Planning & Zoning Commission Meeting - Special AGENDA

Monday, June 22, 2020 at 5:30 PM
Ketchum City Hall
480 East Avenue North, Ketchum, ID 83340

In recognition of the Coronavirus (COVID-19), members of the public may observe the meeting live on the City’s website at ketchumidaho.org/meetings or outside of the City Hall Building.

If you would like to comment on a PUBLIC HEARING item, please submit your comment to participate@ketchumidaho.org by noon the day of the meeting. Comments will be provided to the Planning and Zoning Commission.

If you would like to phone in and provide comment on a PUBLIC HEARING item on the agenda, please dial the number below. You will be called upon for comment during that agenda item.

Dial: (669) 900-9128
Meeting ID: 918 0893 4085

CALL TO ORDER

COMMISSION REPORTS AND EX PARTE DISCUSSION DISCLOSURE

PUBLIC HEARINGS AND COMMUNICATIONS FROM STAFF – ACTION ITEMS

1. ACTION - 3020 Warm Springs Rd. (Waddell/Roush) Duplex Design Review: 3020 Warm Springs Rd. (Wills Condominium Subdivision No. 2) The Commission will consider and take action on a Design Review application submitted by architect Craig Lawrence, on behalf of property owners Doug and Stacey Waddell, for the development of a new duplex and associated site improvements within the General Residential Low Density (GR-L) Zoning District. Continued from May 19, 2020 and June 8, 2020.

2. ACTION: Administrative Appeal of Zoning Administrator's Decision on 201 Garnet Street.
Recommendation to 1) Accept Administrator's certification of procedural requirements; 2) Accept the record of the case; 3) Set the appeal hearing for June 8, 2020; 4) Affirm the determination of the Planning and Zoning Administrator and direct preparation of Findings of Fact. Hearing continued from June 8, 2020.

STAFF REPORTS & CITY COUNCIL MEETING UPDATE

ADJOURNMENT

Any person needing special accommodations to participate in the meeting should contact the City Clerk’s Office as soon as reasonably possible at 726-3841. All times indicated are estimated times, and items may be heard earlier or later than indicated on the agenda.
PROJECT: 3020 Warm Springs Rd Duplex Design Review

FILE NUMBER: P20-031

APPLICATION TYPE: Design Review

REPRESENTATIVE: Craig Lawrence, AIA

PROPERTY OWNER: Doug & Stacey Waddell

LOCATION: 3020 Warm Springs Road (Wills Condominium Subdivision No 2)

ZONING: General Residential Low Density (GR-L) Zoning District

NOTICE: A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site on April 29th, 2020. Public comment has been attached as Exhibit D to the Staff Report.

REVIEWER: Abby Rivin, Associate Planner

BACKGROUND
The Planning & Zoning Commission previously considered this Design Review application for the development of a new duplex located at 3020 Warm Springs Road during their meetings on May 19th and June 8th. The Commission evaluated the design detailing of the building walls at the rear and side elevations. Their recommendations focused on enhancing the design of the rear and side façades to provide visual relief through the application of exterior materials. The Commission suggested the applicant: (1) adjust the cedar siding pattern, (2) add windows at the first floor, and (3) incorporate material elements from the front facade to tie all building walls into one cohesive design. The Commission moved to continue review of the project and directed the applicant to update the project plans based on their feedback.

The applicant submitted a letter describing all proposed design changes attached as Exhibit A to the Staff Report. These modifications are indicated on new renderings and elevations of the side and rear facades. These updates have been incorporated in the project plans attached as Exhibit B to the Staff Report.

ANALYSIS
The applicant has enhanced the design of the side and rear facades by reconfiguring exterior materials, adding architectural details, and altering building mass. The updated project plans indicate changes to the cedar siding pattern and the addition of windows at the first level. The cedar siding
forms a two-story element across the rear wall that wraps around the sides of the duplex. This two-
story element is capped with finished trim that matches the fascia at the front elevation. The
applicant has added undulation to the rear building wall by stepping the third floor back 18 inches
from the first two floors. These changes enhance articulation, provide visual relief, and define the
building’s character through cohesive design elements and architectural details.

Staff’s comprehensive analysis of the project is attached as Exhibit C, including: (1) the project’s
compliance with zoning and dimensional standards, (2) evaluation of Design Review criteria, and (3)
City Department comments.

STAFF RECOMMENDATION
After considering the updated project plans attached as Exhibit B, Staff’s analysis attached as Exhibit
C, the applicant’s presentation, and public comment attached as Exhibit D and any received at the
hearing, Staff recommends the Commission provide move to approve the Design Review application
for the new duplex located at 3020 Warm Springs Road.

RECOMMENDED MOTION
“I move to approve the Design Review application for the new duplex located at 3020 Warm Springs
Road, subject to conditions.”

RECOMMENDED CONDITIONS OF APPROVAL
1. This Design Review approval is subject to all comments and conditions as described in Exhibits
   C1, C2, and C3.
2. The applicant shall submit a Lot Line Shift application for review and approval by the Ketchum
   City Council to remove the building footprint recorded with the Wills Condominiums No. 2
   Subdivision Plat. The amended plat map vacating the condominium building footprint shall be
   recorded prior to issuance of a Building Permit for the duplex project.
3. This Design Review approval is based on the plans and information presented and approved at
   the meeting on the date noted herein. Building Permit plans for all on-site improvements
   must conform to the approved Design Review plans unless otherwise approved in writing by
   the Planning and Zoning Commission or Administrator. Any building or site discrepancies
   which do not conform to the approved plans will be subject to removal.
4. All governing ordinances, requirements, and regulations of the Fire Department (2012
   International Fire Code and local Fire Protection Ordinance No.1125), Building Department
   (2012 International Building Code, the 2012 International Residential Code, and Title 15 of
   Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum
   Municipal Code), and the City Engineer shall be met prior to Certificate of Occupancy.
5. The applicant shall submit final civil drawings prepared by an engineer registered in the State
   of Idaho to include specifications for the ROW, utilities, and drainage improvements to be
   reviewed and approved by the City Engineer, Streets, and Utilities departments prior to
   issuance of a Building Permit for the project.
6. The term of Design Review approval shall be twelve (12) months from the date that the
   Findings of Fact, Conclusions of Law, and Decision are adopted by the Commission or upon
   appeal, the date the approval is granted by the Council subject to changes in zoning
   regulations (KMC §17.96.090).
7. All Design Review elements shall be completed prior to issuance of a Certificate of Occupancy for the building.
8. All exterior lighting on the property shall comply with Ketchum Municipal Code, Chapter 17.132, Dark Skies, and will be inspected by Planning Staff and approved prior the issuance of a Certificate of Occupancy for the building.
9. Prior to issuance of a Building Permit for the project, the applicant shall submit a construction management plan, which addresses each of the standards as set forth in Ketchum Municipal Code, Chapter 15.06 Construction Activity Standards.
10. In addition to the requirements set forth in this Design Review approval, this project shall comply with all applicable local, state, and federal laws.

EXHIBITS:
A. Applicant Letter Dated June 15th, 2020
B. Project Plans with Updates
C. Staff Analysis
   1. Zoning and Dimensional Standards Analysis
   2. Design Review Standards Analysis
   3. City Department Comments
D. Public Comment
E. Links to Staff Reports from Planning & Zoning Commission Meetings of May 19th & June 8th
Exhibit A: 
Applicant Letter 
Dated 
June 15\textsuperscript{th}, 2020
June 15, 2020,

Suzanne Frick, City Administrator, City of Ketchum  
Brittany Shelton, Senior Planner, City of Ketchum  
Abby Rivin, Associate Planner, City of Ketchum

Re: Waddell/Roush Duplex Design Review

Dear Suzanne, Brittany, and Abby,

This letter is to accompany the Revised Waddell/Roush Duplex Design Review Drawings and Renderings. I would like to call your attention to some points related to the revisions that were made to help insure Planning and Zoning Commission approval of the project:

1. The biggest and most dramatic change is the Upper Level of the North/back wall of the Duplex has been moved in 18” from its previous location. The owners have agreed to the square footage reductions and the additional cost this change will require at the Upper Level:
   - The Bedroom and Bathroom sizes have been reduced to facilitate this.
   - The wall below remains in the same place. The revised wall location and necessary additional roof at the Main Level create a strong datum that highlights the horizontal undulation of the rear façade.
   - The Upper Level roof overhang is now back 18” from its previous position.
   - The cedar siding has been revised to accommodate the changes and make for a pleasing and varied Elevation.
   - The Lower Level windows that the Commission was concerned about have been returned to the project.
   - The corners at the cedar siding portion of the façade have been highlighted with 2 X 12 trim. This increases interest, variety, and calls more attention to the existing vertical undulation in the façade.
   - Cosmetic Headers were added to the windows in the cedar siding portion of these facades to add visual interest.

2. I continue to feel that the project has been well within the code requirements of the Design Review Evaluation Standards (17.96.060) of the Ketchum Code. We have made these aggressive changes in hopes of making a more pleasing façade, which will be screened by trees, but still visible to the neighbors to the North. I feel we are now well beyond what is required by the Ketchum Code.
3. I have taken advantage of this last continuation to make sure that everything submitted for Design Review meets Ketchum Code requirements. This includes any overhang, or other allowed incursions into Code mandated Setbacks, Building Coverage calculations, and etc.

I think on review of the submitted materials, you will be able to recommend approval, and facilitate the forward progress of this project.

Sincerely,

Craig Lawrence AIA
Exhibit B:
Project Plans with Updates
WADDELL / ROUSH DUPLEX

PROJECT INFORMATION

LOT: WILLS CONDOMINIUMS NO. 2
SIZE: 0.25 ACRES/10,986.6 S.F. +/-
ZONE: GR-H
OCCUPANCY - DUPLEX - CONST. TYPE - VB
MAXIMUM BUILDING HEIGHT = 34’-

AREA ANALYSIS: (GROSS ENCLOSED SQUARE FOOTAGE) PER UNIT / TOTAL

LOWER LEVEL LIVING = 1,145.5 sq ft
GARAGE = 535.5 sq ft
MAIN LEVEL LIVING = 1,601.5 sq ft (BOTH UNITS)
TOTAL LIVING = 3,788 sq ft
TOTAL STRUCTURE = 4,354 sq ft

ROOFS & DECKS
OVER 36” WIDE: (BOTH UNITS) = + 125 S.F. (ENTRY)
+ 196 S.F. (DECKS)

FOOTPRINT (BOTH UNITS) = 3,424 S.F.
FOOTPRINT + (ROOFS & DECKS) = 3,721 S.F.
LOT COVERAGE: = 33.8%
ALLOWED COVERAGE: = 35%

BUILDING CODE

ALL WORK SHALL MEET OR EXCEED THE CURRENT ADOPTED CODES:
- KETCHUM MUNICIPAL CODE
- THE INTERNATIONAL ENERGY CONSERVATION CODE, 2012 EDITION, INCLUDING THE APPENDIX

CONTRACTOR:
POSTER CONSTRUCTION, INC.
Box 1139 (Stye # 105) Ketchum, ID 83340
208-726-7676
brian@poster-construction.com

ENGINEER:
MAXWELL STRUCTURAL DESIGN STUDIO
CRAIG MAXWELL, P.E.
Box 1911, Sun Valley, ID 83353
208-721-2171
craig@maxwellsds.com

ARCHITECT:
CRAIG LAWRENCE AIA ARCHITECTURE
Box 2662 Ketchum, ID 83340
208-720-5372
clawrenceaia@msn.com

ARCHITECTURAL SITE PLAN
A-01

SUBDIVISION MAP
SUBJECT PROPERTY

INDEX OF DRAWINGS

A-01 ARCHITECTURAL SITE PLAN
A-02 FLOOR PLANS
A-04 EXTERIOR ELEVATIONS
A-05 DETAIL SHEETS & BUILDING SECTION

LOT COVERAGE = 33.8%
ALLOWED LOT COVERAGE = 35%

PER APPENDIX A, "SAFETY & CONSTRUCTION METHODS" SECTION 370.5, 3.5-TX
PROVIDE UNDERGROUND GAS SERVICE VENTILATION OF 240 CFM PER 100 SF OF GROSS AIRV
ALL OUTDOOR LIGHT FIXTURES TO COMPLY WITH CITY OF KETCHUM DARK SKY ORDINANCE
PROVIDE APPROVED AUTOMATIC SPRINKLER SYSTEMS WHEN APPLICABLE & CODES

SUPPLEMENT TO DRAWING NO. 70-12-DB 6/1/20
**PRODUCT SPECIFICATIONS**

*Image shown may not reflect your configured options

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**Twilight Dark Sky Friendly Outdoor Semi-Flush**

**HUBBARDTON FORGE**

Base Item #: 364903
Configured Item #: 364903-1019
364903-LED-78

---

**FINISH**

Coastal Burnished Steel - 78

**LAMPING**

LED

---

**OPTIONS**

**FINISH**

Coastal Black - 10
Coastal Natural Iron - 20
Coastal Gold - 70
Coastal Mahogany - 73
Coastal Bronze - 75
Coastal Dark Smoke - 77
Coastal Burnished Steel - 78

**LAMPING**

Incandescent
LED

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**SPECIFICATIONS**

Twilight Dark Sky Friendly Outdoor Semi-Flush
Base Item #: 364903
Configured Item #: 364903-1019
364903-LED-78

Aluminum outdoor semi-flush ceiling light. Designed and built to Dark Sky standards.

- Handcrafted to order by skilled artisans in Vermont, USA
- Lifetime Limited Warranty when installed in residential setting
- Features our robust Coastal Outdoor finish specifically formulated to resist some of the harshest environmental conditions.

**LED Lamping Retrofit**

LED: GU24, 9.8W Bulb, 800lm (Bulb Incl)
CCT: 2700K
CRI: Min 80
Dimming: Yes
IES Files Available: N

**Location Rating**

Outdoor Damp

**Safety Rating**

UL, CUL listed

**Dimensions**

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<th>Measurement</th>
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<tr>
<td>Shipping (DIM) Weight</td>
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</tr>
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https://www.hubbardtonforge.com/products/364903/364903-1019
HALO LED ICAT HOUSING for NEW CONSTRUCTION

Recessed 5" aperture new construction housing for use with LED integrated trims or modules. Suitable for 2x8 residential framing or commercial plenum construction, type IC rated and can be used in direct contact with insulation*. Airtight rating reduces airflow between living spaces and unconditioned areas providing additional energy savings. Use with Halo® LT56, SMD6, RL56, RA56, SLD6 LED integrated trims and the ML56 LED modular recessed lighting system.

Waddell/Roush Duplex Fixture B

**DESIGN FEATURES**

**Housings**
- Single wall precision rolled aluminum housing with interlocking construction maintains concentricity
- Adjusts vertically to accommodate 3/8" to 1" thick ceilings and locks in position with (3) setscrews
- V notches facilitate use of guide strings or laser lines for precise positioning
- Shipped with overspray protector installed
- Housing can be removed from below the ceiling for service or splice inspection

**Plaster Frame**
- Compact galvanized steel plaster frame with integral bar hanger receivers
- (2) regressed screws provide positive horizontal bar hanger locking from below the ceiling
- Integral gasket achieves ASTM-E283 airtight code compliance without additional gaskets or caulk

**Junction Box**
- Compact galvanized steel junction box with 16in³ internal volume
- Listed for (10) #12 or (14) #14 AWG 90° C splice conductors
- (4) ½" conduit pyme- out positioned to allow straight conduit runs.
- (3) Slide-N-Side™ non-metallic (NM) wire traps allows wiring outside the box
- Accepts 14-2, 14-3, 12-2, 12-3 U.S. and 14-2, 14-3, 12-2 Canadian NM cable
- (3) 4-port push wire nuts with clear caps for quick and reliable mains voltage connections
- Hinged door with offset cover for easy wire access
- Junction box is repositionable 90° on plaster frame to avoid obstructions

**Bar Hangers**
- Captive preinstalled All-Nail™ bar hangers support housing at any point along span
- Pass-N-Thru™ feature adjust bars from 7-1/4" to 24" wide without removal
- Score lines allow “tool-less” shortening for 12˝ joists
- Captive nail penetrates standard and engineered lumber
- Leveling flange aligns plaster frame with framing
- Integral clip attaches directly to tee-bar

**Connector**
- Two-conductor wire mount connector is rated for 120-277V CAUTION – verify LED module input voltage is compatible with the input voltage of the housing. If uncertain, consult a qualified electrician
- cULus listed with Halo® LT56, SMD6, RL56, RA56, SLD6 and ML56 family of LED integrated trims

**Code Compliance**
- Type IC inherently protected, suitable for direct contact to air permeable insulation and cULus listed for damp locations
- Not for use in direct contact with spray foam insulation, consult NEMA LSD57-2013
- Wet location listed in covered ceilings and IP56 certified with select trims
- Airtight per ASTM-E283
- Can be used for State of California Title 24 high efficacy luminaire compliance
- Suitable for use in clothes closets when installed in accordance with the NEC 410.16 spacing requirements
- Contains no mercury or lead and RoHS compliant

**Warranty**
- Five year limited warranty, consult website for details www.eaton.com/lighting/Legal

 Refer to ENERGY STAR® certified Products List and CEC (T20) Database for compatible Halo LED listings.

* Not to be used in direct contact with spray foam insulation.
Exhibit C: Staff Analysis

1. Zoning and Dimensional Standards Analysis
2. Design Review Standards Analysis
3. City Department Comments
## Zoning and Dimensional Standards Analysis

<table>
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<tr>
<th>Compliant</th>
<th>Ketchum Municipal Code Standards and Staff Comments</th>
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<tbody>
<tr>
<td>Yes</td>
<td>Standards and Staff Comments</td>
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<tr>
<td>No</td>
<td></td>
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<tr>
<td>N/A</td>
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### 17.12.030 Minimum Lot Area

**Staff Comments**

- **Required:** 8,000 square feet minimum
- **Existing (Wills Condominiums No. 2):** 11,000 square feet
  - The applicant will submit a Townhouse Subdivision Preliminary Plat application to subdivide the lot into two townhouse sublots.

### 17.12.030 Building Coverage

**Staff Comments**

- **BUILDING COVERAGE:** The total square footage of the building foundation and all horizontal projections which constitute a “building” as defined in this section, but not including roof overhangs that are 3 feet or less or uncovered decks less than 30 inches above grade. Garages and guest homes shall be included in building coverage (KMC §17.08.020).
- **Permitted:** 35%
- **Proposed:** 34% (3,721 square feet/11,000-square-foot lot area)

### 17.12.030 Minimum Building Setbacks

**Staff Comments**

- **Minimum:**
  - Warm Spring Road: 30 feet
  - Front: 15 feet
  - Side: 1 foot for every 3 feet in building height, but no less than 5 feet
  - Rear: 15 feet

  - KMC §17.128.020: Supplementary Yard Regulations
  - A. Cornices, canopies, eaves, chimney chases or similar architectural features may extend into a required yard not more than 3 feet.
  - H. Decks less than 30 inches in height from existing grade may be constructed to the property line.

  - **Proposed:**
    - Front (Warm Springs Rd): 30’
    - Side (E/Interior): 11’-8”
    - Side (W/Interior): 12’
    - Rear (N/Interior): 15’

  - As shown on Sheet A-01 of the project plans, the covered entry extends into the required setback from Warm Springs Road. The support posts are located within the required setbacks. The portion of the porch that extends within the setback area must be less than 30 inches in height. The roof covering may extend no more than 3 feet within the setback area. These encroachments must be dimensioned and shown in elevation on the project plans submitted with the Building Permit application.

### 17.12.030 Building Height

**Staff Comments**

- **Maximum Permitted:** 35 feet
- **Proposed:** 34'-8”

### 17.125.030H Curb Cut

**Staff Comments**

- **Required:** A total of 35% of the linear footage of any street frontage can be devoted to access to off street parking.

  - **Proposed:** The circular driveway has one 20-foot access to meet Fire Department requirements and one 14-foot access along Warm Spring Road.
  - 34% (34-feet of curb cut/100 linear feet along Warm Springs Road) of the property’s street frontage along Warm Springs Road is used for the two driveway accesses to the duplex development.

### 17.125.040 Parking Spaces

**Staff Comments**

- **Off-street parking standards apply to any new development and to any new established uses.**

  - **Required:** Multiple-Family Residential Dwelling Units in the GR-L Zone
Units 2,001 square feet and above: 2 parking spaces

Proposed:
Each townhome unit has its own attached garage. 2 parking spaces are provided for each townhome unit that may be accommodated within the enclosed garages or on the circular driveway.
# Design Review Improvements and Standards (KMC §17.96.060)

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
<th>City Code</th>
<th>City Standards and Staff Comments</th>
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<tr>
<td>☒</td>
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<td>☐</td>
<td>17.96.060.A1 Streets</td>
<td>The applicant shall be responsible for all costs associated with providing a connection from an existing city street to their development. <strong>Staff Comments</strong>: The duplex will be accessed from a circular driveway along Warm Springs Road.</td>
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<tr>
<td>☐</td>
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<td>17.96.060.A2 Streets</td>
<td>All street designs shall be approved by the City Engineer. <strong>Staff Comments</strong>: No changes are proposed to the street design or lanes of travel within the Warm Springs Road right-of-way.</td>
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<td>17.96.060.B1 Sidewalks</td>
<td>All projects under 17.96.010(A) that qualify as a &quot;Substantial Improvement&quot; shall install sidewalks as required by the Public Works Department. <strong>Staff Comments</strong>: While the project qualifies as a substantial improvement, sidewalks are not required to be installed along residential roads. The right-of-way next to the front property line must be improved to City standards residential streets. <strong>Comments</strong>: Final civil drawings for all associated ROW improvements shall be submitted with the Building Permit application to be verified, reviewed, and approved by the City Engineer and Streets Department prior to issuance of a Building Permit for the project. See Exhibit C3 for comments and conditions from the City Engineer &amp; Streets Department.</td>
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<td>17.96.060.B2 Sidewalks</td>
<td>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. <strong>Staff Comments</strong>: The City does not require developers to install sidewalks along residential roads. The developer must improve the right-of-way next to the front property line to meet City standards for residential streets. <strong>Comments</strong>: Final civil drawings for all associated ROW improvements shall be submitted with the Building Permit application to be verified, reviewed, and approved by the City Engineer and Streets Department prior to issuance of a Building Permit for the project. See Exhibit C3 for review comments and conditions from the City Engineer &amp; Streets Department.</td>
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<td>17.96.060.B3 Sidewalks</td>
<td>Sidewalks may be waived if one of the following criteria is met: a. The project comprises an addition of less than 250 square feet of conditioned space. 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. <strong>Staff Comments</strong>: The applicant is not required to install sidewalks for the townhome development.</td>
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<td>17.96.060.B4 Sidewalks</td>
<td>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. <strong>Staff Comments</strong>: This standard does not apply because sidewalks are not included in the City right-of-way standards for residential roads. The applicant must improve the right-of-way next to the front property line to meet City standards for residential streets.</td>
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<td>17.96.060.B5 Sidewalks</td>
<td>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. <strong>Staff Comments</strong>: N/A. The City does not require developers to install sidewalks in residential neighborhoods.</td>
</tr>
</tbody>
</table>
| ☐   | ☑  | ☐  | 17.96.060.B6 Sidewalks | 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...
<table>
<thead>
<tr>
<th>Staff Comments</th>
<th>N/A. Staff does not recommend a voluntary cash contribution in lieu of improvements for this project.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>17.96.060.C1 Drains</strong></td>
<td>All storm water shall be retained on site.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>The drainage system must keep all storm water within the project site. The developer must install drainage improvements that meet City standards. Prior to issuance of a Building Permit for the project, the applicant shall submit a final drainage plan indicating grading, catch basins, piping, and drywells (KMC §17.96.040.C.2 &amp; KMC §17.96.060.C.1-4) prepared by a civil engineer licensed in the state to be submitted for review and approval by the City Engineer and Streets Department. See Exhibit C3 for City Department comments including City Engineer and Streets Department conditions.</td>
</tr>
<tr>
<td><strong>17.96.060.C2 Drains</strong></td>
<td>Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>See above analysis for Ketchum Municipal Code §17.96.060C1. All drainage improvements are required to meet City standards. All drainage improvements shall be indicated on civil plans prepared by an Idaho licensed engineer and require review and approval from the City Engineer &amp; Streets Department prior to issuance of a Building Permit for the project. See Exhibit C3 for review comments and conditions from the City Engineer &amp; Streets Department.</td>
</tr>
<tr>
<td><strong>17.96.060.C3 Drains</strong></td>
<td>The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>A final drainage plan prepared by a civil engineer licensed in the state of Idaho shall be submitted with the Building Permit application to be reviewed and approved by the City Engineer and the Streets Department. The City Engineer may require additional drainage improvements as necessary.</td>
</tr>
<tr>
<td><strong>17.96.060.C4 Drains</strong></td>
<td>Drainage facilities shall be constructed per City standards.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>All drainage facilities within the project site and the public right-of-way shall meet City standards. Final drainage specifications must be included with the civil drawings submitted with the Building Permit application to be reviewed and approved by the City Engineer &amp; Streets Department.</td>
</tr>
<tr>
<td><strong>17.96.060.D1 Utilities</strong></td>
<td>All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>All utilities necessary for the duplex project must be improved and installed at the sole expense of the applicant. Final plans will be reviewed and approved by the Utilities Department prior to issuance of a Building Permit for the project. See Exhibit C3 for review comments and conditions from the Utilities Department.</td>
</tr>
<tr>
<td><strong>17.96.060.D2 Utilities</strong></td>
<td>Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>All utilities within the development site shall be underground and concealed from public view. See above analysis for Ketchum Municipal Code §17.96.060D1.</td>
</tr>
<tr>
<td><strong>17.96.060.D3 Utilities</strong></td>
<td>When extension of utilities is necessary all developers will be required to pay for and install two (2&quot;) inch SDH11 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.</td>
</tr>
<tr>
<td><strong>Staff Comments</strong></td>
<td>Services for high-speed internet are available to serve the duplex project.</td>
</tr>
<tr>
<td><strong>17.96.060.E1 Compatibility of Design</strong></td>
<td>The project’s materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>The project is primarily comprised of windows and gray stucco. Stone veneer (frontier sandstone) ornaments the two chimneys running vertically along the party wall separating the two townhomes. The stone veneer is also used for the front porches. The black trim, fascia, window cladding, and garage doors contrast with the gray stucco and stone to provide visual interest. The front façade is mostly glass doors and windows. The black garage doors and second-floor balcony as well as the stone veneer elements provide relief from the extensive glazing. The duplex project will add a more modern design style to the residential neighborhood. Surrounding development is characterized by a more traditional design style with natural materials and pitched roofs. While the project design is more modern, the exterior materials and color palette complement the traditional architecture of the neighboring residential development.</td>
</tr>
<tr>
<td>17.96.060.E2 Compatibility of Design</td>
<td>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.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>N/A. No significant landmarks of historical or cultural importance have been identified on the property.</td>
</tr>
<tr>
<td>17.96.060.E3 Compatibility of Design</td>
<td>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.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>N/A This standard does not apply because this project is new construction. The existing duplex on the property, built in 1975, will be demolished.</td>
</tr>
<tr>
<td>17.96.060.F1 Architectural</td>
<td>Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>The townhome units have two entrances—one interior access from the garage and an exterior entryway. The covered porch entryways at either side of the duplex lead to the shared circular driveway. The driveway leads to the multi-use pathway along Warm Springs Road.</td>
</tr>
<tr>
<td>17.96.060.F2 Architectural</td>
<td>The building character shall be clearly defined by use of architectural features.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>Building elevations are included on Sheets A-03 and A-04 of the project plans. The front façade is defined by rectangular windows and doors. The three floors are separated by thick borders of black fascia. The garage doors and second-floor balcony provide relief from the significant glazing. Projecting between the townhome units, the stone veneer chimneys separate the townhome units. The side and rear façade are comprised primarily of gray stucco with windows. The roof covering at the entryway as well canopy elements decrease the stacked appearance of first and second floors. The third floor is setback from the bottom floors at the front elevation. The slight butterfly slope of the roof decreases the bulk of the box-shaped building.</td>
</tr>
<tr>
<td>17.96.060.F3 Architectural</td>
<td>There shall be continuity of materials, colors and signing within the project.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>Each façade incorporates gray stucco and black fascia and trim. The applicant has enhanced material differentiation through the addition of cedar siding to the project’s exterior material palette. The cedar siding contrasts with the stucco to form horizontal and vertical elements that add visual interest to the rear and side elevations. The window and door openings provide each façade with different rectangular rhythm. The duplex design appears cohesive through the same materials and colors across all façades. Stone veneer provides ornamentation and relief to the front elevation.</td>
</tr>
<tr>
<td>17.96.060.F4 Architectural</td>
<td>Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.</td>
</tr>
<tr>
<td>Staff Comments</td>
<td>The project does not propose any fences or accessory structures. The applicant proposes to retain the existing vegetation on the property. Sheet A-01. The existing landscaping provides a buffer from the adjacent property to the west. The updated landscape plan is indicated on Sheet L-01 of the project plans. Three new fir trees have been added to the backyard. These coniferous trees will help soften the rectangular building mass and provide visual relief at the rear elevation. Aspen trees have been added to the side yards. The island separating the two circular driveway entrances has been enhanced with new landscape plantings. The introduction of new trees and shrubs enhances screening between neighboring properties and Warm Springs Road.</td>
</tr>
</tbody>
</table>
### 17.96.060.F5 Architectural
**Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.**

**Staff Comments**
The front façade is defined by rectangular windows and doors. The three floors are separated by thick borders of black fascia. The garage doors and second-floor balcony provide relief from the significant glazing. Projecting between the townhome units, the stone veneer chimneys separate the townhome units. The side and rear façade are comprised primarily of gray stucco with windows. The roof covering at the entryway as well canopy elements decrease the stacked appearance of first and second floors. The third floor is setback from the bottom floors at the front elevation. The inverted pitch of the butterfly roof reduces the bulk of the box-shaped building form.

The applicant has enhanced material differentiation through the addition of cedar siding to the project’s exterior material palette. The cedar siding contrasts with the stucco to form horizontal and vertical elements that add visual interest to the rear and side elevations. The applicant has also adjusted the pattern of windows to visually distinguish each floor level. The new renderings highlight undulations of building mass that were less apparent in the project plan elevations.

### 17.96.060.F6 Architectural
**Building(s) shall orient towards their primary street frontage.**

**Staff Comments**
The duplex buildings orient towards Warm Springs Road.

### 17.96.060.F7 Architectural
**Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.**

**Staff Comments**
This project is a townhome development in a residential neighborhood accessed off Warm Springs Road. Each townhome will have its own garbage bin fully screened within the townhome unit. No common dumpster has been proposed for the duplex development. Prior to issuance of a Building Permit for the project, the applicant shall submit a will serve letter from Clear Creek Disposal to the Planning & Building Department.

The project plans do not indicate the installation of any satellite receivers. Any future installations of satellite receivers must be screened from public view.

### 17.96.060.F8 Architectural
**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.**

**Staff Comments**
Enhancing weather protection, the inverted pitch of the roof and the flat roof forms will prevent water from dripping or snow from sliding from the building. The covered porches provide weather protection at the front entryway.

Any sloped roof shedding snow and rain onto pedestrian and vehicular circulation pathways below must include snow clips, gutters, and downspouts.

### 17.96.060.G1 Circulation Design
**Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.**

**Staff Comments**
The covered porches at the front doors lead to the shared circular driveway, which connects to multi-use path along Warm Spring Road.

### 17.96.060.G2 Circulation Design
**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.**

**Circulation Design**
N/A. No awnings are proposed to extend across of a public sidewalk.

### 17.96.060.G3 Circulation Design
**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.**

**Staff Comments**
The townhome development will be accessed from Warm Springs Road. The shared circular driveway enhances usability and safety by allowing drivers to exit without having to back out onto Warm Springs Road.

Prior to issuance of a Building Permit for the project, the City Engineer and Streets Department shall review the civil drawings to ensure adequate sight distances and proper signage for the proposed circular driveway access.
<table>
<thead>
<tr>
<th>Code</th>
<th>Section</th>
<th>Description</th>
<th>Staff Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.G4</td>
<td>Circulation Design</td>
<td>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.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.G5</td>
<td>Circulation Design</td>
<td>Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.H1</td>
<td>Snow Storage</td>
<td>Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.H2</td>
<td>Snow Storage</td>
<td>Snow storage areas shall be provided on-site.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.H3</td>
<td>Snow Storage</td>
<td>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.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.H4</td>
<td>Snow Storage</td>
<td>In lieu of providing snow storage areas, snow melt and hauling of snow may be allowed.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.I1</td>
<td>Landscaping</td>
<td>Landscaping is required for all projects.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.I2</td>
<td>Landscaping</td>
<td>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.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.I3</td>
<td>Landscaping</td>
<td>All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.</td>
</tr>
<tr>
<td>☐ ☐ ☐</td>
<td>17.96.060.I4</td>
<td>Landscaping</td>
<td>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.</td>
</tr>
<tr>
<td>☐</td>
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<td>☒</td>
<td>17.96.060.J1 Public Amenities</td>
</tr>
</tbody>
</table>
City Department Comments

Note: City Department comments are preliminary. All City Departments shall review and approve the project through the Building Permit application process. All comments pertaining to the Design Review drawings are subject to change. All right-of-way improvements including addressing all applicable activities including excavation, material storage and deliveries, screening, and site clean-up (KMC §15.06.030) to be reviewed and approved by the Building Department prior to issuance of a Building Permit for the project. All City Department requirements and associated specifications for the required improvements must be verified, reviewed, and approved prior to issuance of a Building Permit for the project.

Fire Department:

• It is the General Contractor’s responsibility to understand and adhere to all Fire Protection Ordinance #1125 requirements in addition to any and all other City of Ketchum requirements in effect at the time of Building Permit issuance. Failure to comply with all local ordinances and codes may result in project work stoppage as well as criminal penalties.

• The above project shall meet all 2012 International Fire Code requirements in addition to specific City Building and Fire Ordinances.

• Approved address numbers shall be placed in such a position to be plainly visible and legible from the road fronting the property. Numbers and letters shall be a minimum of four (4) inches tall, contrast with their background and be positioned a minimum of forty-eight (48) inches above final grade.

• Vehicle parking and material storage during construction shall not restrict or obstruct public streets or access to any building. A minimum twenty-foot travel lane for emergency vehicle access shall be maintained clear and unobstructed at all times. All required Fire Lanes, including within 15 feet of fire hydrants, shall be maintained clear and unobstructed at all times.

• An approved automatic fire sprinkler system shall be installed throughout the building per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the National Fire Protection Association Standard 13. An approved fire sprinkler flow bell, Knox box and Fire Department Connection shall be installed in an approved location visible to approaching firefighters. Water service lines to structures shall be hydraulically calculated for size to meet fire sprinkler flow requirements. Fire sprinkler systems shall be annually tested and maintained per NFPA 25. An approved fire department connection and flow bell shall be installed in a location approved by the fire department and the system shall be supervised by an approved alarm system.

• NOTE: One electronic set of fire sprinkler system plans must be submitted to the Ketchum Fire Department as well as the State Fire Marshall's office and a Ketchum Fire Department Permit must be obtained prior to installation of fire sprinkler systems. Inspections of fire sprinkler systems by the Fire Chief or an appointee are required. Inspections must be scheduled at least 48 hours in advance.

• An approved monitored fire sprinkler alarm system shall be installed per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the requirements of NFPA 72. Two (2) sets of alarm system plans shall be submitted to the Ketchum Fire Department for approval and a permit is required prior to installation of alarm systems. Inspections of fire detection systems by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance.

• An approved access roadway per 2012 International Fire Code Appendix D (www.ketchumfire.org) shall be installed prior to any combustible construction on the site. The road shall be a minimum of twenty (20) feet in width and capable of supporting an imposed load of at least 75,000 pounds. The road must be an all-weather driving surface maintained free, clear, and unobstructed at all times. Grades shall not exceed 7%. Dead end access roadways exceeding 150 feet in length shall be provided with an approved turnaround. Gates, if installed, are required to be siren activated for emergency vehicle access.

• Fire extinguishers shall be installed and maintained per 2012 IFC Section 906 both during construction and upon occupancy of the building.

• Spark arresters are required on all solid fuel burning appliance chimneys to reduce potential fires from burning embers.

• An approved key box shall be installed, with the appropriate keys, for emergency fire department access in a location approved by the fire department. The key box shall be a Knox box brand and sized to accommodate keys to every door of the project.

• Inspections of Fire Department permit required installations shall be scheduled at least 48 hours in advance.

• An 8½ by 11 color coded site map of this project shall be provided on paper and electronically to the fire department. This site map shall show the locations of gas shut-offs, power shut-offs, fire sprinkler riser rooms, fire department connections, alarm panels, Knox boxes, access doors, egress windows, stairways and any additional Fire Department requirements. Exact details for color coded “On-Sites” can be found at www.ketchumfire.org.

• Final inspections of all Fire Department permit required installations by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance. A Final Inspection Checklist can be found at www.ketchumfire.org.

• Fire Department requirements and associated specifications for the required improvements must be verified, reviewed, and approved prior to issuance of a Building Permit for the project.

City Engineer & Streets Department:

• Pursuant to KMC §17.96.060.C.1, all storm water drainage shall be retained on site.

• All construction for the project must comply with the standards set forth in Ketchum Municipal Code, Chapter 15.06 Construction Activity Standards. The applicant shall submit a Construction Activity Plan addressing all applicable activities including excavation, material storage and deliveries, screening, and site clean-up (KMC §15.06.030) to be reviewed and approved by the Building Department prior to issuance of a Building Permit for the project. Pursuant to KMC §15.06.030.A.2, the applicant shall provide notice of the project, construction schedule, and general contractor’s contact information to all neighbors with properties adjacent to the project site.

• The design shall meet all applicable sections of Chapter 12 of Ketchum Municipal Code including design criteria for private driveways (KMC §12.04.030.I).
• The public right-of-way adjacent to the subject property shall be improved to the City’s right-of-way standards for local-residential street ROWs. Material within the first eight (8) feet from the edge of asphalt shall be (1) distinct from the driveway in order to visually appear to be available for parking, (2) pervious and permeable to enhance drainage, and (3) the surface must allow for vehicle parking and be consistent along the entire property frontage. No live plant materials or obstructions, such as boulder or berms, are permitted within the first 8 ft from the edge of asphalt.

• The applicant shall submit a Street and Alley Digging, Excavation, and Trenching ("DIG") Permit application with an associated traffic control plan for all construction work within the City right-of-way to be reviewed and approved by the Streets Department. The use of City right-of-way for construction including the closure of adjacent streets or sidewalks requires a Temporary Use of Right-of-Way Permit ("TURP").

• City Engineer & Streets Department requirements and associated specifications for the required improvements must be verified, reviewed, and approved prior to issuance of a Building Permit for the project.

**Utilities:**

- The applicant will be responsible for installing connections to the water and sewer system at Warm Spring Road.
- Improvements installed within the 5-foot public utility easement on the subject property are installed at the applicant’s own risks and any associated repairs shall be at the property owner’s expense.
- Requirements and specifications 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.

**Building:**

- Building Department requirements and associated specifications for the required improvements must be verified, reviewed, and approved prior to issuance of a Building Permit for the project.

**Planning and Zoning:**

Comments are denoted throughout the Staff Report and Exhibits C1 and C2.
Exhibit D:
PUBLIC COMMENT
Dear Planning and Zoning Commissioners,

The concerned and adjacent Sage Road neighbors to 3020 WSR project received the most recent revised east / west / and north elevations in a meeting with Suzanne Frick and Brittany Skelton at the City of Ketchum this past Wednesday. Based on those revisions, dialog between commissioners post public comment in last design review, and the commission motion made and passed to continue design review process in two weeks based on commission and community concerns of sides and rear of building, we submit the following:

· We commend both the commission, architect, and owners for addressing compatibility of design through the thoughtful commissioner suggestion and inclusion of design elements from the elaborate south elevation to the barren side and rear elevations. The new cosmetic elements and return of rear ground floor windows are welcomed with regard to compatibility of design.

§ Compatibility of Design: The project’s materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures (Ketchum Municipal Code §17.96.060.E1).

· Unfortunately, the north elevation remains essentially a flat wall, and the side tier structural change on the third floor benefiting east and west neighbors is indistinguishable for adjacent north neighbors. In fairness to the Waddells and adjacent neighbors we ask the commission to request specific guidance. As requested in the prior two design review meetings, we again request the commission to specifically ask for structural design changes incorporating city code to all project elevations. Where it is nice the east and west 3rd floor tiers were enhanced, the primary orientation of side neighbors is north and south. It was well stated by a commissioner in the last design review, that Warm Springs homes are unique and orientations are north and south. 3020 WSR project has completely written off the north view, stripped of potential balcony or even a door that could tie them to the deer and elk, along with the four season landscape beauty in stark contrast to deep blue skies. Instead the proposed conifers show the intent of owners soften a monolithic wall, to eventually wall off the north. Conifers do as conifers do, grow tall and never lose needles...

   o We believe the commission has heard the collective community concern about this project’s side and rear elevations’ bulk and mass.

   o As citizens, and neighbors, we feel we have not been heard when discussion by commissioners derails to views being blocked and lectures on how wise buyers secure views. When we purchased our home, we knew a three-story project would likely be built at 3018, 3020, and 3022 WSR and views would be reduced. We had the two previously referenced east three story projects as precedents when we purchased our home in 2015, and the same code applies today as it did then. In-fact we toured one of those units prior to purchasing our home in 2015. When 3020 WSR project architect suggested the north walls on those two east projects were essentially flat as well, in the last design review, but he couldn’t take a photo, we were shocked. We had taken photos of the rear elevations of both and there is significant undulation both vertically and horizontally! Those two projects are the very essence of undulation and relief to reduce the appearance of bulk and flatness, and are precedents for acceptable projects. Additionally, their rooflines are broken up by hip-gable roofs. (See photos below) To put the true concern of adjacent neighbors to the north of 3020 WSR project back on track,
we continue to repeat the same concern and request the same remedy based on city code being applied to all elevations to reduce bulk and flatness of the proposed wall, even with the latest additions. Project architect already rendered a tiered design element included in the latest revision and did not lose a bedroom as he previously stated. Designing wedding cake tiers into the second and third floors will reduce some square footage, but not eliminate rooms. We continue to hear the project is in code and maxing square footage is the owners’ prerogative, but the north wall is not going against a mountain side like similarly designed Warm Springs projects, rather in front of neighbors. This current design, without structural changes, will set a new and controversial precedent.

§ Architectural: Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness (Ketchum Municipal Code §17.96.060.F5).

§ There has been repeated commissioner comment and question on the degree of undulation and the degree of relief. There is a level of subjectivity, but degree is not the measure. Reducing the appearance of bulk and flatness is the measure. It is included in the code as structural compliance, not cosmetic. When a commissioner states in the same meeting, “I totally understand the concerns of the adjacent neighbors...It is a large wall in your back yard.” It seems there is still work to be done on the remedy. Tiered (wedding caked) design elements as the building increased in floors best accomplishes reduction in appearance of bulk and flatness. Again, when reviewing this latest design the question is: Do the building walls reduce the appearance of bulk and flatness? From the north, slightly askew or not, this structure as revised and presented remains and expansive, massive, and monolithic flat wall.

§ Project architect has stated structural design element cannot be incorporated into building without losing a bedroom. However, in his latest rendering he incorporated a tier on the 3rd floor and a bedroom was not lost, rather some square footage was lost to benefit adjacent side neighbors.

§ Had commission asked for structural changes on all elevations to incorporate code elements rather than only cosmetic when initial public concern was expressed in the first design review, as neighbors we’d have welcomed the project.

§ We believe the commissioner’s words from the last design review are powerful. Paraphrasing those comments: Based on the number of community concerns, best to not rush it [decision] because buildings will be permanent in our life-times. Structural design elements are permanent in our life-times, but cosmetics are not. Please request the necessary structural changes be added into design so it can be approved at the next design review and demolition and construction can begin on this project with a welcome from adjacent neighbors.
Again, thank you for your time and consideration in this matter.

Jamey and Mark Kern

401A Sage Road
From: Mark Kern
To: Abby Rivin
Cc: jamey Kern; Alex Hughes; Steven Hart; Baird Gourlay
Subject: 3020 Warm Springs Road Public Comment

Date: Thursday, June 18, 2020 11:35:35 AM

Dear Planning and Zoning Commissioners,

The concerned and adjacent Sage Road neighbors to 3020 WSR project received the most recent revised east / west / and north elevations of the 3020 WSR project. The new revised design process in two weeks based on commission and community concerns of sides and rear of building, we submit the following:

- We commend both the commission, architect, and owners for addressing compatibility of design through the incorporated design changes. The new cosmetic elements and return of rear ground floor windows are welcomed with regard to compatibility of design.

  **Compatibility of Design**
  - The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures (Ketchum Municipal Code §17.96.060.E1).

- Unfortunately, the north elevation remains essentially a flat wall, and the side tier structural change on the east and west 3rd floor tiers were enhanced, the primary orientation of side neighbors is north and south. It was well stated by a commissioner in the last design review, that Warm Springs homes are unique and orientations are critical. Conifer trees do as conifer trees do, grow tall and never lose needles…

  - We believe the commission has heard the collective community concern about this project's side and rear elevations' bulk and mass.
  - As citizens, and neighbors, we feel we have not been heard when discussion by commissioners derails to views being expressed by the owners.

  - We toured one of those units prior to purchasing our home in 2015. When 3020 WSR project architect suggested the north walls on those two east projects were essentially flat as well, in the last design review, but he couldn't take a photo, of course. To put the true concern of adjacent neighbors to the north of 3020 WSR project back on track, we continue to repeat the same concern and request the same remedy based on city code being applied to all elevations to reduce bulk and flatness.

  **Architectural:**
  - Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness (Ketchum Municipal Code §17.96.060.F5).

  - There has been repeated commissioner comment and question on the degree of undulation and the degree of relief. There should be more relief on the north and north-west elevations. The building increases in floors best accomplishes reduction in appearance of bulk and flatness. Again, when reviewing this latest design the question is: Do the building materials here bend and stretch? Or do the building materials rigidly, wobble slightly askew or not, this structure as revised and presented remains and expansive, massive, and monolithic flat wall.

  - Project architect has stated structural design element cannot be incorporated into building without losing a bedroom. Design changes on the east tier on the 3rd floor and a bedroom was not lost, rather some square footage was lost to benefit adjacent side neighbors.

  - Had commission asked for structural changes on all elevations to incorporate code elements rather than only cosmetic when initial public concern was expressed in the first design review, as neighbors we'd have welcomed the project.

  - We believe the commissioner's words from the last design review are powerful. Paraphrasing those comments: Based on the architectural changes on the east side, we welcome the project with a welcome from adjacent neighbors.

Again, thank you for your time and consideration in this matter.

Jamey and Mark Kern
401A Sage Road
So sorry this is late getting to you.

To: Ketchum Planning & Zoning Meeting – 5/19/2020 5:30
Virtual Meeting

Regarding: 3020 Warm Springs Duplex construction.

My name is Alex Hughes and I own the property located at 319 Sage Road, Unit A. My property abuts the subject property at the NW corner of the subject property and the SW corner of my property.

Thank you for the opportunity to share comments and thoughts.

I have a couple of comments to discuss here including firsthand information on new technology as it relates to noise pollution.

In Warm Springs where lot size can be of higher density than some areas of Ketchum, the new ‘high efficiency’ technology has turned quiet neighborhoods into mini commercial districts butting up against neighbors and overloading the atmosphere with noxious noise decibels, electromagnetic fields and toxins.
Engines, motors and exhausts from these high efficiency heating and cooling conditioners, and some hot tubs are way over allowable decibel readings. The purveyors of the products do not share this information with clients who are installing these products. The people inside of these hermetically sealed homes do not hear their own noise pollution due to ALL the windows being shuttered up. The neighbors who enjoy the quiet outdoors and evening air are left to deal with night-time noise pollution.

There is a hot tub, an air conditioner, and two ‘snow melt’ large boilers to heat the driveway, outside of my bedroom window and deck, which belong to my neighbors. All of this equipment individually make noise and disrupt the once quiet of my life and sleep.

My concerns now are, 4 additional air conditioners, two more hot tubs (circulating and heating) and possibly snow-melt boilers with very loud exhaust pipes? All of these engines/machines/equipment and exhausts amplify the noise pollution in direct vicinity to my home.

Some ideas regarding solutions to noise:

Hot tubs - should have timers to shut down the noise at 10:00 PM so they are not running, on and off, all night disturbing the peace of the neighbors and not to mention when not in use for months at a time.

Air Conditioners - it is 50 to 65 degrees in the evenings/night on average here in the beautiful mountains at 6000 feet above sea level and one of the reasons we have all come here to enjoy life and these cool, beautiful, summer evenings. Sure
some nights have been warmer in late July/early August - open your windows OR put **interior air conditioners into your homes** so we, your neighbors, do not have to listen to the engines spewing out noise, EMFs, (electro magnetic frequencies) which are polluting our beautiful evenings here in the mountains.

For the record: Fences and screening do not stop noise pollution from exterior air conditioners, noxious loud noise and exhaust from snow melt boilers or high efficiency water heaters and boiler exhausts which have very loud over acceptable decibel noise. Dark Sky Ordinance means turn off exterior lights at night.

I am not happy at all with the box like, commercial look of the architectural plans from my side of the fence. The building from the north of this property is very unappealing with its commercial box like construction with no thought to the owners on the NW of the property. The architectural look of this box-like structure is not within the style of neighboring homes here in Warm Springs on these ‘typically small lots’. I hope there is going to be more discussion on softening the façade.

I am sorry I did not have more time to read the codes and review the information supplied by the architect. I thank you for sharing the information and I look forward to spending more time reviewing.

Mayor Neil, I look forward to talking to you about this ongoing problem regarding these very real disruptive noises from ‘new building operational systems’ ie HVAC and located in our higher density living areas. I am happy to discuss these notes with anyone regarding this subject. I have recently experienced my own installation of ‘high efficiency hot air heating system and I, voluntarily, am working with another HVAC company to mitigate (move the location of the
exhaust) the sound from the furnace which is currently being exhausted toward the street since D&S heating installed the furnace without my understanding of the loud noxious noise from a high efficiency furnace. This leads me to believe that HVAC installers do not share that there is a VERY loud noise from these new ‘high efficiency’ boilers/furnaces being used by all for new buildings.

Again, thank you for allowing us to discuss our concerns,

Thank you,

Alex Hughes
208 720 7444
alexsunvalley@gmail.com

Sun Valley, A Great Place to Wake UP!

Alexandria ‘Alex’ Hughes
Sun Valley Real Estate, LLC
CHRISTIE’S INTERNATIONAL REAL ESTATE
Ketchum, Idaho
Located next to the Pioneer Saloon!

(208) 720 7444 cell
Hey Abby,

I just wanted to let you know that we logged on to the Zoom call tonight regarding the discussion of the new build we corresponded about earlier. We had hoped that Mark Kern would make mention, in his public remarks, that he was also speaking on our behalf. Since he didn’t, we felt the need to call ourselves and did so. We called the number, access the meeting ID and were told we were the second in queue. Unfortunately, it appeared that no one was aware we were waiting as we were never acknowledged. Of course, the conversation regarding approval continued without us and we understand the limited approval the builders were given assuming they address the back wall concerns.

We appreciate the effort made tonight and just wanted to make sure it was known that we attempted to make our own concerns known regarding the back wall issue during the public comment period but were not successful. If you could let us know what the next step is so that we can better coordinate, I’d sure appreciate it.

Thank you!

Steven Hart
401B Sage Road
This is Public Comment for 3020 WS RD Duplex. Please forward to the commissioners, ASAP.

This is Baird Gourlay 405 Sage Rd. (Kitty corner to 3020) I’ve lived at this location for 35 years, and as a 3 year P&Z commissioner and 16 year Ketchum City Councilmen I learned more and forgotten as much about the codes as anyone. Thanks for serving!

From the Warm Springs side/south elevation this project looks great, from all other elevations it’s a bit of a disaster. If this is the typed of building that is going to be allowed in this subdivision, we are going in a different direction than I perceived.

Specifically the code says:

**Compatibility of Design**: The project’s materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures (Ketchum Municipal Code §17.96.060.E1).

There isn’t a building like this on the north side of WS Rd. Most of them are two stories with sloped roofs and way under the max height and bulk. The materials are nice on the South exposure, but all other exposures are bland. I totally understand they can go to 35’ and three stories, but there absolutely needs to be more relief on the back and side walls not in inches, in FEET.

**Architectural**: Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness (Ketchum Municipal Code §17.96.060.F5).

The South Elevation looks great. Unfortunately, the other Elevations are virtually flat walls. In particular the North elevation/ back wall is literally a 32’ high wall that’s 65-70’ in length. There is little undulation and no wedding caking, like the south elevation. It appears as a giant flat surface, reminds me of a ‘border wall’.

I and other neighbors tried to participate in the virtual meeting but, apparently the call in number was incorrect. The neighborhood wasn’t really able to participate. We weren’t able to convey these concerns. I/ We will come to the next meeting and I will reach out to both Brian Poster and Craig Lawrence.
To Whom It may concern,

As a point of reference, I am a property owner, live and work, in Warm Spring and pass the subject property every day. First, I want to commend the Owners and Architect for not designing a monstrosity or asking for extra building height, lot line shifts and other zoning variances!!! Second, I encourage the City of Ketchum to take into consideration the following, in the process of approving this project;

1. The new structure will be built under the most current fire/safety and structural codes. You can be assured the present structure, built in the early 70s, does not.
2. The design is in keeping with the neighborhood and is similar to homes currently being built in many Ketchum and Blaine County neighborhoods.
3. As a property owner, I assume when purchasing real estate, I will be able to build or make improvements, to the property, in the future, within the mandates of current zoning codes, plat restrictions and easements, without undue public scrutiny.

As public officials, you can rest assure, this project is welcomed by many of the Warm Spring neighbors.

Thank you for your consideration,

Jeff Smull

116 Ritchie Drive.

P.s. Please insert this email into public comment section of the P&Z process.
Hi Abby and/or Craig,

We are very appreciative of applicant’s willingness to install story poles at the maximum roof peaks. Additionally, we are hopeful they will also install story poles at north corners where elevations are nearly as high but also pushed to setbacks. The NW corner will have greatest impact of Bald Mt view from our view windows, a sense of sheer dimensions of generally a flat back wall will be better visualized as it is moved closer to property lines, direct sunlight/view impact for all neighbors, and project scale in neighborhood.

- Is applicant also willing to install project’s north corner story poles as well?
- Will city representatives, applicants, and applicants’ representatives be willing to schedule a site visit to our residence once story poles are installed prior to application approval? You are all welcome and invited.

Greatly appreciated,

Jamey and Mark Kern
401A Sage Road
Ketchum, ID 83340
248.914.4272
Hi,

I wanted to take a minute to weigh in on the Waddell/Roush duplex plans for 3020 Warm Springs Road. I think they’ve done a wonderful job in their design and hope to see it constructed in the near future. Please insert my note into the public comment section of the P&Z process.

Thank you for your consideration.

Sincerely,

Kristen Jarvis
111 Huffman Drive
Ketchum, ID  83340

#206-954-2122
Hi, my name is Irvin Bier and I own a home at 2206 Warm Springs Rd. This e-mail is being sent to support the approval of the Waddell Duplex Project at 3020 Warm Springs Rd. I have reviewed the plans and feel that the design is appropriate for the neighborhood as it contains many elements common to past as well as current development across the North Valley. Please insert this letter into the public comment section of the P&Z process.

Irvin Bier

Sent from my iPad
There is a lot of concern from my neighbors on the Sage Rd side of this project. It seems difficult for any and all of the neighbors to comment on their concerns and to hear the commissions and staffs response to those concerns. I would strongly suggest that this project’s hearings be delayed until a proper, not virtual meeting be held. I know the owners have the right to develop this property, but virtual meetings make it very difficult to work with the neighbors on a mutually acceptable project. For the record, a major concern is that this project pushes the max of the code. As a former councilmen and originator of the form based code, I know that we, the city tried to move away from boxes like this in the core. We required setbacks to increase as heights went up, wedding cake design was the term. I know when I added on to my house on Sage rd., I was required to have setbacks from the side property line as the addition went up in height. Has the code changed?

Please forward this email to the P&Z commissioners,

Thanks,

Baird Gourlay
PO 1221
Ketchum, ID 83340
208 720 4769
Bairdg7@gmail.com
Good morning,

Our names are Julie and Tad Gulick and we reside at 420 Huffman Dr. in Warm Springs. We have taken a look at the design of the proposed Waddell duplex at 3020 Warm Springs Rd. We feel it would be a nice addition to the neighborhood and support the building of this structure. Please add our letter of support to the public comment section of the P&Z process.

Thank you,
Julie and Tad Gulick
Hello,

I am sending this email in support of the plans for the Waddell Duplex at 3020 Warm Springs Road in Ketchum. I have reviewed the plans and feel the design is appropriate for the neighborhood and community. I support approval of the design and project. Please insert this letter into the public comment section of the P&Z process.

Robert and Kayse Gundram
308 Sage Rd
Unit 4
Ketchum, ID 83340
Good Morning,

My name is Scot Jarvis and I have a home at 109 Georgina in Ketchum.

I have recently had the opportunity to review the plans for the Waddell/Roush Duplex at 3020 Warm Springs Road.

It certainly has the feel and consistency of its design to fit well into the surrounding neighborhood.

I fully support approval of this project.

I would request that you include this letter in the public comment section of the Permit & Zoning process.

Sincerely,

Scot Jarvis

425 864-6000
My name is Jill Wood, I live at 201B Skiway Drive. I have seen the design plan for the Waddell Duplex (3020 Warm Springs Road), it is gorgeous and I would love to have it built in our neighborhood. I support this project, please add my comments to the public comment section.

Thanks,

Jill
Greetings Abby,

We are glad to hear a new dwelling will be built at 3020 Warm Spring Road. We are hopeful, based on elevations your team provided, the property owners will work with neighbors toward final design that has more of a tiered (wedding caked) and undulated building form along with sensitivity to building scale in our neighborhood. As property owners of 401A Sage Road directly north (behind) the subject property, we anticipate our residence will be impacted to the greatest degree of a decreased Bald Mountain view. Our direct sunlight will also be significantly decreased along with multiple surrounding neighbors due to maxed rectangular building envelope in both height and width.

We completely understand and expect new construction will increase in height and expanded to zoned setbacks. Our request is for consideration of property owners, architect, and builder to produce plans reducing impact of neighbors’ views, loss of direct sunlight, and generally a better blend of scale in our neighborhood than the plans provided. To better review project we’d like to submit the following questions and comments:

- Are story poles able to be erected for better visualization of project scope?
- Are AC units being installed and, if so, where? Will screening for AC units be built?
- Is snow melt system being installed and, if so, where? Will screening for snow melt system be installed?
- We welcome property owners and representative, City of Ketchum Planning, and other interested parties to schedule a site visit to our home with plans and to view story poles.
- We understand the landscaping plans and staff report will be posted on city website and we'll keep checking back for them being posted.
- Are owner’s square footage goal able to include a basement in the project to any extent?

Please let us know if you have questions for us, and we request the comments and questions in this email be included in the March 19, meeting.

Thank you,

Jamey and Mark Kern
401A Sage Road,
Ketchum, ID 83340
248.914.4272
All,

I am a home owner with a property on Simpson Road. I have reviewed the plans for the Waddell Duplex at 3020 Warm Springs Road and approve of its design. I believe this project is consistent with the “look and feel” of the Warm Springs neighborhood. I support approval of this project.

Please insert this letter into public comment section of the P&Z process.

Todd Patrick
Greetings:

My name is Karin Schock. My husband and I own unit #144 at The Prospector, 315 Skiway Drive in Ketchum.

The plans for the Waddell Duplex at 3020 Warm Springs Road exceed what we would like to see people build in the neighborhood. In our opinion, the design is attractive, efficient and will enhance the overall aesthetic of the Warm Springs Road area.

I fully support approval of this project. Please insert this letter into public comment section of the P&Z process.

Sincerely,
Karin Schock
karin@schocks.com
509.630.0063
Greetings,

My name is James Zogg and I have a home at 161 Simpson Rd in Ketchum. I've reviewed the plans for the Waddell Duplex at 3020 Warm Springs Road. I feel it has an appropriate design and fits into the neighborhood. I support approval of this project. Please insert this letter into public comment section of the P&Z process.

James Zogg

Sent from Mail for Windows 10
Hi Abby,

We are emailing to confirm your receipt of questions and comments submitted earlier in email chain for next Tuesday’s meeting, along with the following questions and comments:

- Will your Staff Report be posted at the following location or other? [https://www.ketchumidaho.org/bc-pc/page/planning-and-zoning-commission-10](https://www.ketchumidaho.org/bc-pc/page/planning-and-zoning-commission-10)
- Do you have an anticipated day and time the Staff Report will be posted?
- Structure on NE corner of Skiway and Warm Springs Road intersection is an example of the impact a wall-to-wall box structure can have on a neighborhood, even as a single family dwelling. Not knowing the situation of lots directly to the north and to the east, just walking either lot shows the impact of view and direct light obstruction, along with the negative appeal of box structure. The north elevation of subject duplex has even a greater degree of box/straight flat wall design which is our direct view.

Much appreciated,

Jamey and Mark Kern
Exhibit E:

May 19th Staff Report  
[Click Here]

June 8th Staff Report  
[Click Here]
STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
SPECIAL MEETING OF JUNE 22, 2020

PROJECT: Nalen Appeal
FILE NUMBER: P20-028
OWNER: Craig A. Nalen
APPLICANT: Fritz X. Haemmerle, Haemmerle Law, P.L.L.C., on behalf of Craig Nalen
REQUEST: Appeal of an administrative decision
LOCATION: 201 Garnet Street (FR SE SW TL 8492 SEC 18 4N 18E)
ZONING: Limited Residential (LR)
OVERLAY: None

NOTICE: The hearing was continued from the June 8, 2020 meeting. Notice of the initial hearing date was published in the Idaho Mountain Express on May 20, 2020. Notice was mailed to property owners within a 300-foot radius on May 22, 2020. Notice was posted at three (3) public locations and on the subject property on May 22, 2020.

ATTACHMENTS:
Attachment A – Revised Site Plan, sheet ASK-001, dated June 9, 2020
Attachment B – Letter regarding June 9, 2020 201 Garnet St. site plan, The Jarvis Group, dated June 9, 2020
Attachment C – Site Plan, sheet A 1.1, dated March 6, 2020
Attachment D – June 8, 2020 staff report, including attachments
Background
The Commission held an appeal hearing on this matter on June 8, 2020. At the June 8, 2020 hearing the applicant’s attorney referenced the proposal of a revised site plan. The Commission requested the City Engineer’s evaluation of the revised site plan and for the site plan to clarify all setbacks from the property line and edge-of-asphalt to the proposed structure.

The revised site plan, dated June 9, 2020, and an explanatory letter from the property owner’s architect are included with this staff report as Attachment A. The City Engineer’s comments on the revised site plan are included in the next section.

Additionally, staff requested a more legible copy of the site plan dated March 6, 2020 and attached the to appeal brief for the record, as the original submittal to the city was in paper form and the quality of the scanned-in reproduction was not high. The March 6, 2020 site plan is included with this staff report as Attachment B.

Recommendation and Summary
Staff recommends the Commission:

• Review the record, and hear oral arguments from the appellant and from staff, deliberate, and affirm the determination of the Administrator and direct staff to draft Findings of Fact, Conclusions of Law, and Decision to be considered for adoption at the July 13th, 2020 by adopting proposed Motion #1.

At the June 8, 2020 hearing the applicant’s attorney referenced the proposal of a revised site plan. The Commission requested the City Engineer’s evaluation of the revised site plan.

The revised site plan and a explanatory letter from the property owner’s architect are included with this staff report as Attachment A. The City Engineer’s comments on the revised site plan are below. As proposed by the applicant in the revised plans, the following encroachments are problematic:

• The building structure is proposed to be located 11'-8" inches from the edge of the pavement. Because of the width of the street, there is no ability to use the street to store the plowed snow. When the street is plowed, all the snow must be plowed and stored in the space between the edge of the road and the house. A setback of 11'-8" inches is insufficient area to store plowed snow.

• The porch overhang is proposed to encroach 3’ into the 11'-8” inch setback resulting in an 8'-8” setback from the edge of the pavement. As noted above, this encroachment will impede snow removal operations.

The March 6, 2020 plans show installation of a fence within 2'-7” of the edge of the roadway. The June 9, 2020 plans do not provide the same level of detail as the March 6th plans. If the fence is still proposed within 2'-7” of the edge of the pavement, based on the experience of the snowplow crews, this fence will impede snow removal operations.

Staff recommends affirming the administrator’s decision set forth in the zoning determination letter, “Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho,” dated March 9, 2020 for the following reasons:

Rationale summarized and included in the June 8, 2020 staff report:

• The setbacks as proposed by the applicant do not provide sufficient area to perform basic city services such as snow removal. This is a new development and all other new development projects constructed within Ketchum are designed and constructed to standards that do not impede or prevent basic city operations such as snow removal. Allowing this development to impede snow
removal and require the city to incur additional expense for city operations is inconsistent with the approval of all other new development projects. Older existing structures on the Gem Streets that have pre-existing similar setbacks to those proposed by the applicant have been damaged by snow removal operations and based on review by the Street Superintendent, elements of this development that encroach into the 15 foot setback will likely be damaged during snow removal.

- The uniform application of building setbacks, as argued by Mr. Haemmerle, is an equal protection issue; however, of equal note throughout the city is the need for land development projects (buildings, landscaping, fencing, etc.) to comply with any number of other equally applicable regulations, such as the city’s minimum snow storage and drainage requirements for one-family dwellings as set forth in KMC Section 17.124.170.

- The proposed drainage improvements do not comply with KMC Section 17.124.170.A. Rather, the proposed reconfigured borrow ditch: (a) is inadequate given the unique characteristics of the site as further calculated by the city engineer; and (b) does not comply with city standards.

- The proposed snow storage areas for all improved parking and pedestrian circulation areas, including the entirety of the existing paved roadway on the subject property, whether dedicated for public right of way purposes or not as noted in the existing Garnet Street Agreement (instrument #403847), is less than the required minimum of 30%.

- Allowing insufficient area to facilitate city operations and permitting a development that will incur damage due to the encroachments into the 15-foot setback sets a undesirable precedent for future development projects in Ketchum and on the Gem Streets.

The following are the comments on the June 9, 2020 site plan provided by City Engineer Sherri Newland:

- The calculations prepared by the City Engineer for the swale sizing and snow storage are based on roadway widths. Adjustments made to proposed encroachments would not influence the calculations.

- The City’s standard residential lane width is 13’ feet of asphalt or 26’ in total for two lanes. Based on a standard lane width of 13’ the City needs 14.9’ of storage for snow. Looking at GIS and the site plan there is approximately a 13’ section/swath of the paved portion of Garnet Street on the applicant’s property which matches the City’s standard lane width of 13’ necessitating 14.9’ for snow storage on the property due to the 13’ of roadway.

- The City standard for a residential street (60’ ROW) requires a 13’ lane width and 17’ wide drainage swale on each side. The drainage swale is necessary to facilitate melting of the plowed snow and rain runoff from the street without damaging private property. With Garnet St. being only 20’ wide, and presuming the roadway was crowned and ½ or 10’ into the roadway, the asphalt must drain into a roadside swale. Since only a 10’ wide section of pavement is draining towards the swale, the required swale width could be reduced from the city standard of 17’ to 15’.

Process
As outlined in KMC §17.144.010 and §17.144.020 the Planning and Zoning Commission may affirm, reverse, or modify, in whole or in part, the determination of the administrator. An appeal may be filed of any order, requirement, decision or determination of the commission by any affected person, as that term is defined by Idaho Code section 67-6521, as it may be amended from time to time, or any officer or department of the city, to the city council by filing a notice of appeal in writing with the office of the administrator of the city in the
manner prescribed in this chapter. In this case, depending on the decision of the Planning and Zoning Commission, either the applicant or a city department may appeal the decision to the City Council.

**Recommended Motions**

1. After hearing, move to **affirm** the March 9, 2020 zoning determination of the planning and zoning administrator and direct City Staff to prepare written findings of fact and conclusions of law (“Findings”) and present subject Findings for final decision at the Commission’s regular meeting scheduled for July 13, 2020, which will be within thirty (30) days of today’s date, June 22, 2020.

**Hearing Procedure**

1. Hear from staff
2. Ask questions of staff
3. Hear from the appellant
4. Ask questions of the appellant
5. Deliberate
6. Either make a decision or continue the hearing to a date certain
   a. If a decision is rendered direct staff to prepare Findings of Fact, Conclusions of Law, and a Decision to be presented for adoption at the Planning and Zoning Commission’s regular meeting of July 13, 2020.

**Commission Authority**

As set forth in KMC §17.144.010.C the Commission has the following authority:

- “Upon hearing the appeal, the commission shall consider the record, the order, requirement, decision or determination of the administrator and the notice of appeal, together with oral presentation and written legal arguments by the appellant and the administrator. The commission shall not consider any new facts or evidence at this point. The commission may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the administrator.”

**Commission Decision**

As set forth in KMC §17.144.010.D the Commission has the following authority:

- “The commission shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The commission shall transmit a copy of the decision to the appellant ....”

**Attachments**

**Attachment A** – Revised Site Plan, sheet ASK-001, dated June 9, 2020

**Attachment B** – Letter regarding June 9, 2020 201 Garnet St. site plan, The Jarvis Group, dated June 9, 2020

**Attachment C** – Site Plan, sheet A 1.1, dated March 6, 2020

**Attachment D** – June 8, 2020 staff report, including attachments
Attachment A
Revised Site Plan, sheet ASK-001, dated June 9, 2020
PLAN: DIAGRAM OF SETBACKS

SCALE: 3/32" = 1'-0"

201 GARNET STREET

6.9.2020
Attachment B
Letter regarding June 9, 2020 201 Garnet St. site plan, The Jarvis Group, dated June 9, 2020
Re: 201 Garnet Street

Brittany and Members of the P&Z Board,

To follow up on questions regarding differences in measurements between site plans, please note the following:

- The edge of road easement is not a straight line, it is a series of non-perpendicular line segments. Thus, the measured dimensions vary slightly dependent on where it is measured along the road.

- The house is not parallel to any of the aforementioned road edges.

- On some of the drawings, the accuracy of the dimensioning was set to round to the nearest inch, for ease of conversation and discussion.

- The more accurate rounding tolerance was used on the more detailed, larger scale plan.

- Please use attached ASK-001 as reference. This drawing reflects the dimensions locations of A1.0 in red, and A1.1 in black.

- Note that we will revise the front porch to be stone at grade, with a cantilevered roof of 36” or less.

Please feel free to contact us with any questions.

Thank you,

The Jarvis Group
Attachment C
Site Plan, sheet A 1.1, dated March 6, 2020
STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
REGULAR MEETING OF JUNE 8, 2020

PROJECT: Nalen Appeal

FILE NUMBER: P20-028

OWNER: Craig A. Nalen

APPLICANT: Fritz X. Haemmerle, Haemmerle Law, P.L.L.C., on behalf of Craig Nalen

REQUEST: Appeal of an administrative decision

LOCATION: 201 Garnet Street (FR SE SW TL 8492 SEC 18 4N 18E)

ZONING: Limited Residential (LR)

OVERLAY: None

NOTICE: Notice was published in the Idaho Mountain Express on May 20, 2020. Notice was mailed to property owners within a 300-foot radius on May 22, 2020. Notice was posted at three (3) public locations and on the subject property on May 22, 2020.

ATTACHMENTS:

Attachment A – Administrator’s Certification of Procedural Requirements

Attachment B – Record of the case
   B.1 Administrator zoning determination letter, “Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho,” dated March 9, 2020
   B.2 Garnet Street Agreement (instrument #403847)
   B.3 Fritz Haemmerle letter dated January 21, 2020
   B.4 KMC §17.12.030.C: Dimensional Standards Matrix
   B.5 KMC §17.124.170: Minimum Standards for One-Family Dwellings
   B.5 KMC §17.04.040: Interpretation
   B.6 Development Review meeting agenda dated January 8th, 2020
   B.7 201 Garnet Street Drainage & Snow Storage Calculations and supporting materials (13 pages), S&C Associates, March 6, 2020

Attachment C – Notice of Appeal dated March 23, 2020 and Brief, Haemmerle Law, P.L.L.C.
Recommendation and Summary

Staff recommends the Commission:

1. Accept the Administrator’s certificate of procedural requirements by adopting proposed Motion #1
2. Accept the Commission’s record of the case and set the matter for hearing for the June 8, 2020 meeting by adopting proposed Motion #2 and #3
3. Review the record, and hear oral arguments from the appellant and from staff, deliberate, and direct staff to draft Findings of Fact, Conclusions of Law, and Decision to be considered for adoption at a special meeting to occur prior to July 8, 2020 by adopting proposed Motion #4.

Staff recommends scheduling the appeal hearing to occur during the June 8, 2020 meeting because the appellant is present and has previously submitted a brief for the appeal. Should the Commission find additional time is needed to consider the record the Commission may schedule the appeal hearing to occur at or continue to a later date and time. (NOTE: This is not a public hearing and public comments were not required or solicited. The written comment included in Attachment D, and any additional written public comment received prior to the hearing, are included solely for informational purposes and so the staff and/or appellant can address them if so desired; the Commission’s decision need not refer to or rely on any such unsolicited comment but is based on City Code.)

Staff recommends affirming the administrator’s decision set forth in the zoning determination letter, “Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho,” dated March 9, 2020 for the following reasons:

- The proposed drainage improvements do not comply with KMC Section 17.124.170.A. Rather, the proposed reconfigured borrow ditch: (a) is inadequate given the unique characteristics of the site as further calculated by the city engineer; and (b) does not comply with city standards.

- The proposed snow storage areas for all improved parking and pedestrian circulation areas, including the entirety of the existing paved roadway on the subject property, whether dedicated for public right of way purposes or not as noted in the existing Garnet Street Agreement (instrument #403847), is less than the required minimum of 30%.

- The uniform application of building setbacks, as argued by Mr. Haemmerle, is an equal protection issue; however, of equal note throughout the city is the need for land development projects (buildings, landscaping, fencing, etc.) to comply with any number of other equally applicable regulations, such as the city’s minimum snow storage and drainage requirements for one-family dwellings as set forth in KMC Section 17.124.170.

- The setbacks as proposed by the applicant do not provide sufficient area to perform basic city services such as snow removal. Older existing structures on the Gem Streets that have pre-existing similar setbacks to those proposed by the applicant have been damaged by snow removal operations.

Recommended Motions

1. “I move to accept the administrator’s certification of procedural requirements finding all procedural requirements have been satisfied and fees have been paid, included as Attachment A to the staff report dated June 8, 2020.”
2. “I move to accept the record of the case consisting of the administrator’s determination letter dated March 9, 2020 and the supporting documents referenced to reach the determination, included as attachment B to the staff report dated June 8, 2020.”

3. “I move to set the appeal hearing to occur in Ketchum City Hall, Council Chambers, 480 East Ave. N., Ketchum, ID 83340 with the opportunity for the applicant to participate through the virtual meeting platform hosted at ketchumidaho.org on Monday, June 8, 2020 at 5:30 p.m. finding the appellant has been given proper notice of the proposed hearing time, date and location, has submitted a brief, and is present to give oral argument.”

4. After hearing, move to affirm the March 9, 2020 zoning determination of the planning and zoning administrator and direct City Staff to prepare written findings of fact and conclusions of law (“Findings”) and present subject Findings for final decision at a special meeting of the Commission to occur prior to July 8, 2020, which will be within thirty (30) days of today’s date, June 8, 2020.”

Background
On March 9, 2020 the Planning and Zoning Administrator made a zoning determination pursuant to Ketchum Municipal Code (KMC) Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho. See Attachment B.1 for a copy of the Administrator’s March 9, 2020 zoning determination.

Subject administrative determination has been appealed by Fritz Haemmerle, Haemmerle Law P.L.L.C., on behalf of Mr. Nalen consistent with the appeal requirements of KMC §17.144.010. See Attachment C for a copy of Mr. Haemmerle’s appeal brief.

As required by KMC §17.144.010.A, please also find all the supporting documents and papers that complement Attachments A and B in completing the record in the case, including applicant drawings and City Engineer snow storage and drainage calculations. See Attachments B.2-B.7 for a copy of supporting documents.

Consistent with KMC §17.144.010, the Administrator certifies that all procedural requirements have been satisfied, fees paid, and that Attachments A, B and C constitute the full record of the matter.

Commission Authority
As set forth in KMC §17.144.010.C the Commission has the following authority: “Upon hearing the appeal, the commission shall consider the record, the order, requirement, decision or determination of the administrator and the notice of appeal, together with oral presentation and written legal arguments by the appellant and the administrator. The commission shall not consider any new facts or evidence at this point. The commission may affirm, reverse or modify, in whole or in part, the order, requirement, decision or determination of the administrator.”

Commission Decision
As set forth in KMC §17.144.010.D the Commission has the following authority: “The commission shall enter a decision within thirty (30) days after the hearing on appeal, which shall include its written findings of fact and conclusions of law separately stated. The commission shall transmit a copy of the decision to the appellant ....”

Attachments
Attachment A – Administrator’s Certification of Procedural Requirements

Attachment B – Record of the case
    B.1 Administrator zoning determination letter, “Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho,” dated March 9, 2020
B.2 Garnet Street Agreement (instrument #403847)
B.3 Fritz Haemmerle letter dated January 21, 2020
B.4 KMC §17.12.030.C: Dimensional Standards Matrix
B.5 KMC §17.124.170: Minimum Standards for One-Family Dwellings
B.5 KMC §17.04.040: Interpretation
B.6 Development Review meeting agenda dated January 8th, 2020
B.7 201 Garnet Street Drainage & Snow Storage Calculations and supporting materials (13 pages), S&C Associates, March 6, 2020

Attachment C – Notice of Appeal dated March 23, 2020 and Brief, Haemmerle Law, P.L.L.C.

Attachment D – Written public comment received as of 4:00 p.m. Wednesday, June 3rd, 2020
Attachment A.

Administrator’s Certification of Procedural Requirements
June 1, 2020

RE: Administrator’s Certification of Procedural Requirements for the Nalen Appeal P20-028

Consistent with KMC §17.144.010.A, the Administrator certifies that all procedural requirements have been satisfied and fees paid for the Nalen Appeal, file #P20-028.

Brittany Skelton
Senior Planner, Ketchum Planning and Building Department
Attachment B.

Record of the Case
B.1 Administrator zoning determination letter, “Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho,” dated March 9, 2020
City of Ketchum

March 9, 2020

CERTIFIED MAIL
Janet Jarvis
511 Sun Valley Road
Box 626
Ketchum, Idaho 83340

SUBJECT: Zoning Determination Pursuant to Ketchum Municipal Code Section 17.124.170 for the proposed Craig Nalen Residence at 201 Garnet Street, Ketchum, Idaho

Dear Janet,

Associate Planner Abby Rivin enjoyed meeting with your associate Lucas Winter on January 8, 2020 and then with you on January 24, 2020. Subsequent to these meetings, Abby and I have had a chance to review your plans and want to compliment you, in general terms, on the overall quality of the design.

As noted at your previous meeting with Abby and representatives of city administration and streets, the city has a concern with the placement of the proposed new one-family dwelling. The concerns include: maintaining adequate “free clear and unobstructed” fire apparatus access, providing adequate snow storage, conforming with the existing Garnet Street Agreement (instrument #403847), and complying with city building setbacks requirements.

I am also in receipt of Fritz Haemmerle’s letter of January 21, 2020, which states your position: “Every setback drafted on the site plan conforms to the City’s existing [Limited Residential (LR) District] setbacks.” Based on the dimensional standards listed in Ketchum Municipal Code (KMC) Section 17.12.030.C for the LR District, this position is plausible at face value, but additional analysis is required. In particular, I want to bring your attention to the Minimum Standards for One-Family Dwellings set forth in KMC Section 17.124.170 that affect the overall adequacy of the currently proposed site plan for the Craig Nalen Residence at 201 Garnet.

My analysis as to how the minimum standards for one-family dwellings affect the Nalen Residence site plan is organized in three parts as follows. Part one analyzes city drainage requirements. Part two reviews city snow storage requirements. Finally, in part three I summarize the extent to which, in my opinion as Administrator of the Ketchum Zoning Ordinance, your current site plan for Mr. Nalen requires additional attention to comply with the minimum standards for one-family dwellings as established by KMC.

Part one: drainage. I interpret KMC Section 17.124.170.A to:

- Require all stormwater be retained on site;
- Grant the city engineer discretionary authority to require addition drainage improvements depending on the unique characteristics of a site; and
- Require any proposed recontouring of borrow ditches, including the construction of drainage facilities affecting Garnet Street on Mr. Nalen’s property, be constructed to city standards.

Part two: snow storage. I interpret KMC Section 17.124.170.C to:
• Require snow storage areas for all improved parking and pedestrian circulation areas, including the entirety of the existing paved roadway on Mr. Nalen’s property as subject area is used for pedestrian circulation, among other uses;
• Allow the proposed recontoured borrow ditch and area needed for the retention of on site stormwater/drainage, as determined by the city engineer consistent with KMC Section 17.124.170.D, to also be used for snow storage;
• Require that any area designated for snow storage be usable and in an unobstructed location relative to the location from which the snow is removed; and
• Require that subject snow storage area be not less than 30%.

Part three: findings and administrative determination. Based on the foregoing and a review of the city engineer, street and fire department comments, I find:

1. The proposed snow storage area west of the driveway to be generally adequate for the storage of snow for the two driveway parking stalls and front door exterior entry area.

2. The proposed 111.17’ (132.17’ of frontage minus the 21’-0” for the new 12” culvert under the driveway) borrow ditch recontour area along Mr. Nalen’s Garnet Street frontage to be too narrow as shown. As noted by the City Engineer, the proposed 2’ to 3’ wide drainage ditch is insufficient and needs to be improved to 15’ in width (8’ permeable material and 7’ grasses) based on city standards and unique characteristics of the site.

3. A new snow storage area needs to be added to your proposed site plan. Subject designated snow storage area may be co-located with the revised 15’ wide borrow ditch required for drainage and toward Mr. Nalen’s proposed home along the entire length of his Garnet Street frontage, excepting the driveway and front entry.

Based upon evidence provided by the Ketchum Street Department, City Engineer drainage and snow storage calculations, the aforementioned ordinance provisions, the need to maintain 20’ of free clear and unobstructed fire access along Garnet Street for safety reasons, and the minimum requirement provisions set forth in KMC §17.04.040.B, it is my finding that 15’, as measured from edge of asphalt, is necessary for drainage and snow storage purposes.

4. Vertical improvements, such as trees and fences, are not allowed within subject 15’ wide drainage swale and snow storage area adjacent the Garnet Street edge of asphalt on Mr. Nalen’s property.

If you should have any questions about any of the provisions of this letter, please let me know. We look forward to continuing to work with you toward an approvable set of building permit drawings. Please note that this administrative decision may be subject to administrative appeal. See KMC §17.144 for details.

Please let me know if you have additional questions.

Sincerely,

John Gaeddert, PhD
Ketchum Planning & Building Department Director

Cc: Fritz Haemmerle
    Matt Johnson
Janet Jarvis
P.O. Box 626
Ketchum, ID 83340

Magda Cummings

3/12/20

Yes

7018 0360 0001 3649 2264
United States Postal Service

• Sender: Please print your name, address, and ZIP+4 in this box.

Planning and Building Dept
City of Ketchum
P O Box 2315
Ketchum, ID 83340

MAR 12 2020

KETCHUM Main Office
First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10
B.2 Garnet Street Agreement (instrument #403847)
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into this 8th day of November, 1995, by and between CARL CURTIS ("Curtis"), JEANNE FRANKS, THE VINAGRE TRUST, by and through GARY E. and LINDA M. VINAGRE, TRUSTEES, ROBERT and MARJOLINA RENFRO, WILLIAM G. and SUSAN POLLOCK, THOMAS H. "BUD" and RITA ANN HEANEY, JOHN T. and JERRY ANN HEANEY, WILLIAM H. and ANN S. VANDERBILT, RICHARD O. DAHLGREN and JULIE SLOCUM DAHLGREN, KATHY JEANNE HARRAH, RELI LOUISE HAEMMERLE, FRITZ XAVIER HAEMMERLE, WILMA PACE, PAMELA JEAN RAYBORN, JOHN D. PACE, STELLA A.M. KEANE, CARL E. and SUSAN LEY, JUDY L. DEMETRE and THE ESTATE OF GEORGE B. SAVIERS, deceased, by and through its personal representative, BOB STEVENS (collectively referred to as the "Garnet Street Neighbors") and the CITY OF KETCHUM ("Ketchum").

RECITALS

WHEREAS, Curtis has filed case number CV-93-897 ("Lawsuit") in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, seeking to resolve the legal status of a parcel of property commonly known as Garnet Street, located within Ketchum, and more specifically depicted in the diagram attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the Garnet Street Neighbors, Ketchum and other named individuals and/or entities ("Other Defendants") were named as defendants in the Lawsuit; and

WHEREAS, Curtis is the owner of real property located at the eastern end of Garnet Street, in Ketchum, commonly known as Lot 1 of the Esmeralda Subdivision Lot Line Shift Plat ("Curtis Property"), and more specifically described in Exhibit "B" and depicted in Exhibit "C"; and

WHEREAS, the Garnet Street Neighbors, Ketchum and certain of the Other Defendants are the owners of, or have some form of interest in, the real property located in Ketchum, which property is more specifically described in Exhibit "B" and depicted in Exhibit "A"; and

WHEREAS, except for the Garnet Street Neighbors and Ketchum, the Other Defendants have had a default judgment entered against them consistent with the relief sought in the Curtis complaint filed in the Lawsuit, or have been dismissed from the Lawsuit; and

WHEREAS, Curtis, the Garnet Street Neighbors and Ketchum desire to resolve the Lawsuit on the terms and conditions hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants herein contained, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PAVED PORTION OF GARNET STREET: The parties agree that the paved portion of Garnet Street, as specifically described in Exhibit "D", attached hereto and incorporated herein, from Highway 75, then eastward to the end of the paved portion of Garnet
Street shall be deemed for all purposes to be a public roadway by prescriptive easement. After the Garnet Street Neighbors have executed easements to Ketchum pursuant to Paragraph 5, the parties agree that the paved portion of Garnet Street described herein shall be deemed a public roadway by express easement. The parties agree that the property lying to the north and south of the paved portion of Garnet Street is private property.

2. **UNPAVED PORTION OF GARNET STREET.** The parties agree that the unpaved, or gravelled, portion of Garnet Street, as specifically described and depicted in Exhibit “E”, attached hereto and incorporated herein, from the east end of the paved portion of said Street, as described in Exhibit “D”, then eastward, shall be deemed a private driveway. The Garnet Street Neighbors and Curtis agree that said private driveway shall provide access to a maximum number of three (3) single family residential lots in a subdivision on the Curtis Property, as well as providing access to the property owned by The Estate of George B. Saviers (“Saviers Property”). The Garnet Street neighbors and Curtis agree that no additional lots other than those identified herein shall be allowed access via said private driveway. The Garnet Street Neighbors and Curtis agree that the private driveway shall remain as is, without any modification in width, grade or surface.

3. **CURTIS SUBDIVISION APPLICATION.**

   (a) **Garnet Street Access.** Curtis intends to submit an application to Ketchum to subdivide the entire Curtis Property (“Curtis Subdivision”). Curtis agrees that the Curtis Subdivision shall propose not more than three (3) single family residential subdivision lots which could be accessed via Garnet Street. Curtis agrees that the Curtis Subdivision shall also provide access via Garnet Street to the Saviers Property. In addition, Curtis agrees that there shall be no further subdivision of the three (3) Curtis Subdivision single family residential lots which could be accessed from Garnet Street.

   (b) **Snowplow Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to Ketchum a snowplow access and turnaround easement, to enable a Ketchum snowplow to turn around near the location on the Curtis Property adjacent to Garnet Street currently used by Ketchum for such purposes as depicted in Exhibit “E”, attached hereto and incorporated herein.

   (c) **Pedestrian Path Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to the Garnet Street Neighbors a pedestrian path easement, which shall be located in the approximate location of the existing path on the Curtis Property leading to the back side of Dollar Mountain.

   (d) **Building Envelopes.** Curtis agrees that the Curtis Subdivision Plat shall designate all building envelopes outside the existing trees on the Curtis Property.

   (e) **Application Approval Condition Precedent.** At such time as Ketchum gives final approval to the Curtis Subdivision, the parties hereto agree to execute and submit to the Court a Stipulation For Dismissal of the Lawsuit in the form attached hereto as Exhibit “F” and incorporated herein. The parties agree that all claims, complaints, crossclaims and counterclaims in any way relating to the Lawsuit shall be dismissed with prejudice as to the Garnet Street Neighbors and Ketchum. The parties agree that the Court may enter an Order For Dismissal of the Lawsuit as to the Garnet Street Neighbors and Ketchum in the form attached hereto as Exhibit “G” and
incorporated herein. In the event Ketchum does not approve the Curtis Subdivision, the parties agree that all recitals, covenants, terms and conditions contained in this Agreement shall be null and void, and evidence of the same shall not be introduced in the Lawsuit or any litigation thereafter pertaining to the resolution of the status of Garnet Street.

(f) Ketchum's Execution of Agreement. The parties acknowledge that by Ketchum's execution of this Agreement, Ketchum does not agree, either expressly or implicitly, to approve the proposed Curtis Subdivision. Furthermore, the parties acknowledge that Ketchum only executes this Agreement on the basis that Ketchum will agree to the dismissal of the Lawsuit on the terms and conditions herein set forth. Should Ketchum, in its sole and absolute discretion, approve the Curtis Subdivision, the parties agree that nothing herein shall be construed by any party as an obligation on the part of Ketchum to approve all or any portion of the Curtis Subdivision.

4. PRESERVATION OF TREES. The Garnet Street Neighbors and Curtis agree that the existing trees located adjacent to the unpaved and paved portions of Garnet Street, as said portions of Garnet Street are described in Paragraphs 1 and 2 herein and described and depicted in Exhibits "D" and "E", shall not be disturbed, except as necessary to prevent an obstruction to traffic or to protect the integrity of Garnet Street and the surrounding structures.

5. ACCESS AND UTILITY EASEMENTS. The parties agree to grant the following express easements:

(a) A public access and utility easement from Curtis and the Garnet Street Neighbors, as Grantors, to Ketchum, as Grantee, upon, over and under the paved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 1 herein and described in Exhibit "D".

(b) A utility easement from Curtis, The Estate of George B. Saviors and Judy Demetre, as Grantors, to Ketchum, as Grantee, upon, over and under that portion of the Curtis Property, Saviors Property and Demetre Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(c) A private access and utility easement from Judy Demetre, as Grantor, to Curtis and The Estate of George B. Saviors, as Grantees, over and under that portion of the Demetre Property located within the unpaved portion of Garnet Street, as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(d) A reciprocal private access and utility easement between Curtis and The Estate of George B. Saviors upon, over and under that portion of the Curtis Property and the Saviors Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E"; and a private parking and landscape easement from Curtis, as Grantor, to The Estate of George B. Saviors, as Grantee, upon, over and under a portion of the Curtis Property as depicted in Exhibit "E".

The parties agree that the express easements described above, attached hereto and incorporated herein as Exhibit "H" shall become effective only upon the approval by Ketchum.
of the Curtis Subdivision proposed for development on the Curtis Property as described herein. The parties agree that if Ketchum denies the Curtis Subdivision application, none of the easements herein contained would be valid, and no additional documents as envisioned in this Agreement would be required to be executed.

6. **REMEDIES.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its rights to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

7. **AMENDMENTS.** This Agreement may only be changed, modified or amended in writing executed by all parties.

8. **HEADINGS.** The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

9. **ATTORNEYS’ FEES AND COSTS.** Should any action be brought to interpret or enforce any provision hereof or the easements contemplated herein, or for damages for breach hereof, the prevailing party shall be entitled to such reasonable attorneys’ fees and costs, as may be determined by any court of competent jurisdiction wherein such action is brought, including attorneys’ fees and costs on appeal.

10. **SUCCESSORS AND ASSIGNS.** All provisions of this Agreement, including the benefits and burdens of the easements attached hereto, shall run with the land covered hereby and are binding on and enure to the benefit of the respective heirs, assigns, successors, lessees, tenants and personal representatives of the parties hereto.

11. **RECORDING.** This Agreement and any easement granted herein may be recorded in the Office of the Blaine County Recorder only after the approval of the Curtis Subdivision by Ketchum.

12. **INTERPRETATION/EXECUTION OF DOCUMENTS.** This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and the laws of the State of Idaho. In addition, the parties hereto agree that they will, at any time hereafter, upon reasonable request of the others, execute and deliver such documents as the other parties may reasonably require for the purpose of giving full effect to the provisions of this Agreement.

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

14. **AUTHORITY.** The parties executing this Agreement warrant, state, acknowledge and affirm that they have the authority to sign the same and to bind themselves and/or their respective clients to the terms contained herein.

15. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matter.
16. **EXECUTION.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**CARL CURTIS:**

GARNET STREET NEIGHBORS:

Jeanne Franks

Linda M. Vinagre, Trustee for
The Vinagre Trust

Marjolaine Renfro

Susan Pollock

Rita Ann Heaney

**CITY OF KETCHUM, IDAHO:**

Guy P. Coles, Mayor

Gary E. Vinagre, Trustee for
The Vinagre Trust

Robert Renfro

William G. Pollock

Thomas H. ("Bud") Heaney

Jerry Ann Heaney

William H. Vanderbilt

Richard O. Dahlgren
Julie Stlocum Dahlgren
Reli Louise Haemmerle
Wilma Pace
John D. Pace
Carl E. Ley
Judy L. Demetre, by Ned C. Williamson

Kathy Jeanne Harrah
Fritz Xavier Haemmerle
Pamela Jean Raybom
Stella A.M. Keane
Susan Ley
Bob Stevens

Bob Stevens, Personal Representative for The Estate of George B. Saviers
B.3 Fritz Haemmerle letter dated January 21, 2020
City of Ketchum  
Attn: Suzanne Frick, City Administrator  
480 East Ave. N.  
Ketchum, ID 83340  
Via e-mail: sfrick@ketchumidaho.org

Re: Craig Nalen Residence, 201 Garnet St. - Proposed Site Plan

Dear Suzanne:

I represent Craig Nalen and Janet Jarvis regarding a site plan, 201 Garnet Street ("property"), submitted to the City of Ketchum for review. The City rejected the site plan as presented. I believe the City's rejection of the site plan was unlawful.

The property is located in the Limited Residential (LR) District, which has a 15 foot setback. On the site plan, the entire structure is located within the building envelope that is created by the setbacks. As to the easement created by the Garnet Street Agreement, attached hereto as Exhibit 1, the west end of the structure is 21 feet from the edge of the easement; the center is 7 feet from the easement; and the east end is 17 feet, 5 inches, from the edge of the easement. Every setback drafted on the site plan conforms to the City's existing setbacks.

To the extent that the City wants my client to conform to other and more restrictive setbacks than those which are currently codified, please identify the more restrictive setback and where those setbacks are identified in any City Code. Otherwise, I believe the City's more restrictive setbacks are completely arbitrary and capricious. Of course, if the City insists on enacting arbitrary and capricious setbacks, then my client will be compelled to explore all his legal options.

Thank you. I look forward to your timely response.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

[Signature]

Fritz X. Haemmerle
City of Ketchum  
Attn: Suzanne Frick, City Administrator  
January 30, 2020  
Page 2

FXH: fxh  
Encl.  
cc: client (nailcan@aol.com  
Matt Johnson, Attorney mjohnson@whitepeterson.com  
John Gaeddert jgaeddert@ketchumidaho.org  
Brian Christiansen bchristiansen@ketchumidaho.org
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into this 8th day of November, 1993, by and between CARL CURTIS ("Curtis"), JEANNE FRANKS, THE VINAGRE TRUST, by and through GARY E. and LINDA M. VINAGRE, TRUSTEES, ROBERT and MARJOLINA RENFRO, WILLIAM G. and SUSAN POLLOCK, THOMAS H. "BUD" and RITA ANN HEANEY, JOHN T. and JERRY ANN HEANEY, WILLIAM H. and ANN S. VANDERBILT, RICHARD O. DAHLGREN and JULIE SLOCUM DAHLGREN, KATHY JEANNE HARRAH, RELI LOUISE HAEMMERLE, FRITZ XAVIER HAEMMERLE, WILMA PACE, PAMELA JEAN RAYBORN, JOHN D. PACE, STELLA A.M. KEANE, CARL E. and SUSAN LEY, JUDY L. DEMETRE and THE ESTATE OF GEORGE B. SAVIERS, deceased, by and through its personal representative, BOB STEVENS (collectively referred to as the "Garnet Street Neighbors") and the CITY OF KETCHUM ("Ketchum").

RECITALS

WHEREAS, Curtis has filed case number CV-93-897 ("Lawsuit") in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, seeking to resolve the legal status of a parcel of property commonly known as Garnet Street, located within Ketchum, and more specifically depicted in the diagram attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the Garnet Street Neighbors, Ketchum and other named individuals and/or entities ("Other Defendants") were named as defendants in the Lawsuit; and

WHEREAS, Curtis is the owner of real property located at the eastern end of Garnet Street, in Ketchum, commonly known as Lot 1 of the Esmeralda Subdivision Lot Line Shift Plat ("Curtis Property"), and more specifically described in Exhibit "B" and depicted in Exhibit "C"; and

WHEREAS, the Garnet Street Neighbors, Ketchum and certain of the Other Defendants are the owners of, or have some form of interest in, the real property located in Ketchum, which property is more specifically described in Exhibit "B" and depicted in Exhibit "A"; and

WHEREAS, except for the Garnet Street Neighbors and Ketchum, the Other Defendants have had a default judgment entered against them consistent with the relief sought in the Curtis complaint filed in the Lawsuit, or have been dismissed from the Lawsuit; and

WHEREAS, Curtis, the Garnet Street Neighbors and Ketchum desire to resolve the Lawsuit on the terms and conditions hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants herein contained, the parties hereto agree as follows:

TERMS AND CONDITIONS

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Curtis v. Ketchum Settlement Agreement - Page 1
Street shall be deemed for all purposes to be a public roadway by prescriptive easement. After the Garnet Street Neighbors have executed easements to Ketchum pursuant to Paragraph 5, the parties agree that the paved portion of Garnet Street described herein shall be deemed a public roadway by express easement. The parties agree that the property lying to the north and south of the paved portion of Garnet Street is private property.

2. **UNPAVED PORTION OF GARNET STREET.** The parties agree that the unpaved, or graveled, portion of Garnet Street, as specifically described and depicted in Exhibit "E", attached hereto and incorporated herein, from the east end of the paved portion of said Street, as described in Exhibit "D", then eastward, shall be deemed a private driveway. The Garnet Street Neighbors and Curtis agree that said private driveway shall provide access to a maximum number of three (3) single family residential lots in a subdivision on the Curtis Property, as well as providing access to the property owned by The Estate of George B. Saviers ("Saviers Property"). The Garnet Street neighbors and Curtis agree that no additional lots other than those identified herein shall be allowed access via said private driveway. The Garnet Street Neighbors and Curtis agree that the private driveway shall remain as is, without any modification in width, grade or surface.

3. **CURTIS SUBDIVISION APPLICATION.**

(a) **Garnet Street Access.** Curtis intends to submit an application to Ketchum to subdivide the entire Curtis Property ("Curtis Subdivision"). Curtis agrees that the Curtis Subdivision shall propose not more than three (3) single family residential subdivision lots which could be accessed via Garnet Street. Curtis agrees that the Curtis Subdivision shall also provide access via Garnet Street to the Saviers Property. In addition, Curtis agrees that there shall be no further subdivision of the three (3) Curtis Subdivision single family residential lots which could be accessed from Garnet Street.

(b) **Snowplow Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to Ketchum a snowplow access and turnaround easement, to enable a Ketchum snowplow to turn around near the location on the Curtis Property adjacent to Garnet Street currently used by Ketchum for such purposes as depicted in Exhibit "E", attached hereto and incorporated herein.

(c) **Pedestrian Path Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to the Garnet Street Neighbors a pedestrian path easement, which shall be located in the approximate location of the existing path on the Curtis Property leading to the back side of Dollar Mountain.

(d) **Building Envelopes.** Curtis agrees that the Curtis Subdivision Plat shall designate all building envelopes outside the existing trees on the Curtis Property.

(e) **Application Approval Condition Precedent.** At such time as Ketchum gives final approval to the Curtis Subdivision, the parties hereto agree to execute and submit to the Court a Stipulation For Dismissal of the Lawsuit in the form attached hereto as Exhibit "F" and incorporated herein. The parties agree that all claims, complaints, crossclaims and counterclaims in any way relating to the Lawsuit shall be dismissed with prejudice as to the Garnet Street Neighbors and Ketchum. The parties agree that the Court may enter an Order For Dismissal of the Lawsuit as to the Garnet Street Neighbors and Ketchum in the form attached hereto as Exhibit "G" and
incorporated herein. In the event Ketchum does not approve the Curtis Subdivision, the parties agree that all recitals, covenants, terms and conditions contained in this Agreement shall be null and void, and evidence of the same shall not be introduced in the Lawsuit or any litigation thereafter pertaining to the resolution of the status of Garnet Street.

(f) **Ketchum's Execution of Agreement.** The parties acknowledge that by Ketchum's execution of this Agreement, Ketchum does not agree, either expressly or implicitly, to approve the proposed Curtis Subdivision. Furthermore, the parties acknowledge that Ketchum only executes this Agreement on the basis that Ketchum will agree to the dismissal of the Lawsuit on the terms and conditions herein set forth. Should Ketchum, in its sole and absolute discretion, approve the Curtis Subdivision, the parties agree that nothing herein shall be construed by any party as an obligation on the part of Ketchum to approve all or any portion of the Curtis Subdivision.

4. **PRESERVATION OF TREES.** The Garnet Street Neighbors and Curtis agree that the existing trees located adjacent to the unpaved and paved portions of Garnet Street, as said portions of Garnet Street are described in Paragraphs 1 and 2 herein and described and depicted in Exhibits "D" and "E", shall not be disturbed, except as necessary to prevent an obstruction to traffic or to protect the integrity of Garnet Street and the surrounding structures.

5. **ACCESS AND UTILITY EASEMENTS.** The parties agree to grant the following express easements:

(a) A public access and utility easement from Curtis and the Garnet Street Neighbors, as Grantors, to Ketchum, as Grantee, upon, over and under the paved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 1 herein and described in Exhibit "D".

(b) A utility easement from Curtis, The Estate of George B. Saviers and Judy Demetre, as Grantors, to Ketchum, as Grantee, upon, over and under that portion of the Curtis Property, Saviers Property and Demetre Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(c) A private access and utility easement from Judy Demetre, as Grantor, to Curtis and The Estate of George B. Saviers, as Grantees, upon, over and under that portion of the Demetre Property located within the unpaved portion of Garnet Street, as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(d) A reciprocal private access and utility easement between Curtis and The Estate of George B. Saviers upon, over and under that portion of the Curtis Property and the Saviers Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E"; and a private parking and landscape easement from Curtis, as Grantor, to The Estate of George B. Saviers, as Grantee, upon, over and under a portion of the Curtis Property as depicted in Exhibit "E".

The parties agree that the express easements described above, attached hereto and incorporated herein as Exhibit "H" shall become effective only upon the approval by Ketchum
of the Curtis Subdivision proposed for development on the Curtis Property as described herein. The parties agree that if Ketchum denies the Curtis Subdivision application, none of the easements herein contained would be valid, and no additional documents as envisioned in this Agreement would be required to be executed.

6. REMEDIES. The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its rights to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

7. AMENDMENTS. This Agreement may only be changed, modified or amended in writing executed by all parties.

8. HEADINGS. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

9. ATTORNEYS’ FEES AND COSTS. Should any action be brought to interpret or enforce any provision hereof or the easements contemplated herein, or for damages for breach hereof, the prevailing party shall be entitled to such reasonable attorneys’ fees and costs, as may be determined by any court of competent jurisdiction wherein such action is brought, including attorneys’ fees and costs on appeal.

10. SUCCESSORS AND Assigns. All provisions of this Agreement, including the benefits and burdens of the easements attached hereto, shall run with the land covered hereby and are binding on and enure to the benefit of the respective heirs, assigns, successors, lessors, tenants and personal representatives of the parties hereto.

11. RECORDING. This Agreement and any easement granted herein may be recorded in the Office of the Blaine County Recorder only after the approval of the Curtis Subdivision by Ketchum.

12. INTERPRETATION/EXECUTION OF DOCUMENTS. This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and the laws of the State of Idaho. In addition, the parties hereto agree that they will, at any time hereafter, upon reasonable request of the others, execute and deliver such documents as the other parties may reasonably require for the purpose of giving full effect to the provisions of this Agreement.

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

14. AUTHORITY. The parties executing this Agreement warrant, state, acknowledge and affirm that they have the authority to sign the same and to bind themselves and/or their respective clients to the terms contained herein.

15. ENTIRE AGREEMENT. This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matter.
16. **EXECUTION.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**CARL CURTIS:**

Carl Curtis

**GARNET STREET NEIGHBORS:**

Jeanne Franks

Linda M. Vinagre, Trustee for The Vinagre Trust

Marjolaine Renfro

Susan Pollock

Rita Ann Heaney

**DISMISSED 1-29-96
Jerry Ann Heaney**

**CITY OF KETCHUM, IDAHO:**

Guy P. Coles, Mayor

Gary E. Vinagre, Trustee for The Vinagre Trust

Robert Renfro

William G. Pollock

Thomas H. ("Bud") Heaney

**DISMISSED 1-29-96
John T. Heaney**

William H. Vanderbilt

Richard O. Dahlgren
Julie Slocum Dahlgren
Reli Louise Haemmerle
Wilma Pace
John D. Pace
Carl E. Ley
Judy L. Demetre, by Ned C. Williamson
An attorney-in-fact

Kathy Jeanne Harrah
Fritz Xavier Haemmerle
Pamela Jean Raybom
Stella A.M. Keane
Susan Ley
Bob Stevens
Bob Stevens, Personal Representative for The Estate of George B. Saviers
B.4 KMC §17.12.030.C: Dimensional Standards Matrix
KMC §17.12.030.C. In addition to the requirements of the dimensional standards, districts matrix, the regulations of chapter 17.128, "Supplementary Location And Bulk Regulations", of this title apply.

DIMENSIONAL STANDARDS, DISTRICTS MATRIX

See section 17.12.040 of this chapter for Community Core dimensional standards.
See section 17.12.050 of this chapter for Light Industrial dimensional standards.

<table>
<thead>
<tr>
<th>Districts</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Area With PUD*</th>
<th>Lot Width</th>
<th>Building Height</th>
<th>Maximum Building Coverage/FAR</th>
<th>Minimum Open Space</th>
<th>Front Setback</th>
<th>Side Setback</th>
<th>Rear Setback</th>
<th>Lot Lines Created By Townhouse Sublots</th>
<th>Setbacks From Hwy 75</th>
<th>Setbacks Along 200’ Former Railroad ROW</th>
</tr>
</thead>
<tbody>
<tr>
<td>LR</td>
<td>9,000 sf</td>
<td>n/a</td>
<td>80’ average</td>
<td>35’</td>
<td>35%</td>
<td>n/a</td>
<td>15’</td>
<td></td>
<td>20’</td>
<td>n/a</td>
<td>25’/32’/7</td>
<td>30’</td>
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<tr>
<td>LR-1</td>
<td>1 acre</td>
<td>n/a</td>
<td>100’ average</td>
<td>35’</td>
<td>25%</td>
<td>n/a</td>
<td>15’</td>
<td></td>
<td>20’</td>
<td>n/a</td>
<td>80’</td>
<td>30’</td>
</tr>
<tr>
<td>Districts</td>
<td>Minimum Lot Area</td>
<td>Minimum Lot Area With PUD*</td>
<td>Minimum Lot Area, Townhouse Sublot</td>
<td>Lot Width</td>
<td>Building Height</td>
<td>Maximum Building Coverage/ FAR</td>
<td>Minimum Open Space</td>
<td>Front Setback</td>
<td>Side Setback</td>
<td>Rear Setback</td>
<td>Lot Lines Created By Townhouse Sublots</td>
<td>Setbacks From Hwy 75</td>
</tr>
<tr>
<td>-----------</td>
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<td>--------------</td>
<td>-------------</td>
<td>-------------</td>
<td>----------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>LR-2</td>
<td>2 acres</td>
<td>n/a</td>
<td>n/a</td>
<td>100' average</td>
<td>35'</td>
<td>25%</td>
<td>n/a</td>
<td>15'</td>
<td></td>
<td>20'</td>
<td>n/a</td>
<td>400' 6</td>
</tr>
<tr>
<td>GR-L</td>
<td>8,000 sf</td>
<td>8,000 sf plus 4,000 for every unit over 2</td>
<td>Equal to that of the perimeter of the townhouse unit</td>
<td>80' average</td>
<td>35'</td>
<td>35%</td>
<td>n/a</td>
<td>15'</td>
<td></td>
<td>0'</td>
<td>The greater of 1' for every 3' in building height, or 15'</td>
<td>25'/32' 7</td>
</tr>
<tr>
<td>GR-H</td>
<td>8,000 sf</td>
<td>n/a</td>
<td>Equal to that of the perimeter of the townhouse unit</td>
<td>80' average</td>
<td>35'^2</td>
<td>See FAR requirements in section 17.12 4.040 of this title</td>
<td>35%^5</td>
<td>15'</td>
<td></td>
<td>0'</td>
<td>The greater of 1' for every 3' in building height, or 15'</td>
<td>25'/32' 7</td>
</tr>
</tbody>
</table>

Notes:

- LR-2: The greater of 1' for every 2' in building height, or 10'.
- GR-L: The greater of 1' for every 3' in building height, or 15'.
- GR-H: The greater of 1' for every 3' in building height, or 15'.

FAR: Floor Area Ratio.
<table>
<thead>
<tr>
<th>Districts</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Area With PUD*</th>
<th>Minimum Lot Area, Townhouse Sublot</th>
<th>Lot Width</th>
<th>Building Height</th>
<th>Maximum Building Coverage/FAR</th>
<th>Minimum Open Space</th>
<th>Front Setback</th>
<th>Side Setback</th>
<th>Rear Setback</th>
<th>Lot Lines Created By Townhouse Sublots</th>
<th>Setbacks From Hwy 75</th>
<th>Any Setback Along Warm Springs Road</th>
<th>Setbacks Along 200' Former Railroad ROW</th>
</tr>
</thead>
<tbody>
<tr>
<td>STO-.4</td>
<td>0.4 acres</td>
<td>n/a</td>
<td>n/a</td>
<td>80' average</td>
<td>35'</td>
<td>25%</td>
<td>n/a</td>
<td>15'</td>
<td></td>
<td></td>
<td>The greater of 1' for every 2' in building height, or 10'</td>
<td>n/a</td>
<td>400'</td>
<td>30'</td>
</tr>
<tr>
<td>STO-1</td>
<td>1 acre</td>
<td>n/a</td>
<td>n/a</td>
<td>100' average</td>
<td>35'</td>
<td>25%</td>
<td>n/a</td>
<td>15'</td>
<td></td>
<td></td>
<td>The greater of 1' for every 2' in building height, or 10'</td>
<td>n/a</td>
<td>400'</td>
<td>30'</td>
</tr>
</tbody>
</table>

Family dwellings must maintain at least 10' 1
<table>
<thead>
<tr>
<th>Districts</th>
<th>Minimum Lot Area</th>
<th>Minimum Lot Area With PUD*</th>
<th>Lot Width</th>
<th>Building Height</th>
<th>Maximum Building Coverage/ FAR</th>
<th>Minimum Open Space</th>
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<th>Side Setback</th>
<th>Rear Setback</th>
<th>Lot Lines Created By Townhouse Sublots</th>
<th>Setbacks From Hwy 75</th>
<th>Any Setback Along Warm Springs Road</th>
<th>Setbacks Along 200' Former Railroad ROW</th>
</tr>
</thead>
<tbody>
<tr>
<td>STO-H</td>
<td>9,000 sf (minimum of 3,000 sf per unit)</td>
<td>n/a</td>
<td>Equal to that of the perimeter of the townhouse unit</td>
<td>100' average</td>
<td>35'</td>
<td>35% building coverage, and 75% covered by buildings, parking areas and accessory buildings</td>
<td>n/a</td>
<td>15'</td>
<td>The greater of 1' for every 3' in building height, or 5'</td>
<td>The greater of 1' for every 3' in building height, or 15'</td>
<td>0'</td>
<td>400'</td>
<td>30'</td>
</tr>
<tr>
<td>T</td>
<td>8,000 sf</td>
<td>n/a</td>
<td>Equal to that of the perimeter of the townhouse unit</td>
<td>80' average</td>
<td>35'</td>
<td>2</td>
<td>See FAR requirements in section 17.12 4.040 of this title</td>
<td>35% 5</td>
<td>15'</td>
<td>The greater of 1' for every 3' in building height, or 5'. At least 10' for one-family dwellings</td>
<td>The greater of 1' for every 3' in building height, or 10'. At least 15' for one-family dwellings 1,2 1</td>
<td>0'</td>
<td>25'/32'</td>
</tr>
<tr>
<td>T-3000</td>
<td>8,000 sf</td>
<td>n/a</td>
<td>Equal to that of the perimeter</td>
<td>80' average</td>
<td>35'</td>
<td>2</td>
<td>See FAR requirements in section 17.12</td>
<td>35% 5</td>
<td>15'</td>
<td>The greater of 1' for every</td>
<td>The greater of 1' for every 3'</td>
<td>0'</td>
<td>n/a</td>
</tr>
<tr>
<td>Districts</td>
<td>Minimum Lot Area</td>
<td>Minimum Lot Area With PUD*</td>
<td>Lot Width</td>
<td>Building Height</td>
<td>Maximum Building Coverage/ FAR</td>
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</tr>
<tr>
<td>T-4000</td>
<td>8,000 sf</td>
<td>n/a</td>
<td>80' averag</td>
<td>35'²</td>
<td>See FAR requirements in section 17.12 4.040 of this title</td>
<td>35%⁵</td>
<td>15'</td>
<td></td>
<td></td>
<td>0'</td>
<td>n/a</td>
<td>30'</td>
<td>n/a</td>
</tr>
<tr>
<td>Districts</td>
<td>Minimum Lot Area</td>
<td>Minimum Lot Area With PUD*</td>
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</tr>
<tr>
<td>RU</td>
<td>9,000 sf</td>
<td>n/a</td>
<td>Equal to that of the perimeter of the townhouse unit</td>
<td>n/a</td>
<td>35'</td>
<td>25%</td>
<td>n/a</td>
<td>30'^4</td>
<td>15'^4</td>
<td>15'^4</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>AF</td>
<td>10 acres</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>35'</td>
<td>10% (includes pools)</td>
<td>n/a</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

* See [title 16](#) of this Code.

**Notes:**
1. If the lot adjoins a more restrictive district on the side or rear, the more restrictive setbacks of that district shall apply.
2. For building with a roof pitch greater than 5:12 the maximum height to the mean point of the ridge or ridges measured from eaves line to the ridge top shall be 35 feet. Roof ridges above the mean point may extend up to a height of 44 feet.
3. Reserved.
4. The placement of all structures for conditional uses shall be subject to approval of the Planning and Zoning Commission.
5. A maximum of 5 percent open site area may be used for private decks or patios and walkways subject to design review approval.
6. 100 foot setback from Highway 75 is required for lots platted prior to 1979.
7. Minimum setbacks along Highway 75: Where the street width is 80 feet, all buildings shall be set back a minimum of 25 feet, and where the street width is 66 feet, all buildings shall be set back a minimum of 32 feet.
B.5 KMC §17.124.170: Minimum Standards for One-Family Dwellings
17.124.170: MINIMUM STANDARDS FOR ONE-FAMILY DWELLINGS:

The following minimum standards apply to one-family dwellings in all zoning districts:

A. Drainage:
   1. All stormwater shall be retained on site.
   2. Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.
   3. The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.
   4. Drainage facilities shall be constructed per City standards.

B. Utilities:
   1. All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.
   2. Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.

C. Snow Storage:
   1. Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.
   2. Snow storage areas shall be provided on site.
   3. A designated snow storage area shall not have any dimension less than five feet (5') and shall be a minimum of twenty five (25) square feet.
   4. In lieu of providing snow storage areas, snowmelt and hauling of snow may be allowed.

D. Landscaping:
   1. Landscaping is required for all projects.
   2. 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.
   3. All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required. (Ord. 1190, 2018)
B.5 KMC §17.04.040: Interpretation
17.04.040: INTERPRETATION:

In the interpretation and application of the provisions of this title, the following regulations shall govern:

A. Provisions Are Minimum Requirements: In their interpretation and application, the provisions of this title shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, morals, convenience, prosperity and welfare. All provisions shall be liberally construed to further its underlying purposes.

B. Application Of Overlapping Regulations: Whenever the provisions of this title, or a provision in this title and any provision in any other ordinance, resolution, rule or regulation of any kind, contain any restrictions covering the same subject matter, the more restrictive or higher standards or requirements shall govern. All uses and all locations and bulk permitted under the terms of this title shall be in conformity with all other provisions of law.

C. Existing Permits And Private Agreements: This title is not intended to abrogate or annul:

1. Any permits issued before the effective date hereof; or

2. Any easement, covenant or any other private agreement. (Ord. 1135, 2015)
B.6 Development Review meeting agenda dated January 8th, 2020
Development Review Meeting  
January 8th, 2020

4 Review at Meeting  
- 201 Garnet Street new single-family residence

- 1307 Warm Springs Road  
  single-family residence addition

P&Z Commission Meeting 1/13/2020  
- Ketchum Townsite: Block 5: Lots 1 & 2 (Hot Dog Hill) Mixed-Use Building Pre-Application Design Review  
- Fire Station Pre-Application Design Review

Development Review Team Meeting  
City of Ketchum  
January 8th, 2020
• My Sun Valley Home Mixed-Use Building (120 Northwood Way) Design Review & Conditional Use Permit for 3 Employee Housing Unit
• 471 E 10th St Unit B2 (Dean) Work/Live Unit Conditional Use Permit
• 491 E 10th Street Unit A17 (Duval) Work/Live Conditional Use Permit
• Swan Streambank Alteration (401 Northwood Way)

City Council Meeting 1/21/2020
• Ketchum Tribute Hotel (Plat Amendment & PUD CUP & Draft Development Agreement)

P&Z Commission Meeting 2/10/2020

Pending Building Permit Submittal
• 255 Hillside Detached (Deep Powder) Townhome

Pending Development Application Submittal
B.7 201 Garnet Street Drainage & Snow Storage Calculations and supporting materials (13 pages), S&C Associates, March 6, 2020
Description and Purpose of Calculations:
Calculate minimum swale/snow storage width needed along 201 Garnet St. in Ketchum, Idaho.

Design Basis/References/Assumptions:
Runoff calculated using Rational Equation due to size of swale/basin
Frozen Ground assumed with no infiltration (spring) for drainage/storage
Snow Water Equivalent – 11”
# City Standard ROW

## 13' Drive Lane 17' Wide Swale

### ITD IDF Data

<table>
<thead>
<tr>
<th>Check Dam Width for Swales</th>
<th>Number of Check Dams</th>
<th>Storm Event</th>
<th>Drainage Area (acres): Area in ft²</th>
<th>Area in Acres</th>
<th>Runoff Coefficient (c)</th>
<th>Infiltration Rate</th>
<th>Predevelopment Rate (if any)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tbody>
</table>

### Runoff Coefficient (c) for Combined Areas

<table>
<thead>
<tr>
<th>Imp.</th>
<th>Perv.</th>
<th>Total Area</th>
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</thead>
<tbody>
<tr>
<td>1716</td>
<td>2244</td>
<td>3960 sf</td>
</tr>
</tbody>
</table>

| Weighted (c) Value: | 0.50 |

### Compute Peak Volume

<table>
<thead>
<tr>
<th>Storm Duration</th>
<th>I</th>
<th>Q</th>
<th>Runoff Vol</th>
<th>Infiltration Vol</th>
<th>PreDev. Vol</th>
<th>Required Vol</th>
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<tr>
<td>Min Hr</td>
<td>in/hr</td>
<td>cfs</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
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<tr>
<td>10</td>
<td>0.17</td>
<td>2.1</td>
<td>0.09</td>
<td>57</td>
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<td>30</td>
<td>0.50</td>
<td>1.4</td>
<td>0.06</td>
<td>114</td>
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<td>60</td>
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| Total Design Vol. (cf) | 429 |

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<thead>
<tr>
<th>Swale Dimensions</th>
<th>Vol. Available (cf)</th>
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</thead>
<tbody>
<tr>
<td>Length</td>
<td>132 ft</td>
</tr>
<tr>
<td>Left Slope</td>
<td>20:1</td>
</tr>
<tr>
<td>Right Slope</td>
<td>20:1</td>
</tr>
<tr>
<td>Depth</td>
<td>0.425 ft</td>
</tr>
<tr>
<td>Infiltration Width</td>
<td>0 ft</td>
</tr>
<tr>
<td>Longitudinal Slope</td>
<td>0 ft/ft</td>
</tr>
</tbody>
</table>

*assume frozen ground
*assume no slope/flat
**Applicant Proposal**

**10' Drive Lane 3' Wide Swale**

### ITD IDF Data

#### Swale
- Check Dam Width for Swales: 0
- Number of Check Dams: 0

#### Runoff Coefficient (c) for Combined Areas

<table>
<thead>
<tr>
<th>Imp.</th>
<th>Perv.</th>
<th>Total Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1320</td>
<td>264</td>
<td>1584 sf</td>
</tr>
</tbody>
</table>

#### Storm Event
- Drainage Area (acres): Area in ft²: 1,584
- Area in Acres: 0.04

#### Runoff Coefficient (c)
- Weighted (c) Value: 0.82

#### Compute Peak Volume

<table>
<thead>
<tr>
<th>Storm Duration</th>
<th>I</th>
<th>Q</th>
<th>Runoff Vol</th>
<th>Infiltration Vol</th>
<th>PreDev. Vol</th>
<th>Required Vol</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min Hr</td>
<td>in/hr</td>
<td>cfs</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
</tr>
<tr>
<td>10</td>
<td>0.17</td>
<td>2.1</td>
<td>0.06</td>
<td>37</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>30</td>
<td>0.50</td>
<td>1.4</td>
<td>0.04</td>
<td>75</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>60</td>
<td>1.00</td>
<td>0.79</td>
<td>0.02</td>
<td>84</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>120</td>
<td>2.00</td>
<td>0.5</td>
<td>0.01</td>
<td>107</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>180</td>
<td>3.00</td>
<td>0.4</td>
<td>0.01</td>
<td>128</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>360</td>
<td>6.00</td>
<td>0.27</td>
<td>0.01</td>
<td>173</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>720</td>
<td>12.00</td>
<td>0.18</td>
<td>0.01</td>
<td>231</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1440</td>
<td>24.00</td>
<td>0.11</td>
<td>0.00</td>
<td>282</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**Total Design Vol. (cf)**

282

**Swale Dimensions**

- Length: 132 ft
- Left Slope: 3:1
- Right Slope: 3:1
- Depth: 0.5 ft
- Infiltration Width: 0 ft
- Longitudinal Slope: 0 ft/ft

* assume frozen ground  
* assume no slope/flat

Vol. Available (cf) 99
### Minimum City ROW
**10' Drive Lane 15' Wide Swale**

#### ITD IDF Data

<table>
<thead>
<tr>
<th>Swale</th>
<th>Check Dam Width for Swales</th>
<th>Number of Check Dams</th>
<th>Storm Event</th>
<th>Imp. Perv. Total Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>25</td>
<td>1320 1848 3168 sf</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Runoff Coefficient (c) for Combined Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imp.</td>
</tr>
<tr>
<td>--------------</td>
</tr>
<tr>
<td>1320</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Area in ft²</th>
<th>Area in Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,168</td>
<td>0.07</td>
</tr>
</tbody>
</table>

| Runoff Coefficient (c) | 0.48 |

| Infiltration Width | 0 ft |

| Predevelopment Rate (if any) | 0 |

#### Compute Peak Volume

<table>
<thead>
<tr>
<th>Storm Duration</th>
<th>I</th>
<th>Q</th>
<th>Runoff Vol</th>
<th>Infiltration Vol</th>
<th>PreDev. Vol</th>
<th>Required Vol</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min Hr</td>
<td>in/hr</td>
<td>cfs</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
<td>ft³</td>
</tr>
<tr>
<td>10</td>
<td>0.17</td>
<td>2.1</td>
<td>0.07</td>
<td>44</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>30</td>
<td>0.50</td>
<td>1.4</td>
<td>0.05</td>
<td>89</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>60</td>
<td>1.00</td>
<td>0.79</td>
<td>0.03</td>
<td>100</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>120</td>
<td>2.00</td>
<td>0.5</td>
<td>0.02</td>
<td>127</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>180</td>
<td>3.00</td>
<td>0.4</td>
<td>0.01</td>
<td>152</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>360</td>
<td>6.00</td>
<td>0.27</td>
<td>0.01</td>
<td>205</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>720</td>
<td>12.00</td>
<td>0.18</td>
<td>0.01</td>
<td>273</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1440</td>
<td>24.00</td>
<td>0.11</td>
<td>0.00</td>
<td>334</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

| Total Design Vol. (cf) | 334 |

#### Swale Dimensions

<table>
<thead>
<tr>
<th>Length</th>
<th>132 ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Left Slope</td>
<td>20:1</td>
</tr>
<tr>
<td>Right Slope</td>
<td>20:1</td>
</tr>
<tr>
<td>Depth</td>
<td>0.375 ft</td>
</tr>
<tr>
<td>Infiltration Width</td>
<td>0 ft</td>
</tr>
<tr>
<td>Longitudinal Slope</td>
<td>0 ft/ft</td>
</tr>
</tbody>
</table>

*assume frozen ground

*assume no slope/flat
### Snow Storage Calculation
#### 201 Garnet

<table>
<thead>
<tr>
<th>Use an normal snow water equivalent (mm) for the entire season</th>
<th>units/mm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Normal snow water equivalent (mm)</td>
<td>279.4</td>
</tr>
</tbody>
</table>

| Convert normal snow water equivalent (mm) to a total amount of snow (cm) (assume 1 mm water is equal to 1 cm snow) |
|---------------------------------------------------------------|----------|
| Average Normal snow water equivalent (mm)                    | 279.4    |
| water equivalent (mm) | snow (cm) | snow (m) |
| Average Normal snow water equivalent (mm)                    | 279.4    |
| water equivalent (mm) | snow (cm) | snow (m) |

<table>
<thead>
<tr>
<th>Reduce the volume of snow from a new snow fall density to an average compacted snow density (assuming that new snow is 100 kg/m³ and compacted snow is 500 kg/m³)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assumptions Density Ratio</td>
</tr>
<tr>
<td>New Snow</td>
</tr>
<tr>
<td>Compacted Snow</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>cm</th>
<th>ratio density</th>
<th>average total compacted snow (cm)</th>
<th>average total compacted snow converted to metres (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>279.4</td>
<td>2</td>
<td>139.7</td>
<td>1.397</td>
</tr>
</tbody>
</table>

| Calculate volume of snow per lineal metre of road |
|--------------------------------------------------|----------|
| Volume of snow per lineal metre of road in easement | 3.96    |
| lane width (m) average total compacted snow (m) volume of snow per lineal metre (m³/m) |
| 3.96 | 1.397 | 5.53212 |

<table>
<thead>
<tr>
<th>Calculate width of storage area assuming a maximum storage height of 1.2 metres</th>
</tr>
</thead>
<tbody>
<tr>
<td>maximum storage height (m) maximum slope angle (ratio) width of snow storage area (m)</td>
</tr>
<tr>
<td>1.2192</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total available storage area assuming that the maximum slope on snow pile can not exceed a 1 to 1 ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>maximum storage height (m) maximum slope angle (ratio) width of snow storage area (m)</td>
</tr>
<tr>
<td>1.2192</td>
</tr>
</tbody>
</table>
Calculate minimum right-of-way width based on lane and snow storage area width

\[(\text{Lane width} \times \text{number of lanes}) + (\text{snow storage area width} \times 2)\]  

15.14729568

Calculate additional snow to displace for parking access(es)

<table>
<thead>
<tr>
<th>number of driveways (must be looked at for each direction)</th>
<th>driveway width (m)</th>
<th>volume of snow per lineal metre ((m^3/m))</th>
<th>volume of snow to displace ((m^3))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6.4008</td>
<td>5.53212</td>
<td>35.4099937</td>
</tr>
</tbody>
</table>

Volume of additional snow to displace due to driveway accesses(s)

<table>
<thead>
<tr>
<th>width of snow storage area calculated in Step 5 ((m))</th>
<th>length of roadway over which to distribute snow from accesses ((m))</th>
<th>additional volume of snow to displace as calculated in Step 7 ((m^3))</th>
<th>additional width required to accommodate accesses based on length stipulated in cell C38 ((m))</th>
<th>total width required over length stipulated in cell C38 ((m))</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.61364784</td>
<td>40.2</td>
<td>35.40999</td>
<td>0.722</td>
<td>4.336</td>
</tr>
</tbody>
</table>

**Example for calculating additional storage width for parking access(es)**

- \(A_1 = \frac{x_1 \times \text{MSH}}{2}\)
- \(A_2 = x_2 \times \text{MSH}\)
- \(A_3 = x_3 \times \text{MSH}\)

**Assumed Cross Section:**

- \(x_1 + x_2 + x_3\) (total storage width)

**Operational adjustment (5%)**

<table>
<thead>
<tr>
<th></th>
<th>0.2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Width Required (m)</strong></td>
<td>4.6</td>
</tr>
<tr>
<td><strong>Total Width Required (ft)</strong></td>
<td>14.9</td>
</tr>
</tbody>
</table>
Figure B-8
Sheet 3 of 9

NOTE
FREQUENCY ANALYSIS BY METHOD OF
EXTREME VALUES, AFTER GUMBEL

ZONE C

INTENSITY-DURATION-FREQUENCY

CURVE

RETURN PERIOD (years)

100
25
50
10
5
2

RAINFALL INTENSITY IN INCHES PER HOUR

MINUTES HOURS

DURATION
<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation</th>
<th>Depth</th>
<th>Snowfall</th>
<th>Basin Index (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prairie</td>
<td>4800</td>
<td>5.3</td>
<td>4.9</td>
<td>108</td>
</tr>
<tr>
<td>Trinity Mtn.</td>
<td>7770</td>
<td>22.1</td>
<td>31.0</td>
<td>71</td>
</tr>
<tr>
<td>Vienna Mine</td>
<td>8960</td>
<td>20.6</td>
<td>25.2</td>
<td>82</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>85</strong></td>
</tr>
</tbody>
</table>

### BIG WOOD BASIN

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation</th>
<th>Depth</th>
<th>Snowfall</th>
<th>Basin Index (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Camas Creek Divide</td>
<td>5710</td>
<td>10.0</td>
<td>11.5&lt;sub&gt;C&lt;/sub&gt;</td>
<td>87</td>
</tr>
<tr>
<td>Chocolate Gulch</td>
<td>6310</td>
<td>6.5</td>
<td>11.0&lt;sub&gt;C&lt;/sub&gt;</td>
<td>59</td>
</tr>
<tr>
<td>Dollarhide Summit</td>
<td>8420</td>
<td>14.9</td>
<td>N/A</td>
<td>*</td>
</tr>
<tr>
<td>Galena</td>
<td>7470</td>
<td>9.2</td>
<td>13.7</td>
<td>67</td>
</tr>
<tr>
<td>Galena Summit</td>
<td>8780</td>
<td>12.2</td>
<td>15.5</td>
<td>79</td>
</tr>
<tr>
<td>Hyndman</td>
<td>7620</td>
<td>5.7</td>
<td>10.1</td>
<td>56</td>
</tr>
<tr>
<td>Lost-Wood Divide</td>
<td>7900</td>
<td>8.4</td>
<td>16.1</td>
<td>52</td>
</tr>
<tr>
<td>Soldier R.S.</td>
<td>5740</td>
<td>6.6</td>
<td>10.4</td>
<td>63</td>
</tr>
<tr>
<td>Vienna Mine</td>
<td>8960</td>
<td>20.6</td>
<td>25.2</td>
<td>82</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>70</strong></td>
</tr>
</tbody>
</table>

### LITTLE WOOD BASIN

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation</th>
<th>Depth</th>
<th>Snowfall</th>
<th>Basin Index (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bear Canyon</td>
<td>7900</td>
<td>7.4</td>
<td>12.0</td>
<td>62</td>
</tr>
<tr>
<td>Garfield R.S.</td>
<td>6560</td>
<td>4.8</td>
<td>9.2</td>
<td>52</td>
</tr>
<tr>
<td>Hyndman</td>
<td>7620</td>
<td>5.7</td>
<td>10.1</td>
<td>56</td>
</tr>
<tr>
<td>Smiley Mountain</td>
<td>9520</td>
<td>9.2</td>
<td>14.2&lt;sub&gt;R&lt;/sub&gt;</td>
<td>65</td>
</tr>
<tr>
<td>Swede Peak</td>
<td>7640</td>
<td>5.8</td>
<td>12.7</td>
<td>46</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>57</strong></td>
</tr>
</tbody>
</table>

### BIG LOST BASIN

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation</th>
<th>Depth</th>
<th>Snowfall</th>
<th>Basin Index (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bear Canyon</td>
<td>7900</td>
<td>7.4</td>
<td>12.0</td>
<td>62</td>
</tr>
<tr>
<td>Hilts Creek</td>
<td>8000</td>
<td>8.0</td>
<td>10.3</td>
<td>78</td>
</tr>
<tr>
<td>Lost-Wood Divide</td>
<td>7900</td>
<td>8.4</td>
<td>16.1</td>
<td>52</td>
</tr>
<tr>
<td>Smiley Mountain</td>
<td>9520</td>
<td>9.2</td>
<td>14.2&lt;sub&gt;R&lt;/sub&gt;</td>
<td>65</td>
</tr>
<tr>
<td>Stickney Mill</td>
<td>7430</td>
<td>4.2</td>
<td>6.9</td>
<td>61</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>63</strong></td>
</tr>
</tbody>
</table>

### LITTLE LOST, BIRCH BASINS

<table>
<thead>
<tr>
<th>Location</th>
<th>Elevation</th>
<th>Depth</th>
<th>Snowfall</th>
<th>Basin Index (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beagle Springs</td>
<td>8850</td>
<td>8.1</td>
<td>6.4</td>
<td>127</td>
</tr>
<tr>
<td>Hilts Creek</td>
<td>8000</td>
<td>8.0</td>
<td>10.3</td>
<td>78</td>
</tr>
<tr>
<td>Meadow Lake</td>
<td>9150</td>
<td>11.0</td>
<td>11.5</td>
<td>96</td>
</tr>
<tr>
<td>Moonshine</td>
<td>7440</td>
<td>6.8</td>
<td>7.9</td>
<td>86</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>124</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack Creek Upper</td>
<td>7377</td>
</tr>
<tr>
<td>Laurel Draw</td>
<td>6682</td>
</tr>
<tr>
<td>Mud Flat</td>
<td>5730</td>
</tr>
<tr>
<td>Reynolds Creek</td>
<td>5600</td>
</tr>
<tr>
<td>South Mtn.</td>
<td>6500</td>
</tr>
<tr>
<td>Taylor Canyon</td>
<td>6325</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td><strong>102</strong></td>
</tr>
<tr>
<td><strong>BEAR RIVER BASIN</strong></td>
<td></td>
</tr>
<tr>
<td>Bug Lake</td>
<td>7987</td>
</tr>
<tr>
<td>Dry Bread Pond</td>
<td>8302</td>
</tr>
<tr>
<td>Emigrant Summit</td>
<td>7390</td>
</tr>
<tr>
<td>Franklin Basin</td>
<td>8140</td>
</tr>
<tr>
<td>Giveout</td>
<td>6930</td>
</tr>
<tr>
<td>Hayden Fork</td>
<td>9130</td>
</tr>
<tr>
<td>Kelley R.S.</td>
<td>8180</td>
</tr>
<tr>
<td>Lily Lake</td>
<td>9133</td>
</tr>
<tr>
<td>Monte Cristo</td>
<td>8932</td>
</tr>
<tr>
<td>Oxford Spring</td>
<td>6740</td>
</tr>
<tr>
<td>Salt River Summit</td>
<td>7640</td>
</tr>
<tr>
<td>Sedgwick Peak</td>
<td>7850</td>
</tr>
<tr>
<td>Slug Creek Divide</td>
<td>7225</td>
</tr>
<tr>
<td>Spring Creek Divide</td>
<td>9000</td>
</tr>
<tr>
<td>Trial Lake</td>
<td>9992</td>
</tr>
<tr>
<td><strong>Basin Index (%)</strong></td>
<td><strong>105</strong></td>
</tr>
</tbody>
</table>

- M = Missing data.
- * = Analysis may not provide a valid measure of conditions.
- N/A = Not available.
- C = Conditional only 10-19 years of data available.
- R = Rough less than 10 years of data available.

If the Basin Index (%) percent value is flagged as potentially invalid care should be taken to evaluate if the value is representative of conditions in the basin.

The **SNOW WATER EQUIVALENT** represents the depth of water in the snowpack if the snowpack were melted expressed in inches.
The WATER YEAR-TO-DATE-PRECIPITATION represents total precipitation since October 1st expressed in inches.

Contact your state water supply staff for assistance.

Medians and averages are calculated for the period 1981-2010.

Provisional datasubject to revision.

* Site -- Either: (a) the current value is missing; (b) the median or average for the day is not available or is zero; or (c) for snow water equivalent the median for the day is less than 10% of the maximum median value for the year.

* Basin - More than half of the sites within the basin are flagged with * preventing the calculation of a meaningful basin index.

The basin index is calculated as the sum of the valid current values divided by the sum of the corresponding medians (for snow water equivalent) or averages (for precipitation) and the resulting fraction multiplied by 100.
NOTES:

1. The schematic above shows a cross section of an 60-foot wide right-of-way (ROW) for streets located in residential districts.

2. Shoulders are required to accommodate drainage, parking, snow storage, and access for emergency vehicles within local-residential street rows and provide materials that can reasonably be maintained by the city.

3. Examples of 60-foot row roads located in residential districts are Dollar Drive, Irene St, Belmont and Wanders Way.

4. Stop and street signs are to be installed 2 ft from edge of pavement.

5. 8 ft permeable shoulder at a 5% slope for parallel parking.

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**REVISIONS**

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<td>09/01/2019</td>
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<td>ROW DRAWINGS</td>
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Attachment C.

Notice of Appeal dated March 23, 2020 and Brief, Haemmerle Law, P.L.L.C.
March 23, 2020

City of Ketchum  
c/o Suzanne Frick, City Administrator  
480 East Ave. N.  
Ketchum, ID 83340  
Hand Delivery and Via e-mail: sfrick@ketchumidaho.org

Re: Notice of Appeal

Dear Suzanne:

As you know, I represent Craig Nalen and Janet Jarvis regarding a site plan, 201 Garnet Street ("property") submitted to the City. Regarding the setbacks, John Gaeddert issued a March 9, 2020, Determination Letter. In relation to that determination, attached is a Notice of Appeal along with a supporting Brief and attachments.

Please advise as to what fees may be applicable. Thank you.

Sincerely,

HAEMMERLE LAW, P.L.L.C.

Fritz X. Haemmerle

FXH: fkh
Encl.
cc: client (nailcan@aol.com)
Matt Johnson, Attorney mjohson@whitepetersen.com
John Gaeddert jgaeddert@ketchumidaho.org
Notice of Appeal

Note: The Appellant shall submit an amount to cover the cost of giving notice, as applicable in the Fee Schedule, and provide a transcript within two (2) days after the Planning and Building Department provides the Appellant with an estimate for the expense of the same. In the event the fee is not paid as required, the appeal shall not be considered filed.

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<th>APPPELLANT</th>
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<tr>
<td>Name of Appellant: Craig Nalen</td>
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<tr>
<td>Address: c/o Fritz Haemmerle</td>
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<td>Phone Number: c/o Fritz Haemmerle</td>
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<td>Fax Number or Email: c/o Fritz X. Haemmerle</td>
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<tr>
<td>Name of Representative: Fritz X. Haemmerle, Haemmerle Law, P.L.L.C.</td>
</tr>
<tr>
<td>Address: P.O. Box 1800, Hailey, Idaho 83333</td>
</tr>
<tr>
<td>Phone Number: (208) 578-0520</td>
</tr>
<tr>
<td>Fax Number or Email: <a href="mailto:fxe@haemlaw.com">fxe@haemlaw.com</a></td>
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<th>APPLICATION</th>
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<tr>
<td>Application Being Appealed: March 9, 2020, Determination Letter, John Gaddert, regarding 201 Garnet St.</td>
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<tr>
<td>Explain How You Are an Affected Party:</td>
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<tr>
<td>Mr. Nalen was denied his authorized and lawful setbacks.</td>
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<tr>
<td>Date of Decision or Date Findings of Fact Were Adopted: March 9, 2020</td>
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<th>SUBMITTAL INFORMATION</th>
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<tr>
<td>This Appeal is Based on The Following Factors (set forth all basis for appeal including the particulars regarding any claimed error or abuse of discretion):</td>
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<td>See attached Brief</td>
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If you have attached additional pages, please indicate the number of pages attached ________

Signature of Appellant or Representative: _______________________________  Date: ____________

480 East Ave. N.  P.O. Box 2315  Ketchum, ID 83340  main (208) 726-7801  fax (208) 726-7812
facebook.com/CityofKetchum  twitter.com/Ketchum_Idaho  www.ketchumidaho.org
FRITZ X. HAEMMERLE (ISB# 3862)
HAEMMERLE LAW, P.L.L.C.
400 South Main St., Suite 102
P.O. Box 1800
Hailey, ID 83333
Tel: (208) 578-0520
haemmerlefilings@gmail.com

Attorneys for Craig Nalen

BEFORE THE CITY OF KETCHUM

RE: Appeal from Planning and Building Department Director Determination Letter dated March 9, 2020.

APPELLANT’S BRIEF ON APPEAL

COMES NOW Appellant, Craig Nalen (Nalen), by and through Fritz X. Haemmerle of Haemmerle Law, P.L.L.C. submits this Brief in Support of his appeal of Planning and Building Department Director’s (“Director”) Determination Letter dated March 9, 2020.

I. FACTS

1. The Appellant, Craig Nalen (“Nalen”) is seeking to build a residence at 201 Garnett Street, Ketchum, Idaho (the “Lot”). The zoning in the area is Limited Residential (“LR”).

2. The Lot is located on the Gem Streets. Historically, and per the lawful, recorded plat thereof, the lot lines for the Gem Streets are in the center of the respective
streets. On or about February 8, 1996, the City of Ketchum, along with each of the owners of properties along Garnet Street, entered into a Settlement Agreement ("Agreement") regarding the status of Garnett Street. The purpose of the Agreement was to allow Carl Curtis to develop his Esmeralda Subdivision at the end of Garnet Street. Paragraph 1 of the Agreement, in pertinent part, reads:

1. **PAVED PORTION OF GARNET STREET.** The parties agree that the paved portion of Garnet Street, as specifically described in Exhibit D, attached hereto and incorporated herein, from Highway 75, then eastward to the end of the paved portion of Garnet Street shall be deemed for all purposes to be a public roadway by prescriptive easement. After the Garnet Street neighbors have executed easements to Ketchum pursuant to paragraph 5, the parties agree that the paved portion of Garnet Street described herein shall be deemed a public roadway by express easement. The parties agree that the property lying to the north and south of the paved portion of Garnet Street is private property.

See, Agreement, attached as Exhibit 1. (Emphasis added).

3. The Agreement did not alter property lines or address any issues relating to snow storage.

4. On or about 2020, Janet Jarvis, on behalf of Nalen, submitted a site plan for the residence located at 201 Garnet Street. Suzanne Frick, Ketchum City Administrator, denied the site plan on the bases that the building was not located 15’ from the edge of the pavement. Nalen appealed that Decision. To date, no hearing has been set on that appeal.¹

5. Thereafter, Janet Jarvis submitted a slightly modified site plan for the residence. A copy of the site plan is attached hereto as Exhibit 2. Two-thirds or more the residence is 15’ or more from the edge of the pavement on Garnet Street. The west side of the residence is 35’4” from the lot line and 22’10” from the edge of the pavement; the

---

¹ Counsel for Nalen was advised that Frick’s Decision was not final.
middle portion of the residence is 24’8” from the property line and 12’3” from the edge of the pavement; and the eastern side is 32’0” from the property line and 17’1” from the edge of the pavement. Again, as measured from the property line, the entire building is located at least 24’8” from the property line.

6. Based on the revised plan submitted by Janet Jarvis, the Director submitted his determination letter dated March 9, 2020. He stated that the entire residence must be 15” from the edge of the pavement on Garnet Street. It is from this letter that this Appeal is taken.

II. ARGUMENT


The setback for the Nalen residence, located in the LR District, is fifteen feet (15’). KCO 17.12.030. The setbacks are measured from the property line. See, definition of “Setback” under Ketchum City Code (“KCO”) 17.08.020. The residence, as designed, is more than 15’ feet from the property line.

Instead of applying the setbacks as stated in the KCO, the City attempts to use other portions of the Code to create different setback for this residence. This type of zoning is in direct violation of the uniformity provisions Local Land Use Planning Act (“LUPA”). Under the LLUPA:

(a) Within a zoning district, the governing board shall where appropriate establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

The Idaho Supreme Court in *Moerder v. City of Moscow*, 78 Idaho 246, 300 P.2d 808 (1956), discussed non-uniform zoning in relation to setbacks.\(^2\) In that case, the City of Moscow adopted an Ordinance which allowed the City to create setbacks that were not uniform. Instead, the Moscow Ordinance created setbacks that were “the average distance between the street line and nearest adjacent outer portions of each and every dwelling house or structure erected on the same side of the street in the same lineal block.” *Id.* at Idaho 249. The Supreme Court reversed the decision of the trial court, findings that the Ordinance was invalid because of a lack of uniformity.

Based on this zoning scheme, the Idaho Supreme Court stated:

The ordinance in question does not establish a uniform regulation for each class of buildings within the district. Indeed, it would be difficult to conceive of a scheme less uniform. Under the ordinance, setback lines could vary from one block to the next on the same street. The building line could be farther back on one side of the street than on the other, as in fact it was in the present case. The line could even vary from year to year in the same block as additional houses were constructed, if the ordinance were upheld.

*Id.* at Idaho 250; *see also, KGF Development, LLC v. City of Ketchum*, 236 P.3d 1284. 149 Idaho 524 (2010).

In this case, the City of Ketchum is violating the uniformity provisions of the LLUPA. Instead of applying the unambiguous uniform setbacks as contained in KCO 17.12.030, the City applied a different set of rules addressing snow storage and drainage. The result of applying these other rules was to create a setback that is 15’ feet from the edge of the pavement on Garnet Street, instead of 15’ feet from Nalen’s property line.

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\(^2\) The court interpreted the uniformity requirements under Idaho Code Section 50-401. This Section is nearly identical to the LLUPA, which is now codified under Idaho Code Section 67-6501 et seq.
Specifically, the City applied KCO 17.124.170 to arrive at its decision. There are several problems with applying that Section.

First, as stated, the application of a non-uniform setback of 15’ from the property line violates the uniformity requirements of the LLUPA.

Second, the Director’s reliance on Section 17.124.170 to vary from the uniformity requirements is misplaced based on a clear reading of the KCO. The Director relies on Section 17.124.170 to vary from the dimensional standards, under KCO 17.12.040.B. Section 17.12.040.B addresses the dimensional standards for the Community Core (‘CC”) District. The Gem Streets are not in the CC District.

Third, KCO 17.12.030 states that the dimensional standards cited therein are also subject to “the regulations of chapter [KCO] 17.128.” The Director does not site any of the provisions of Section 17.128. Again, he relies on KCO 17.124.170 to vary the setback from the property line. This provision is expressly not addressed or mentioned under KCO 17.12.030 for varying the defined and authorized 15’ setback.

Fourth, KCO 17.12.170 addresses drainage, utilities, snow storage and landscaping. It does not address setbacks. Accordingly, it should be clear that is cannot be used to vary the uniform 15’ setbacks in the LR District established under KCO 12.12.030.3

For all these reasons, the City’s attempt to ignore the setback requirements of its Code violates the uniformity provisions of the LLUPA.

3 Even if KCO 17.12.170 did address setbacks, any interpretation that would allow the City to vary setbacks from one lot to another would also violate the uniformity requirements of the LLUPA.
B. **THE FAILURE OF THE CITY TO APPLY UNIFORM LAWS TO IDENTICAL PROPERTIES DENIES NALEN OF HIS EQUAL PROTECTION RIGHTS.**

Both the Idaho Supreme Court and United States Supreme Court have been required to create equal protection rights for parties and against governmental jurisdictions which fail to provide equal treatment. It is an equal protection violation to treat parties differently under zoning laws.

The Equal Protection Clause of the Fourteenth Amendment, § 1, commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Of course, most laws differentiate in some fashion between classes of persons. The Equal Protection Clause does not forbid classifications. It simply keeps governmental decisionmakers from treating differently persons who are in all relevant respects alike. *F.S. Royster Guano Co. v. Virginia*, 253 U.S. 412, 415, 40 S.Ct. 560, 561, 64 L.Ed. 989, 990 (1920).

* * *

Even though a statute or regulation is valid under this analysis, selective or discriminatory enforcement of that statute or regulation may amount to a violation under either the Idaho or United States Constitutions, but only if the challenger shows a deliberate plan of discrimination based upon some improper motive like race, sex, religion, or some other arbitrary classification. *Whren v. United States*, 517 U.S. 806, 813, 116 S.Ct. 1769, 1774, 135 L.Ed.2d 89, 97 (1996); *Young Elec. Sign Co. v. State*, 135 Idaho 804, 809, 25 P.3d 117, 122 (2001); *Henson v. Dept. of Law Enforcement*, 107 Idaho 19, 23-24, 684 P.2d 996, 1000-01 (1984). A "class of one" may successfully state an equal protection claim, even where the challenged treatment does not follow suspect classifications or punish the exercise of fundamental rights, if he or she was singled out based upon a distinction that fails the rational basis test. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564-65, 120 S.Ct. 1073, 1075, 145 L.Ed.2d 1060, 1063-64 (2000).


In this case, the City has a long history of treating the Gem Street neighbor's differently. It also has a history of punishing Gem Street neighbors for exercising their rights.
This intentional and systemic discrimination warrants a claim that Nalen’s equal protection rights have been violated.

C. **NALEN IS ENTITLED TO HIS ATTORNEY’S FEES AND COSTS.**

Nalen requests all his attorney’s fees and costs as allowed under Idaho Code Section 12-117, as the City has acted without a reasonable basis in fact or law in denying Nalen his lawful setbacks as measured from his property line.

III. **CONCLUSION**

For all these reasons, the City must conclude that Nalen has a right to develop his property as set forth in the attached site plan, Exhibit 2.

[Signature]

**HAEMMERLE LAW, P.L.L.C.**

**FRITZ X. HAEMMERLE**
CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2020 I served a true and correct copy of the within and foregoing document upon the attorney(s) named below in the manner noted.

Suzanne Frick, City Administrator  Hand Delivered to City Drop Box
(City not allowing personal delivery because of COVID-19)

Mathew Johnson, City Attorney  mjohnson@whitepeterson.com

FRITZ X. HAEMMERLE
EXHIBIT 1
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into this 8th day of November, 1993, by and between CARL CURTIS ("Curtis"), JEANNE FRANKS, THE VINAGRE TRUST, by and through GARY E. and LINDA M. VINAGRE, TRUSTEES, ROBERT and MARJOLAINE RENFRO, WILLIAM G. and SUSAN POLLOCK, THOMAS H. "BUD" and RITA ANN HEANEY, JOHN T. and JERRY ANN HEANEY, WILLIAM H. and ANN S. VANDERBILT, RICHARD O. DAHLGREN and JULIE SLOCUM DAHLGREN, KATHY JEANNE HARRAH, RELI LOUISE HAEMMERLE, FRITZ XAVIER HAEMMERLE, WILMA PACE, PAMELA JEAN RAYBORN, JOHN D. PACE, STELLA A.M. KEANE, CARL E. and SUSAN LEY, JUDY L. DEMETRE and THE ESTATE OF GEORGE B. SAVIERS, deceased, by and through its personal representative, BOB STEVENS (collectively referred to as the "Garnet Street Neighbors") and the CITY OF KETCHUM ("Ketchum").

RECITALS

WHEREAS, Curtis has filed case number CV-93-897 ("Lawsuit") in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Blaine, seeking to resolve the legal status of a parcel of property commonly known as Garnet Street, located within Ketchum, and more specifically depicted in the diagram attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the Garnet Street Neighbors, Ketchum and other named individuals and/or entities ("Other Defendants") were named as defendants in the Lawsuit; and

WHEREAS, Curtis is the owner of real property located at the eastern end of Garnet Street, in Ketchum, commonly known as Lot 1 of the Esmeralda Subdivision Lot Line Shift Plat ("Curtis Property"), and more specifically described in Exhibit "B" and depicted in Exhibit "C"; and

WHEREAS, the Garnet Street Neighbors, Ketchum and certain of the Other Defendants are the owners of, or have some form of interest in, the real property located in Ketchum, which property is more specifically described in Exhibit "B" and depicted in Exhibit "A"; and

WHEREAS, except for the Garnet Street Neighbors and Ketchum, the Other Defendants have had a default judgment entered against them consistent with the relief sought in the Curtis complaint filed in the Lawsuit, or have been dismissed from the Lawsuit; and

WHEREAS, Curtis, the Garnet Street Neighbors and Ketchum desire to resolve the Lawsuit on the terms and conditions hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants herein contained, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. PAVED PORTION OF GARNET STREET. The parties agree that the paved portion of Garnet Street, as specifically described in Exhibit "D", attached hereto and incorporated herein, from Highway 75, then eastward to the end of the paved portion of Garnet
Street shall be deemed for all purposes to be a public roadway by prescriptive easement. After the Garnet Street Neighbors have executed easements to Ketchum pursuant to Paragraph 5, the parties agree that the paved portion of Garnet Street described herein shall be deemed a public roadway by express easement. The parties agree that the property lying to the north and south of the paved portion of Garnet Street is private property.

2. **UNPAVED PORTION OF GARNET STREET.** The parties agree that the unpaved, or graveled, portion of Garnet Street, as specifically described and depicted in Exhibit "E", attached hereto and incorporated herein, from the east end of the paved portion of said Street, as described in Exhibit "D", then eastward, shall be deemed a private driveway. The Garnet Street Neighbors and Curtis agree that said private driveway shall provide access to a maximum number of three (3) single family residential lots in a subdivision on the Curtis Property, as well as providing access to the property owned by The Estate of George B. Saviers ("Saviers Property"). The Garnet Street neighbors and Curtis agree that no additional lots other than those identified herein shall be allowed access via said private driveway. The Garnet Street Neighbors and Curtis agree that the private driveway shall remain as is, without any modification in width, grade or surface.

3. **CURTIS SUBDIVISION APPLICATION.**

(a) **Garnet Street Access.** Curtis intends to submit an application to Ketchum to subdivide the entire Curtis Property ("Curtis Subdivision"). Curtis agrees that the Curtis Subdivision shall propose not more than three (3) single family residential subdivision lots which could be accessed via Garnet Street. Curtis agrees that the Curtis Subdivision shall also provide access via Garnet Street to the Saviers Property. In addition, Curtis agrees that there shall be no further subdivision of the three (3) Curtis Subdivision single family residential lots which could be accessed from Garnet Street.

(b) **Snowplow Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to Ketchum a snowplow access and turnaround easement, to enable a Ketchum snowplow to turn around near the location on the Curtis Property adjacent to Garnet Street currently used by Ketchum for such purposes as depicted in Exhibit "E", attached hereto and incorporated herein.

(c) **Pedestrian Path Easement.** Curtis, through the Curtis Subdivision Plat, agrees to dedicate to the Garnet Street Neighbors a pedestrian path easement, which shall be located in the approximate location of the existing path on the Curtis Property leading to the back side of Dollar Mountain.

(d) **Building Envelopes.** Curtis agrees that the Curtis Subdivision Plat shall designate all building envelopes outside the existing trees on the Curtis Property.

(e) **Application Approval Condition Precedent.** At such time as Ketchum gives final approval to the Curtis Subdivision, the parties hereto agree to execute and submit to the Court a Stipulation For Dismissal of the Lawsuit in the form attached hereto as Exhibit "F" and incorporated herein. The parties agree that all claims, complaints, crossclaims and counterclaims in any way relating to the Lawsuit shall be dismissed with prejudice as to the Garnet Street Neighbors and Ketchum. The parties agree that the Court may enter an Order For Dismissal of the Lawsuit as to the Garnet Street Neighbors and Ketchum in the form attached hereto as Exhibit "G" and...
incorporated herein. In the event Ketchum does not approve the Curtis Subdivision, the parties agree that all recitals, covenants, terms and conditions contained in this Agreement shall be null and void, and evidence of the same shall not be introduced in the Lawsuit or any litigation thereafter pertaining to the resolution of the status of Garnet Street.

(f) _Ketchum’s Execution of Agreement._ The parties acknowledge that by Ketchum’s execution of this Agreement, Ketchum does not agree, either expressly or implicitly, to approve the proposed Curtis Subdivision. Furthermore, the parties acknowledge that Ketchum only executes this Agreement on the basis that Ketchum will agree to the dismissal of the Lawsuit on the terms and conditions herein set forth. should Ketchum, in its sole and absolute discretion, approve the Curtis Subdivision. The parties agree that nothing herein shall be construed by any party as an obligation on the part of Ketchum to approve all or any portion of the Curtis Subdivision.

4. _PRESERVATION OF TREES._ The Garnet Street Neighbors and Curtis agree that the existing trees located adjacent to the unpaved and paved portions of Garnet Street, as said portions of Garnet Street are described in Paragraphs 1 and 2 herein and described and depicted in Exhibits "D" and "E", shall not be disturbed, except as necessary to prevent an obstruction to traffic or to protect the integrity of Garnet Street and the surrounding structures.

5. _ACCESS AND UTILITY EASEMENTS._ The parties agree to grant the following express easements:

(a) A public access and utility easement from Curtis and the Garnet Street Neighbors, as Grantors, to Ketchum, as Grantee, upon, over and under the paved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 1 herein and described in Exhibit "D".

(b) A utility easement from Curtis, The Estate of George B. Saviors and Judy Demetre, as Grantors, to Ketchum, as Grantee, upon, over and under that portion of the Curtis Property, Saviors Property and Demetre Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(c) A private access and utility easement from Judy Demetre, as Grantor, to Curtis and The Estate of George B. Saviors, as Grantees, over and under that portion of the Demetre Property located within the unpaved portion of Garnet Street, as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E".

(d) A reciprocal private access and utility easement between Curtis and The Estate of George B. Saviors upon, over and under that portion of the Curtis Property and the Saviors Property located within the unpaved portion of Garnet Street as said portion of Garnet Street is described in Paragraph 2 herein and described and depicted in Exhibit "E"; and a private parking and landscape easement from Curtis, as Grantor, to The Estate of George B. Saviors, as Grantee, upon, over and under a portion of the Curtis Property as depicted in Exhibit "E".

The parties agree that the express easements described above, attached hereto and incorporated herein as Exhibit "H", shall become effective only upon the approval by Ketchum.
of the Curtis Subdivision proposed for development on the Curtis Property as described herein. The parties agree that if Ketchum denies the Curtis Subdivision application, none of the easements herein contained would be valid, and no additional documents as envisioned in this Agreement would be required to be executed.

6. **REMEDIES.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its rights to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

7. **AMENDMENTS.** This Agreement may only be changed, modified or amended in writing executed by all parties.

8. **HEADINGS.** The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

9. **ATTORNEYS’ FEES AND COSTS.** Should any action be brought to interpret or enforce any provision hereof or the easements contemplated herein, or for damages for breach hereof, the prevailing party shall be entitled to such reasonable attorneys’ fees and costs, as may be determined by any court of competent jurisdiction wherein such action is brought, including attorneys’ fees and costs on appeal.

10. **SUCCESSORS AND Assigns.** All provisions of this Agreement, including the benefits and burdens of the easements attached hereto, shall run with the land covered hereby and are binding on and enure to the benefit of the respective heirs, assigns, successors, lessees, tenants and personal representatives of the parties hereto.

11. **RECORDING.** This Agreement and any easement granted herein may be recorded in the Office of the Blaine County Recorder only after the approval of the Curtis Subdivision by Ketchum.

12. **INTERPRETATION/EXECUTION OF DOCUMENTS.** This Agreement shall be liberally construed in accordance with the general purposes of this Agreement and the laws of the State of Idaho. In addition, the parties hereto agree that they will, at any time hereafter, upon reasonable request of the others, execute and deliver such documents as the other parties may reasonably require for the purpose of giving full effect to the provisions of this Agreement.

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

14. **AUTHORITY.** The parties executing this Agreement warrant, state, acknowledge and affirm that they have the authority to sign the same and to bind themselves and/or their respective clients to the terms contained herein.

15. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matter.
16. **EXECUTION.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**CARL CURTIS:**

[Signature]

Carl Curtis

**GARNET STREET NEIGHBORS:**

Jeanne Franks

[Signature]

Linda M. Vinagre, Trustee for The Vinagre Trust

[Signature]

Marjolaine Renfro

[Signature]

Susan Pollock

[Signature]

Rita Ann Heaney

[Signature]

Jerry Ann Heaney

[Signature]

Ann S. Vanderbilt

**CITY OF KETCHUM, IDAHO:**

Guy P. Coles, Mayor

[Signature]

Gary E. Vinagre, Trustee for The Vinagre Trust

[Signature]

Robert Renfro

[Signature]

William G. Pollock

[Signature]

Thomas H. ("Bud") Heaney

[Signature] Dismissed 1-29-96

John T. Heaney

[Signature]

William H. Vanderbilt

[Signature]

Richard O. Dahlgren
Julie Slocum Dahlgren

Reli Louise Haemmerle

Wilma Pace

John D. Pace

Carl E. Ley

Judy L. Demetre, by Neal C. Tellman, Atty. in Fact

Kathy Jeanne Harrah

Fritz Xavier Haemmerle

Pamela Jean Rayborn

Stella A.M. Keane

Susan Ley

Bob Stevens

Bob Stevens, Personal Representative for The Estate of George B. Saviers
EXHIBIT 2
Attachment D.

Written public comment received as of 4:00 p.m. Wednesday, June 3rd, 2020
Planning and Zoning Commission -

I am writing concerning the Nalen Appeal for a front yard setback at 201 Garnet Street, Ketchum.

A property owner can do whatever he/she wants within the confines of the planning and zoning rules and regulations attached to their property.

Changing the rules and regulations after purchase does not show for-thought. It shows greed. If Mr. Nalen had wanted more property available to him for his building site, he could have purchased a larger piece of property.

Garnet Street is a quiet street with appropriate sized buildings on each property.

We would welcome Mr. Nalen and his family.

We do not welcome someone who is trying to get more than what he is legally allowed to do.

I also am troubled that the property was sold to Mr. Nalen by Mr. Haemmerle, who is now his legal counsel. Were promised made before purchase? We will never know.

I am asking that the Planning and Zoning Commission do the right thing. In these troubled times, doing the right thing over the easy thing is the correct choice. It is up to you. Do the right thing.

Sincerely,

Marjolaine Renfro
30 year resident of Garnet Street.
49 year resident of Ketchum