion of the community core that has fully connected sidewalks providing a protected pedestrian path from surrounding businesses, transportation stops, and parking areas. Attendees of the events will have access to on street parking or can walk, bike, or bus to the event depending on where they are coming from. Some events, such as wedding receptions or corporate events, may hire shuttle services to transport guests rather than individual transportation arrangements. Pedestrian and vehicular traffic associated with the use is consistent with other pedestrian and vehicular traffic patterns and will utilize the grid structure of the community core to navigate the surrounding areas without conflict.</i></p> <p><i>Section 17.125.040.C.1 of the Ketchum Municipal Code outlines the types of uses exempt from parking requirements in the CC zone districts. Of that list, the following exemptions apply to assembly uses:</i></p> <p><i>d. Assembly existing on or before April 17, 2017.</i></p> <p><i>e. The first 5,500 gross square feet for new assembly uses. The first 5,500 gross square feet of an assembly use established or constructed after the date this chapter is passed is exempt, additional square footage is subject to the ratio of one parking space per 1,000 gross square feet.</i></p> <p><i>The initial screening rooms were constructed in 1998, however, the screening rooms ceased operation in 2020. Staff considers this application to be a new assembly space, and therefore subject to the exemption outlined in subsection "e" above. As the space is less than 5,500 square feet, it is exempt from on-site parking requirements.</i></p> <p><i>The applicant has provided an on-site parking space for loading and unloading of event food and supplies. Staff believes that having a dedicated space for loading and unloading is critical for smooth operations of an event facility that has varying hours of operation. Generally, alleys are used for accessing off street parking, garbage management and removal, access to utilities, and deliveries to businesses and residents. Having a dedicated loading and unloading space for the use will limit potential conflicts in the alley between event operations and other maintenance and delivery operations that may take place. Staff recommends condition of approval #4 that outlines the use of the on-site parking space for event operations.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(D)</b>	<b>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.</b>
			<b>Staff Comments</b>	<i>As mentioned above, all departments have reviewed the proposed use including streets, fire, water, wastewater, building and engineering. Additionally, the proposed</i>

				<i>use is within a commercial building currently served by all other utilities necessary to service the use including electricity, gas, and garbage service.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>17.116.030(E)</b>	<b>The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this section.</b>
			<b>Staff Comments</b>	<i>As described in Table 2 of this staff report and 17.116.030(A) of this table, the conditional use aligns with, rather than conflicts with, the policies of the Comprehensive Plan and the basic purposes of this section.</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 Conditional Use Permit application for the development and use of the project site.
2. The Commission has authority to hear the applicant’s Conditional Use Permit Application pursuant to Chapter 17.116 of Ketchum Municipal Code Title 17.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §17.116.040.
4. The Conditional Use Permit application is governed under Ketchum Municipal Code Chapter 17.116.
5. The 180 N 1<sup>st</sup> Ave - Extra Credit Event Space Conditional Use Permit application meets all applicable standards specified in Title 17 of Ketchum Municipal Code.

**DECISION**

**THEREFORE**, the Commission **approves** this Conditional Use Permit Application File No. P21-022 this Tuesday, July 26, 2022, subject to the following conditions of approval.

**CONDITIONS OF APPROVAL**

1. This approval is based on the site plan and floorplans submitted by Carmen Finegan, and attached to the staff report, dated April 26, 2022 and May 5, 2022 respectively. Any change to the floor plan or change in the location or configuration of the uses from what is depicted in the plans, shall be subject to an amendment to this Conditional Use Permit.

The assembly use shall occur in the location depicted on the plans and shall not exceed 1,294 square feet.

2. This conditional use permit is non-transferrable to any other property owner or business other than as outlined on the Conditional Use Permit application dated April 19, 2022. Any change in property ownership or business operator requires an amendment to this Conditional Use Permit.
3. This conditional use permit is non-transferable from one parcel of land to another.
4. As depicted on the Site Plan (Sheet A.1) dated April 26, 2022, one parking space in the rear of the building accessed from the alley shall be dedicated for loading and unloading while the event space is rented, including setup and cleanup of events. No loading or unloading shall occur on the street or in the alley.
5. Prior to Certificate of Completion or Certificate of Occupancy, the owner shall submit an amendment to the active building permit (B22-002) revising the proposed use and occupancy codes for the proposed use, to reflect the approval and ensure all building and fire code requirements are met prior to occupancy.
6. Events shall not exceed a maximum occupancy of 96 people, as shown on Sheet A-002 of the project plans. Maximum occupancies shall be posted on site per the requirements of the City of Ketchum Fire Marshall. Event formats or layouts other than those outlined on Sheet A-002 may trigger different occupancy limits and must be reviewed and approved in writing by the City of Ketchum Fire Marshall.
7. Setup or takedown of events resulting in loud or unnecessary noises outside shall not occur between the hours of 10:00 pm and 7:30am and shall not exceed 60 decibels as outlined in Section 9.08.040.8 of the Ketchum Municipal Code. Noise levels at all times shall conform to KMC 9.08.040 C8.
8. All applicable conditions of approval shall be relayed to all lessees of the event space to ensure compliance with the conditional use permit requirements.
9. The Planning and Zoning staff may conduct site inspections, following notice to the property owner, to ensure all conditions of approval are being met.
10. If violations of the Conditional Use Permit are observed, the Commission shall have the discretion to hold a public hearing to evaluate this Conditional Use Permit and the nature of the violations. Said hearing may result in changes to the conditions of approval or revocation of the conditional use permit.

Findings of Fact **adopted** this 26<sup>th</sup> day of July 2022.

---

Neil Morrow, Chair

City of Ketchum - Planning and Zoning Commission

**IN RE:** )  
) )  
**McDermott Residence** ) **KETCHUM PLANNING AND ZONING COMMISSION**  
**Mountain Overlay Design Review** ) **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**  
**Date: July 26, 2022** ) **DECISION**  
) )  
**File Number: P22-002** )

**PROJECT:** McDermott Residence  
**APPLICATION TYPE:** Mountain Overlay Design Review  
**FILE NUMBER:** P22-002  
**REPRESENTATIVE:** Jeffrey Johnston, CLB Architects  
**OWNER:** Ed McDermott, Betsy McDermott  
**LOCATION:** 600 Walnut Ave – Ketchum Townsite: Block 91, Lot 1A  
**ZONING:** Limited Residential (LR)  
**OVERLAY:** Mountain Overlay (MO)

**RECORD OF PROCEEDINGS**

The City of Ketchum received a Mountain Overlay Design Review Application on January 8, 2022. The application was reviewed and deemed complete on May 6, 2022.

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 May 25, 2022. The public hearing notice was published in Idaho Mountain Express on May 25, 2022. A notice was posted on the project site and the city’s website on May 25, 2022.

The Planning and Zoning Commission (the “Commission”) considered the 600 N Walnut Ave Mountain Overlay Design Review (Application No. P22-002) application during a regular meeting on June 14, 2022. After considering staff’s analysis, the applicant’s presentation, and public comment, the Commission approved the Design Review application with a vote of 4 to zero.

**BACKGROUND**

The subject Mountain Overlay (MO) Design Review is for the development of a new 10,760 sq ft single-family residence known as the McDermott Residence (the “project”) at 600 N. Walnut Avenue (the “subject property”). The subject property, Lot 1A of Block 91 Ketchum Townsite, is a vacant 16,523 square foot lot within the Mountain Overlay (MO) District and the underlying zoning is Limited

Residential (LR). The subject property previously contained a residence which was demolished in 2015 and has since then been used for construction staging. The property was formed through a lot line shift, consolidating two Ketchum Townsite lots, in 2018 and is currently undeveloped. In 2018 the Planning & Zoning Commission approved a residence on the subject property through Mountain Overlay Design Review, but the project never continued to building permit. The subject property is relatively flat with the only remaining natural hillside locate on the northern side property boundary and rear property boundary. Staff researched what may have been the cause of this but was unable to determine whether it was due to the previous development located on the property, demolition of the structure, or reconfiguration of the lot when in use as construction staging, or some other activity.

Pursuant to Ketchum Municipal Code (KMC) 17.104.050.A, the construction or placement of structures within the MO District is subject to all applicable Design Review improvements and standards (KMC 17.96.060) as well as subject to the Mountain Overlay Design Review requirements set forth in KMC 17.104.070. The purpose of the MO Zoning District is to encourage development to be harmonious with existing natural resources, protect natural land features and wildlife habitat, prohibit detrimental alteration and minimize impacts to the existing topography, preserve hillsides and ridges, and minimize the visual impact of building sites by siting building footprint away from higher elevations.

**CRITERIA FOR SWIMMING POOLS IN MOUNTAIN OVERLAY**

As part of the project submittal the applicant proposed an in ground swimming pool and spa in the backyard. Staff was not aware of previous development in the Mountain Overlay District containing a pool and requested that the Commission determine if pools are aligned with the objectives and standards of the Mountain Overlay District. The Commission determined this specific pool could be permitted and did not set a precedent for other pools proposed in the Mountain Overlay District. The Commission determined the proposed pool could be approved because it met the following criteria:

1. The footprint of the pool was included in the building coverage of the lot and the overall building coverage of the project did not exceed the permitted building coverage requirement.
2. The project site was disturbed from previous development, therefore the pool caused minimal disruption to the project site.
3. Prior to issuance of building permit, applicant must demonstrate the pool cover is sufficient to withstand the weight of wildlife in the area and that pool will not endanger wildlife when the residents are not present on the property.
4. The pool does not result in excavation into the hillside and does not have a visual impact on the hillside
5. Pool size is minimal in size (SF of pool) and causes minimal disruption to hillside

Below is staffs review of whether the proposed project meets these criteria:

<b>Criteria #1</b>	<b>Conformance</b>
<i>Adding the footprint of the pool to the building coverage of the lot does not take the building coverage of the project over the permitted building coverage requirement.</i>	YES
<b>Finding:</b> The proposed pool & spa have an area of 200 sq ft. Adding this to the building coverage of the residence brings the total coverage to 5,284 sq ft. The building coverage of the residence and pool together is 31.9% which is below the permitted 35% in the Limited Residential (LR) zone.	

Criteria #2	Conformance
<i>The project site must be disturbed from previous development therefore the pool causes minimal disruption to the project site.</i>	YES
<b>Finding:</b> The existing lot previously had a residence on site which has disturbed the natural hillside. The pool and spa have been reduced in size and shifted to an area on the lot that would reduce the amount of cut required.	

Criteria #3	Conformance
<i>Prior to issuance of the building permit, the applicant must demonstrate that the pool cover is sufficient to withstand the weight of wildlife and the pool does not endanger wildlife.</i>	YES
<b>Finding:</b> Prior to issuance of a building permit for the proposed residence, the applicant will have to demonstrate that the pool cover can withstand the weight of elk and deer. Applicant will provide information on how the pool will be secured when the residents are not present on the property.	

Criteria #4	Conformance
<i>Pools construction shall not excavate into a hillside and shall not have a visual impact on the hillside.</i>	YES
<b>Finding:</b> Due to the pool being situated in the rear yard behind the proposed residence, and not causing excavation into the hillside, no visual impact will be created.	

Criteria #5	Conformance
<i>Pool size shall be minimal in size and not cause disruption to the hillside</i>	YES
<b>Finding:</b> The total size of the pool/spa is 200sf with dimensions of 10ft by 20ft. The size, location, and existing site conditions cause the pool to be small and located in a location that does not create disturbance to the hillside.	

### Findings of Fact

**Table 1: Findings Regarding Zoning and Dimensional Standards**

Compliance with Zoning Standards				
Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	<b>Minimum Lot Area</b>
			<i>Staff Comment</i>	<b>Required:</b> 9,000 square feet minimum. <b>Existing (Lot 1A):</b> 16,523 sf
			17.12.040	<b>Building Coverage</b>
			<i>Staff Comment</i>	<b>Permitted:</b> 35% <b>Proposed:</b> 30.7% (5084 sf)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	<b>Minimum Building Setbacks</b>

			<i>Staff Comment</i>	<p><b>Minimum:</b> Front: 15' Side: &gt; of 1' for every 2' in building height, or 10' (16.19' required) Rear: 20'</p> <p><b>Proposed:</b> Front: 15' Side: 16.25' Side: 16.25' Rear: 20' as measured from alley centerline</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	<b>Building Height</b>
			<i>Staff Comment</i>	<p><b>Maximum Permitted: 35'</b></p> <p><b>Proposed: 32.475'</b></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.030.H	<b>Curb Cut</b>
			<i>Staff Comment</i>	<p><b>Permitted: 35% of street frontage or 38.5' for the subject property (street frontage 110.11')</b></p> <p><b>Proposed: 25.3'</b></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.040.B	<b>Parking Spaces</b>
			<i>Staff Comment</i>	<p><b>Required:</b> Residential one family: 2 parking spaces per dwelling unit</p> <p><b>Proposed:</b> The applicant is proposing a two (2) car garage. One (1) additional parking space is proposed for the driveway.</p>

**Table 2: Findings Regarding Mountain Overlay Design Review Standards**

<b>IMPROVEMENTS AND STANDARDS: 17.104.070 – Mountain Overlay Design Review:</b>				
The following list of criteria and those contained in section 17.96.080 of this title must be considered and addressed by each applicant seeking design review approval.				
Yes	No	N/A	City Code	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (1)	<p><b>There shall be no building on ridges or knolls which would have a material visual impact on a significant skyline visible from a public vantage point entering the city or within the city. "Material", as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this section.</b></p> <p><i>Staff Comment</i> The proposed residence complies with this requirement as the structure is not located on a ridge or knoll that would have a material visual impact on a significant skyline visible from a public vantage point entering or within the city. The overall design will serve to protect the visual integrity of the adjacent hillside.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (2)	<p><b>Building, excavating, filling and vegetation disturbance on hillsides which would have a material visual impact visible from a public vantage point entering the city or within the city shall be minimized. "Material", as the term is used herein, shall be construed in light of the magnitude of the negative impact on the objectives of this section.</b></p> <p><i>Staff Comment</i> Hillside disturbance has been minimized and the project will not have a material visual impact from a public vantage point within or upon entering the city.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (3)	<p><b>Driveway standards as well as other applicable standards contained in chapter 12.04 of this code shall be met.</b></p> <p><i>Staff Comment</i> The proposed paver driveway is sited in the same location as the existing, gravel driveway. The City Engineer and Fire Department have approved the proposed design</p>



				<i>of the paver driveway. The driveway must meet all applicable standards and shall receive approval from the City Engineer and Fire Department prior to the issuance of a building permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (4)	<b>All development shall have access for fire and other emergency vehicles to within one hundred fifty feet (150') of the furthest exterior wall of any building.</b>
			<i>Staff Comment</i>	<i>The Fire Department has reviewed the proposed design and has found that all access requirements for emergency vehicles has been met</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (5)	<b>Significant rock outcroppings shall not be disturbed.</b>
			<i>Staff Comment</i>	<i>There are no significant rock outcroppings within the property boundary of the subject property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (6)	<b>International building code (IBC) and international fire code (IFC) and Ketchum fire department requirements shall be met.</b>
			<i>Staff Comment</i>	<i>The project must comply with the International Building Code 2018 and the Ketchum Fire Department requirements. All IBC, IFC, and Ketchum Fire Department requirements shall be verified and met prior to the issuance of a building permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (7)	<b>Public water and sewer service shall comply with the requirements of the city.</b>
			<i>Staff Comment</i>	<i>As indicated on Sheet C2 of the submittal, the applicant has proposed connecting to the municipal water and sewer systems from existing lines within 6<sup>th</sup> Street. Requirements and specification for the water and sewer connections will be verified, reviewed, and approved by the Utilities Department prior to issuance of a Building Permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (8)	<b>Drainage shall be controlled and maintained to not adversely affect other properties.</b>
			<i>Staff Comment</i>	<i>As indicated on Sheet C2 of the submittal, the applicant has proposed a system of drywells to control drainage on the site. Pursuant to KMC 17.96.060.C.1, all storm water drainage shall be retained on site. All drainage plans and specifications shall be reviewed and approved by the City Engineer and Streets Department prior to issuance of a Building Permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (9)	<b>Cuts and fills allowed for roadways shall be minimized; lengths of driveways allowed shall be minimized; all cuts and fills shall be concealed with landscaping, revegetation and/or natural stone materials. Revegetation on hillsides with a clear zone of thirty feet (30') around all structures is recommended. Said clear zone shall include low combustible irrigated vegetation with appropriate species, on file with the Ketchum planning department. Revegetation outside of this clear zone should be harmonious with the surrounding hillsides.</b>
			<i>Staff Comment</i>	<i>The proposed paver driveway will not require significant cuts or fill as it is sited in the same location as the existing, gravel driveway.</i>  <i>An existing cut on the northern side of the property where the proposed driveway is located will be concealed with boulders and vegetation. Revegetation of the hillside includes species such as native grasses, serviceberry, sagebrush, sumac, pines, aspen and other drought tolerant plants.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (10)	<b>No other sites on the parcel are more suitable for the proposed development in order to carry out the purposes of this section.</b>
			<i>Staff Comment</i>	<i>No alternative site for the residence exists on the property. The proposed residence will not have a material visual impact on a significant skyline, does not impact a significant rock outcropping, and will minimize the disturbance to native and natural vegetation. The residence is situated at the rear of the subject property resulting in the building tucking into the hillside.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (11)	<b>Access traversing twenty five percent (25%) or greater slopes does not have significant impact on drainage, snow and earthslide potential and erosion as it relates to the subject property and to adjacent properties.</b>
			<i>Staff Comment</i>	<i>Access will not traverse slopes greater than 25%. The proposed driveway will be situated over the existing gravel driveway and will not traverse additional areas of the hillside.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (12)	<b>Utilities shall be underground.</b>
			<i>Staff Comment</i>	<i>All utilities shall be undergrounded.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (13)	<b>Limits of disturbance shall be established on the plans and protected by fencing on the site for the duration of construction.</b>
			<i>Staff Comment</i>	<i>The applicant has provided fencing around the property on the Construction Activity Plan. The final construction management plan shall be approved by the City Engineer, Streets Department, and Planning Department prior to issuance of a building permit for the project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.104.070 A (14)	<b>Excavations, fills and vegetation disturbance on hillsides not associated with the building construction shall be minimized.</b>
			<i>Staff Comment</i>	<i>With the exception of the proposed pool excavation and fill is limited to the proposed residence.  Vegetation on the hillside has been minimized with this proposal.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.104.070 A (15)	<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>
			<i>Staff Comment</i>	<i>No significant landmarks have been identified on-site.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.104.070 A (16)	<b>Encroachments of below grade structures into required setbacks are subject to subsection 17.128.020K of this title and shall not conflict with any applicable easements, existing underground structures, sensitive ecological areas, soil stability, drainage, other sections of this Code or other regulating codes such as adopted International Code Council Codes, or other site features concerning health, safety, and welfare.</b>
				<i>No encroachments of below grade structures into setbacks are proposed.</i>

**Table 3: Findings Regarding Design Review Standards**

Design Review Requirements IMPROVEMENTS AND STANDARDS: 17.96.060				
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<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>
			<i>Staff Comments</i>	<i>The proposed project connects the residence to Walnut Ave. The applicant is aware that construction of the driveways is their expense.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(A)(2) Streets	<b>All street designs shall be approved by the City Engineer.</b>
			<i>Staff Comments</i>	<i>N/A. No new street is proposed.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A. Sidewalks are not required in this zoning district, LR.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A. Subject property is located within the LR zone which does not require sidewalks. Project to meet right-of-way standards for 60’ &amp; 80 ROW which include supplying areas for on-street parking. ROW improvements will be verified at building permit submittal.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060 (B)(3)	<b>Sidewalks may be waived if one of the following criteria is met:</b> <ol style="list-style-type: none"> <li>a. The project comprises an addition of less than 250 square feet of conditioned space.</li> <li>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.</li> </ol>
			<i>Staff Comments</i>	<i>N/A. See above Staff comment for Ketchum Municipal Code §17.96.060(B)(2).</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A. See above Staff comment for Ketchum Municipal Code §17.96.060(B)(2).</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A. See above Staff comment for Ketchum Municipal Code §17.96.060(B)(2).</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>
			<i>Staff Comments</i>	<i>N/A. See above Staff comment for Ketchum Municipal Code §17.96.060(B)(2).</i>
<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>
			<i>Staff Comments</i>	<i>The applicant proposes to retain all stormwater on site. See sheet C1. The drainage and grading plan will be reviewed and approved by the City Engineer and Streets Department Director through the Building Permit review and approval process.</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>
			<i>Staff Comments</i>	<i>See sheet C1. Drainage improvements constructed along Walnut Ave &amp; 6<sup>th</sup> St property lines.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A</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>
			<i>Staff Comments</i>	<i>The specifications for the drywells and catch basins are included on Sheet C3. The drainage plan and associated specifications shall be reviewed and approved by the City Engineer prior to issuance of a Building Permit for the project.</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>

			<i>Staff Comments</i>	<i>All project costs associated with the development, including installation of utilities are the responsibility of the applicant. The applicant has not made requests for funding to the City, and no funds have been provided by the city for the project.</i>
<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>
			<i>Staff Comments</i>	<i>All utilities are proposed to be located underground.</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>
			<i>Staff Comments</i>	<i>Any extension of utilities will be done in accordance with the city of Ketchum standards and at the discretion of the City Engineer.</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>
			<i>Staff Comments</i>	<i>As indicated on Sheet A3.1, the proposed materials for the project include stone, horizontal wood siding, steel panel, and bonderized metal roof. The proposed materials and colors are complementary to existing homes around 6<sup>th</sup> St and Walnut Ave.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(E)(2)	<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>
			<i>Staff Comments</i>	<i>N/A. There are no identified landmarks on the property.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(E)(3)	<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>
			<i>Staff Comments</i>	<i>N/A. The proposal is for new construction.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(F)(1)	<b>Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.</b>
			<i>Staff Comments</i>	<i>N/A. Sidewalks do not exist in this zoning district.</i>
<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>
			<i>Staff Comments</i>	<i>Building elevations are included on Sheets A3.1, A3.2, A3.3 of the Design Review Submittal. Chimneys, bump outs, balconies and undulation help to provide visual interest. The use of windows on the Walnut Ave &amp; 6<sup>th</sup> St frontages assists in breaking up the buildings façade.</i>
<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>
			<i>Staff Comments</i>	<i>The proposed materials and color palette enhance the mountain modern design of the single-family residence. The natural materials and colors complement the surrounding landscape.</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>
			<i>Staff Comments</i>	<i>The proposed boulders and retaining wall in the front yard connect to the residence by using a similar color palette. Plant species and boulders for the project provides a natural appearance in which the residence sits within.</i>
<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>
			<i>Staff Comments</i>	<i>The Walnut Ave elevation of the proposed residence provides undulation through a recessed entry between the two main wings of the residence. From 6<sup>th</sup> St the Chimney and bump out on the second floor help to provide variation and reduce flatness on that side of the building. The</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(F)(6)	<b>Building(s) shall orient towards their primary street frontage.</b>
			<i>Staff Comments</i>	<i>Both buildings orient towards Walnut Ave.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>

			<i>Staff Comments</i>	<i>N/A. Satellite receivers are not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>N/A.</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>
			<i>Staff Comments</i>	<i>The alley behind the property will remain open and unobstructed to allow for pedestrian use</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>
			<i>Staff Comments</i>	<i>N/A.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(G)(3)	<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>
			<i>Staff Comments</i>	<i>N/A.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(4)	<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>
			<i>Staff Comments</i>	<i>The proposed driveway entrance is further than 20' to the intersection of Walnut Ave &amp; 6<sup>th</sup> Street.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(5)	<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>
			<i>Staff Comments</i>	<i>Access for emergency vehicles, snowplows, and garbage trucks is provided from Walnut Avenue &amp; 6<sup>th</sup> Street.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>Proposed parking and pedestrian circulation areas are snowmelted</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(H)(2)	<b>Snow storage areas shall be provided on-site.</b>
			<i>Staff Comments</i>	<i>Proposed parking and pedestrian circulation areas are snowmelted</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>
			<i>Staff Comments</i>	<i>Proposed parking and pedestrian circulation areas are snowmelted</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>
			<i>Staff Comments</i>	<i>Proposed parking and pedestrian circulation areas are snowmelted</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(1)	<b>Landscaping is required for all projects.</b>
			<i>Staff Comments</i>	<i>See sheet L0-02.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(2)	<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>
			<i>Staff Comments</i>	<i>Proposed landscape plan (Sheet L0-02) includes native drought tolerant trees such as Ponderosa Pine, Quaking Aspen and radiant Crabapple. Shrubs include drought tolerant species like western sagebrush, serviceberry, and fragrant sumac. Ground covers and grasses which are proposed are also drought tolerant species.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(3)	<b>All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.</b>
			<i>Staff Comments</i>	<i>See above Staff comment for Ketchum Municipal Code §17.96.060(I)(2).</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(4)	<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>
			<i>Staff Comments</i>	<i>Proposed landscape plan (Sheet L0-02) indicates planting surrounding the residence so as to provide a buffer between streets and any future development on the lots to the north or across the alley.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(J)(1)	<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>
			<i>Staff Comments</i>	<i>N/A.</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 City 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 application for the development and use of the project site.
  
2. The Commission has authority to hear the applicant’s Design Review Application pursuant to Chapter 17.96 of Ketchum Code Title 17.
  
3. The City of Ketchum Planning Department provided adequate notice for the review of this application.
  
4. The Mountain Overlay Design Review Application is governed under Ketchum Municipal Code Chapters 17.96, 17.104, 17.92, 17.124, and 17.128.
  
5. The 600 N Walnut Mountain Overlay Design Review Application File P22-002 does meet the standards of approval under Chapter 17.104 of Zoning Code Title 17 subject to conditions of approval.

### DECISION

**THEREFORE,** the Ketchum Planning & Zoning Commission **approves** the 600 Walnut Mountain Overlay Design Review Application this Tuesday, July 26<sup>th</sup>, 2022 subject to the following conditions:

### CONDITIONS OF APPROVAL

1. This Design Review approval is based on the plans and information presented and approve at the meeting the date noted herein. Building Permit plans 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;
2. 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 subject to changes in zoning regulations.
3. In addition to the requirements set forth in this Design Review approval, this project shall comply with all applicable local, state, and federal laws.
4. Limits of disturbance/construction fencing indicated on the Construction Activity Plan shall remain in place for the duration of construction;
5. All building and fire code requirements as dictated by 2018 family of international codes and Title 15 of Ketchum Municipal shall apply to all construction onsite;
6. All Design Review elements shall be completed prior to final inspection;
7. All exterior lighting shall be in compliance with Ketchum Municipal Code, Chapter 17.132, Dark Skies, and approved prior the issuance of a Certificate of Completion;

Findings of Fact **adopted** this 26<sup>th</sup> day of July 2022

---

Neil Morrow, Chair

City of Ketchum

Planning & Zoning Commission