



City of Ketchum

April 11, 2022

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Approve the 460 N Main Mixed-Use Development Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat Applications.

Recommendation and Summary

Staff recommends the Ketchum City Council review and approve the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications for the proposed 460 N Main Mixed-Use Development.

Recommended Motions:

- “I move to approve the 460 N Main Mixed-Use Development Lot Consolidation Preliminary Plat Application P22-005 subject to conditions #1-3.”
- “I move to approve the 460 N Main Mixed-Use Development Condominium Subdivision Preliminary Plat Application P22-006 subject to conditions #1-5.”

The reasons for the recommendation are as follows:

- The Lot Consolidation Subdivision Preliminary Plat will combine lots 3 and 4 within block 5 of Ketchum Townsite to consolidate the development parcel. The request to combine two Ketchum Townsite lots downtown meets all applicable standards outlined in the City’s subdivision regulations.
- The Condominium Subdivision Preliminary Plat proposes to subdivide the mixed-use building into 2 retail condominium units, 4 market-rate residential units, and 1 condominium unit for the 4 community housing rental units. The request to subdivide the mixed-use building into condominium units meets all applicable standards outlined in the City’s subdivision regulations.
- The Ketchum Planning and Zoning Commission conducted the required public hearing for the 460 N Main Mixed-Use Development Design Review (Application File No. P22-007), Variance (Application File No. P22-013), Lot Consolidation Preliminary Plat (Application File No. P22-005), and Condominium Subdivision Preliminary Plat (Application File No. P22-006) concurrently in accordance with Idaho Code §67-6522 during their regular meeting on March 8th, 2022. The Planning and Zoning Commission approved the 460 N Main Mixed-Use Development Design Review and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Subdivision Preliminary Plat applications to the Ketchum City Council.

Analysis

The applicant, property owner and developer David Wilson represented by architect Michael Bulls of Ruscitto Latham Blanton Architecture, is proposing to develop a new 26,386-square-foot mixed-use building at the southeast corner of Main and 5th Streets within the Retail Core (CC-1) Zoning District. The mixed-use building will accommodate two retail units on the ground floor, a parking garage with 8 off-street parking spaces, 4 community housing rental units with private entrances accessed from the alley, and 4 market-rate residential units.

The Lot Consolidation Subdivision Preliminary Plat will combine lots 3 and 4 within block 5 of Ketchum Townsite to consolidate the development parcel. Lot consolidations impact the pattern of downtown development. The development of different buildings on smaller lots over time generates variety in design and detail to form a dynamic, authentic, and interesting streetscape. This application combines two Ketchum Townsite lots. Combined Lot 3A will have 110 feet of frontage along Main Street and 100 feet of frontage along 5th Street. The total area of the combined lots is 11,000 square feet. Many Ketchum Townsite lots have been consolidated downtown to accommodate new development. Proposed Lot 3A is the same size and shape as the Idaho Independent Bank and Wells Fargo Bank properties across Main Street. This project fits in with downtown's local context and small-town character.

The Condominium Subdivision Preliminary Plat proposes to subdivide the mixed-use building into 2 retail condominium units, 4 market-rate residential units, and 1 condominium unit for the 4 community housing rental units. The following conditions as recommended by the Planning and Zoning Commission have been added to the Condominium Subdivision Preliminary Plat to memorialize the vibrant retail and community housing uses within the mixed-use building:

Condition No. 4: Units 101 and 102 within the 5th & Main Condominiums shall be designated as retail units on the subdivision plat. In addition, the applicant shall add the following note to the final plat: *Units 101 and 102 are designated as retail and shall not be converted to another commercial use.*

Condition No. 5: The applicant shall add the following note to the final plat: *Unit CH1, Unit CH2, Unit CH3, and Unit CH4 on the second floor of the 5th & Main Condominiums are deed-restricted community housing units targeted for Blaine County Housing Authority Income Category 4 or lower. The configuration, number, and floor area of these units shall not be modified.*

The developer plans to offer the market-rate residential and commercial units for sale individually as construction is completed and will pursue a phased development plan for the project consistent with Ketchum Municipal Code §16.04.110. The developer will be required to complete all required improvements in accordance with a phased development agreement. Final plat approval for all condominium units within the mixed-use buildings may occur once the improvements as specified in the phased development agreement are complete and approved by City Departments. Staff will return with the draft Phased Development Agreement as well as the FAR Exceedance Agreement and Right-of-Way Encroachment Agreement for the City Council's final review and approval at a later date. All three agreements must be reviewed and approved by City Council prior to issuance of a building permit for the 460 N Main Mixed-Use Development project.

Sustainability

The subdivision applications do not limit the ability of the city to reach the goals of the Ketchum Sustainability Action Plan – 2020.

Financial Impact

There is no financial requirement from the city for this action.

Attachments

- A. Lot Consolidation Preliminary Plat Application File No. P22-005
 - Draft Findings of Fact, Conclusions of Law, and Decision
 - Lot Consolidation Plans
- B. Condominium Subdivision Preliminary Application File No. P22- 006
 - Draft Findings of Fact, Conclusions of Law, and Decision
 - Condominium Subdivision Preliminary Plat Plans

Attachment A

Lot Consolidation Preliminary Plat Application File No. P22-005

- Draft Findings of Fact, Conclusions of Law, and Decision
- Lot Consolidation Plans



City of Ketchum
Planning & Building

IN RE:)
)
460 North Main Street Mixed-Use Building) KETCHUM CITY COUNCIL
5th & Main Condominiums) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Lot Consolidation Subdivision Preliminary Plat) DECISION
)
Date: April 11, 2022)
)
File Number: P22-005)

PROJECT: 460 North Main Street Mixed-Use Building /5th & Main Condominiums

APPLICATION TYPE: Lot Consolidation Subdivision Preliminary Plat

FILE NUMBER: P22-005

ASSOCIATED APPLICATIONS: Design Review P22-007, Variance P22-013, and Condominium Subdivision Preliminary Plat P22-006

ARCHITECT: Michael Bulls, Ruscitto Latham Blanton Architecture

DEVELOPER & OWNER: David Wilson, Main Street Realty Partners LLC

LOCATION: 460 N Main Street (Ketchum Townsite: Block 5: Lots 3 & 4)

ZONING: Retail Core of the Community Core (CC-1)

OVERLAY: None

RECORD OF PROCEEDINGS

The Planning and Zoning Commission considered the 460 N Main Mixed-Use Building (5th & Main Condominiums) Lot Consolidation Subdivision Preliminary Plat Application File No. P22-005 during their regular meeting on March 8th, 2022. The application was considered concurrently with Design Review Application File No. P22-007, Variance Application File No. P22-013, and Condominium Subdivision Preliminary Plat Application File No. P22-006 and the public hearings were combined in accordance with Idaho Code §67-6522. After considering Staff’s analysis, the applicant’s presentation, and public comment, the Planning and Zoning Commission approved the 460 N Main Mixed-Use Building (5th & Main Condominiums) Design Review and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Preliminary Plat applications to the Ketchum City Council.

Public Hearing Notice & Public Comment

The public hearing notice for the Planning and Zoning Commission’s review of the project on March 8th, 2022 was mailed to all owners of property within 300 feet of the project site and all political subdivision on February 16th, 2022. The public hearing notice was published in the Idaho Mountain Express the on February 16th, 2022. A notice was posted on the City’s website on February 16th, 2022. The public hearing notice was posted on the project site on March 1st, 2022.

FINDINGS OF FACT

The Ketchum City Council having reviewed the project record does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

The applicant, property owner and developer David Wilson represented by architect Michael Bulls of Ruscitto Latham Blanton Architecture, is proposing to develop a new 26,386-square-foot mixed-use building at the southeast corner of Main and 5th Streets within the Retail Core (CC-1) Zoning District. The mixed-use building will accommodate two retail units on the ground floor, a parking garage with 8 off-street parking spaces, 4 community housing units with private entrances accessed from the alley, and 4 market-rate residential units. The Lot Consolidation Subdivision Preliminary Plat Application will combine lots 3 and 4 within block 5 of Ketchum Townsite to consolidate the development parcel.

The Lot Consolidation Subdivision Preliminary Plat will combine lots 3 and 4 within block 5 of Ketchum Townsite to consolidate the development parcel. The request to combine two Ketchum Townsite lots downtown meets all applicable standards outlined in the City’s subdivision regulations. This project fits in with downtown’s local context and small-town character. The development of different buildings on smaller lots over time generates variety in design and detail to form a dynamic, authentic, and interesting streetscape. Lot consolidations impact the pattern of downtown development. This application combines two Ketchum Townsite lots. Combined Lot 3A will have 110 feet of frontage along Main Street and 100 feet of frontage along 5th Street. The total area of the combined lots is 11,000 square feet. Many Ketchum Townsite lots have been consolidated downtown to accommodate new development. Proposed Lot 3A is the same size and shape as the Idaho Independent Bank and Wells Fargo Bank properties across Main Street.

FINDINGS REGARDING COMPLIANCE WITH PRELIMINARY PLAT SUBDIVISION REQUIREMENTS

Preliminary Plat Requirements				
Compliant			City Code	City Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Findings</i>	The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on February 14, 2021.

☒	☐	☐	16.04.030.I	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.
			<i>Findings</i>	The subdivision application was deemed complete on February 16, 2021.
☒	☐	☐	16.04.030.I .1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following: The scale, north point and date.
			<i>Findings</i>	This standard is met.
☒	☐	☐	16.04.030.I .2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Findings</i>	The subdivision is named "Lot 3A, Block 5, Ketchum Townsite" which is not the same as any other subdivision in Blaine County, Idaho.
☒	☐	☐	16.04.030.I .3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Findings</i>	This standard has been met.
☒	☐	☐	16.04.030.I .4	Legal description of the area platted.
			<i>Findings</i>	The legal description of the area platted is shown in the Certificate of Ownership on Sheet 2 of the preliminary plat.
☒	☐	☐	16.04.030.I .5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Findings</i>	Sheet 1 of the preliminary plat indicates the boundary lines of the adjoining Ketchum Townsite lots to the west, east, north, and south.
☒	☐	☐	16.04.030.I .6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Findings</i>	Existing site conditions, including topography, are included on Sheets A1.1 and C0.2 of the project plans approved with Design Review Application File No. P22-007.
☒	☐	☐	16.04.030.I 7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Findings</i>	The project plans show the scaled location of existing building, dedicated streets, roadways, and easements.
☒	☐	☐	16.04.030.I .8	Boundary description and the area of the tract.
			<i>Findings</i>	Sheet 1 provides the boundary description of the area and includes square footage and acreage of the lot.
☒	☐	☐	16.04.030.I .9	Existing zoning of the tract.
			<i>Findings</i>	Plat note #9 on Sheet 1 of the preliminary plat lists the existing zoning of the subject property.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .10	The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.
			<i>Findings</i>	The preliminary plat shows the locations and lot lines for the master lot. No new streets or blocks are being proposed with this application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .11	The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.
			<i>Findings</i>	This standard is not applicable as there is no requirement or proposal for land dedicated for public or common use with the lot consolidation preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .12	The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.
			<i>Findings</i>	Sheets C0.1, C0.2, C1.0, and C2.0, C2.1, C2.2, and C2.3 of the project plans approved with Design Review Application File No. P22-007 show these existing and proposed improvements.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .13	The direction of drainage, flow and approximate grade of all streets.
			<i>Findings</i>	This standard does not apply as no new streets are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .14	The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.
			<i>Findings</i>	This standard does not apply as no new drainage canals or structures are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .15	All percolation tests and/or exploratory pit excavations required by state health authorities.
			<i>Findings</i>	This standard does not apply as no additional tests are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .16	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			<i>Findings</i>	The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal for Condominium Subdivision Preliminary Plat Application File No. P22-006.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .17	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.
			<i>Findings</i>	Sheet C0.1 includes a vicinity map that satisfies this requirement.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .18	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			<i>Findings</i>	The subject property is not within a floodplain, floodway, or avalanche zone district.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25%. This application combines two lots within the original Ketchum Townsite and does not create a new lot.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .20	Lot area of each lot.
			<i>Findings</i>	Sheet 1 of the preliminary plat shows the area of the overall lot.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .21	Existing mature trees and established shrub masses.
			<i>Findings</i>	Sheet A1.1 and the topographic survey of the project plans outlines the existing vegetation on the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			<i>Findings</i>	The applicant provided a title commitment and a warranty deed with the initial application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .23	Three (3) copies of the preliminary plat shall be filed with the administrator.
			<i>Findings</i>	The City of Ketchum received hard and digital copies of the preliminary plat at the time of application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<i>Findings</i>	This standard has been met. The construction design plans shall be submitted with the building permit application for review by City Departments. All improvements indicated on the project plans, including landscaping and right-of-way improvements, shall be installed in accordance with the phased development agreement for the project.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application will combine two lots. The required improvements as shown on the project plans approved with Design Review P22-007 will be required to be installed in accordance with the associated phased development agreement for the project.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16.04.040.C</p>	<p>Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</p>
			<p><i>Findings</i></p>	<p>Improvement plans shall be reviewed and approved by City Departments through the building permit application process for 460 N Main Mixed-Use Development. No improvements are required to be installed for the lot consolidation preliminary plat.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16.04.040.D</p>	<p>As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<p><i>Findings</i></p>	<p>All improvements indicated on the project plans, including landscaping and right-of-way improvements, shall be installed in accordance with the phased development agreement.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16.04.040.E</p>	<p>Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p>

				<ol style="list-style-type: none"> 1. All angle points in the exterior boundary of the plat. 2. All street intersections, points within and adjacent to the final plat. 3. All street corner lines ending at boundary line of final plat. 4. All angle points and points of curves on all streets. 5. The point of beginning of the subdivision plat description.
			<i>Findings</i>	The applicant shall meet the required monumentation standards prior to recordation of the final plat.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.F	<p>Lot Requirements:</p> <ol style="list-style-type: none"> 1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings. 2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following: <ol style="list-style-type: none"> a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met. b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section. 3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use. 4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line. 5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts. 6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20')

				or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.
			<i>Findings</i>	This standard is not applicable as no new lots are being created. This application combines two existing Ketchum Townsite lots to consolidate the development parcel for the new 460 N Main Mixed-Use Building.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p>G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> 1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots. 2. Blocks shall be laid out in such a manner as to comply with the lot requirements. 3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features. 4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.
			<i>Findings</i>	This standard is not applicable as no new blocks are being created.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p>Street Improvement Requirements:</p> <ol style="list-style-type: none"> 1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land; 2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified; 3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features; 4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods; 5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing; 6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;

			<p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p> <p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p>
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				<p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.</p>
			<i>Findings</i>	<p>The project is located at the southeast corner of Main and 5th streets. As shown on Sheet C2.0 of the project plans approved with Design Review P22-007, the applicant proposes to expand and repair the asphalt roadway adjacent to the property along Main Street, 5th Street, and the alleyway. The ground-level parking garage will be accessed from 5th Street. The applicant will construct a zero-reveal curb and gutter to access the parking garage.</p> <p>Final civil drawings for all associated right-of-way and alley improvements shall be submitted with the building permit application to be verified, reviewed, and approved by the City Engineer and the Streets Department prior to issuance of a building permit for the project pursuant to condition of approval #10 of Design Review P22-007.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			<i>Findings</i>	<p>The north end of the block 5 alleyway is unpaved but contains significant improvements, including retaining walls, a streetlight, telephone and cable tv risers, a concrete pad, and power boxes. The City allowed the existing electrical infrastructure to be placed within the alley right-of-way in 2007 as part of a project to underground overhead powerlines. The existing improvements within the right-of-way block the alley creating a dead end. Pursuant to Ketchum Municipal Code §16.04.040.I, dead-end alleys shall only be permitted after due consideration of the interests of adjacent property owners, including, but not limited to, the provision of fire protection, snow removal, and trash collection services to such properties.</p>

				<p>The City currently maintains and removes snow from the improved portion of the Block 5 alleyway. The Streets Department must drive their equipment in reverse backing the loader up to the dead end and then pushing as much of the snow out of the alley as possible. The dead end makes it impossible for the City to remove all of the snow from the alleyway.</p> <p>As shown on Sheet C0.2 of the project plans approved with Design Review P22-007, only a portion of the existing alley right-of-way adjacent to the subject property is improved. This paved area serves as required access to five off-street parking spaces that serve the adjacent development on Lot 7 located at 471 N Leadville Avenue. Future emergency vehicle access for the community housing units within the proposed development will be provided from the block 5 alleyway.</p> <p>The Fire Department requires a minimum 20-foot-wide travel lane for emergency vehicle access to be maintained clear and unobstructed at all times. The full 20-foot-width of the alley must be improved with asphalt pavement to provide compliant emergency vehicle access to the community housing units. The alley improvements must extend from the southeast corner of the development site to the edge of the existing retaining walls enclosing the power boxes at the north end of the alley. As the dead end makes it impossible for the City remove all the snow, the paved portion of the alley must include a snowmelt system in order to keep the required access clear and unobstructed during winter.</p> <p>Pursuant to condition #2 of Design Review P22-007, the full 20-foot width of the alley must be improved with asphalt pavement and a snowmelt system. These improvements shall extend from the southeast corner of the development site to the edge of the existing retaining walls enclosing the power boxes at the north end of the alley. These improvements shall be installed in accordance with the phased development agreement for the project.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p>

				<p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			<i>Findings</i>	No new easements are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.K	<p>Sanitary Sewage Disposal Improvements: Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>Findings</i>	The mixed-use development will connect to the municipal sewer system. The project shall meet all requirements of the Wastewater Department.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.L	<p>Water System Improvements: A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and</p>

				requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.
			<i>Findings</i>	The mixed-use development will connect to the municipal water system. All utilities necessary 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.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.
			<i>Findings</i>	This standard does not apply as the mixed-use building is within the original Ketchum Townsite subdivision.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.N	<p>Cuts, Fills, And Grading Improvements: Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> 1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application. 2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> a. Proposed contours at a maximum of five foot (5') contour intervals. b. Cut and fill banks in pad elevations. c. Drainage patterns. d. Areas where trees and/or natural vegetation will be preserved. e. Location of all street and utility improvements including driveways to building envelopes. f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements. 3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.

				<p>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</p> <p>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <ul style="list-style-type: none"> a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability. b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods). c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability. d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope. e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.
			<i>Findings</i>	The project shall meet all cut, fill, and grading standards.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.O	<p>Drainage Improvements: The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>

			<i>Findings</i>	<p>All storm water shall be retained on site, including water from roof drains. All roof drain locations must be shown on the project plans submitted with the building permit application for final review and approval by the City Engineer. Sheets C2.0 and C2.1 of the project plans approved with Design Review P22-007 indicate the proposed drainage improvements. The drainage plan is comprised of a system of catch basins and drywells.</p> <p>Pursuant to condition #10 of Design Review P22-007, the applicant shall submit final civil drawings for all drainage improvements with the building permit application to be verified, reviewed, and approved by the City Engineer. The final project plans submitted with the building permit application must specify the location of all roof drains.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p>Utilities: In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			<i>Findings</i>	All utilities shall be installed underground.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	<p>Off Site Improvements: Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.</p>
			<i>Findings</i>	The proposed condominium development does not create substantial additional traffic; therefore, no off-site improvements are required.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Lot Consolidation Subdivision Preliminary Plat application for the development and use of the project site.
2. The City Council has the authority to review and approve the applicant’s Lot Consolidation Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.

4. The Lot Consolidation Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.
5. The 5th & Main (460 N Main Mixed-Use Building) Lot Consolidation Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

DECISION

THEREFORE, the Ketchum City Council **approves** this Lot Consolidation Preliminary Plat Application File No. P22-005 this Tuesday, April 11, 2022 subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. The Lot Consolidation Preliminary Plat is subject to all conditions of approval associated with Design Review Application File No P22-007.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.
3. The final plat application for the consolidated development parcel Ketchum Townsite Lot 3A must be approved by the City Council and the final plat shall be recorded in the records of Blaine County, Idaho prior to issuance of a building permit for the 460 N Main Mixed-Use Development and prior to the submittal of the final plat application for the 5th & Main Condominiums.

Findings of Fact **adopted** this 11th day of April 2022.

Neil Bradshaw, Mayor
City of Ketchum



**City of Ketchum
Planning & Building**

OFFICIAL USE ONLY	
App No	P22-005
Date Recd	2/14/22
By	[Signature]
Fee Paid	\$1300.
Approved Date	
By	

Subdivision Application

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 191 th St. West, Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: Lot 3A, Block 5, Ketchum Townsite			
Owner of Record: Fifth & Main LLC c/o Dave Wilson			
Address of Owner: PO Box 6770, Ketchum, ID 83340			
Representative of Owner: Galena Engineering			
Legal Description: Lots 3 & 4, Block 5, Ketchum Townsite			
Street Address: 460 N. Main St.			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 2 Existing, 1 Proposed			
Total Land Area: 10,989 Sq. Ft. (0.25 Ac.)			
Current Zoning District: CC			
Proposed Zoning District: CC			
Overlay District: n/a			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input checked="" type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: none			
Briefly describe the improvements to be installed prior to final plat approval: none			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the preliminary plat			
All files should be submitted in an electronic format.			

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

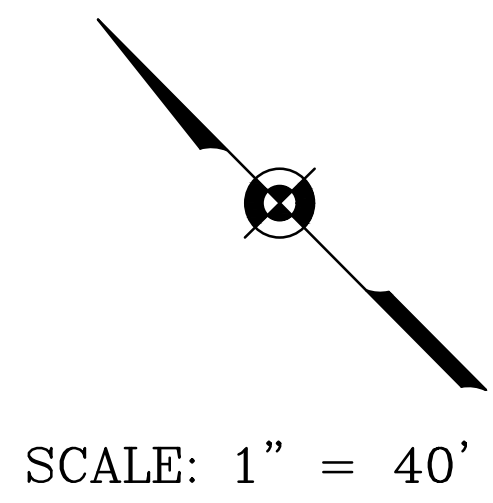
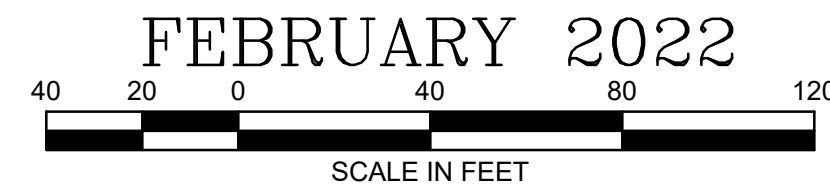
Sean Tilly 2/7/2022
 Applicant Signature — Representative's Signature Date

Once your application has been received, we will review it and contact you with next steps. No further action is required at this time.

191 5th St. West | P.O. Box 2315 | Ketchum, ID 83340 | main 208.726.7801 | fax 208.726.7812

Facebook/CityofKetchum | twitter.com/Ketchum_Idaho | www.ketchumidaho.org

A PRELIMINARY PLAT SHOWING
LOT 3A, BLOCK 5, KETCHUM TOWNSITE
 WHEREIN THE LOT LINE BETWEEN LOTS 3 & 4, BLOCK 5, CITY OF KETCHUM ARE VACATED
 LOCATED WITHIN SECTION 18, T.4N., R.18E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

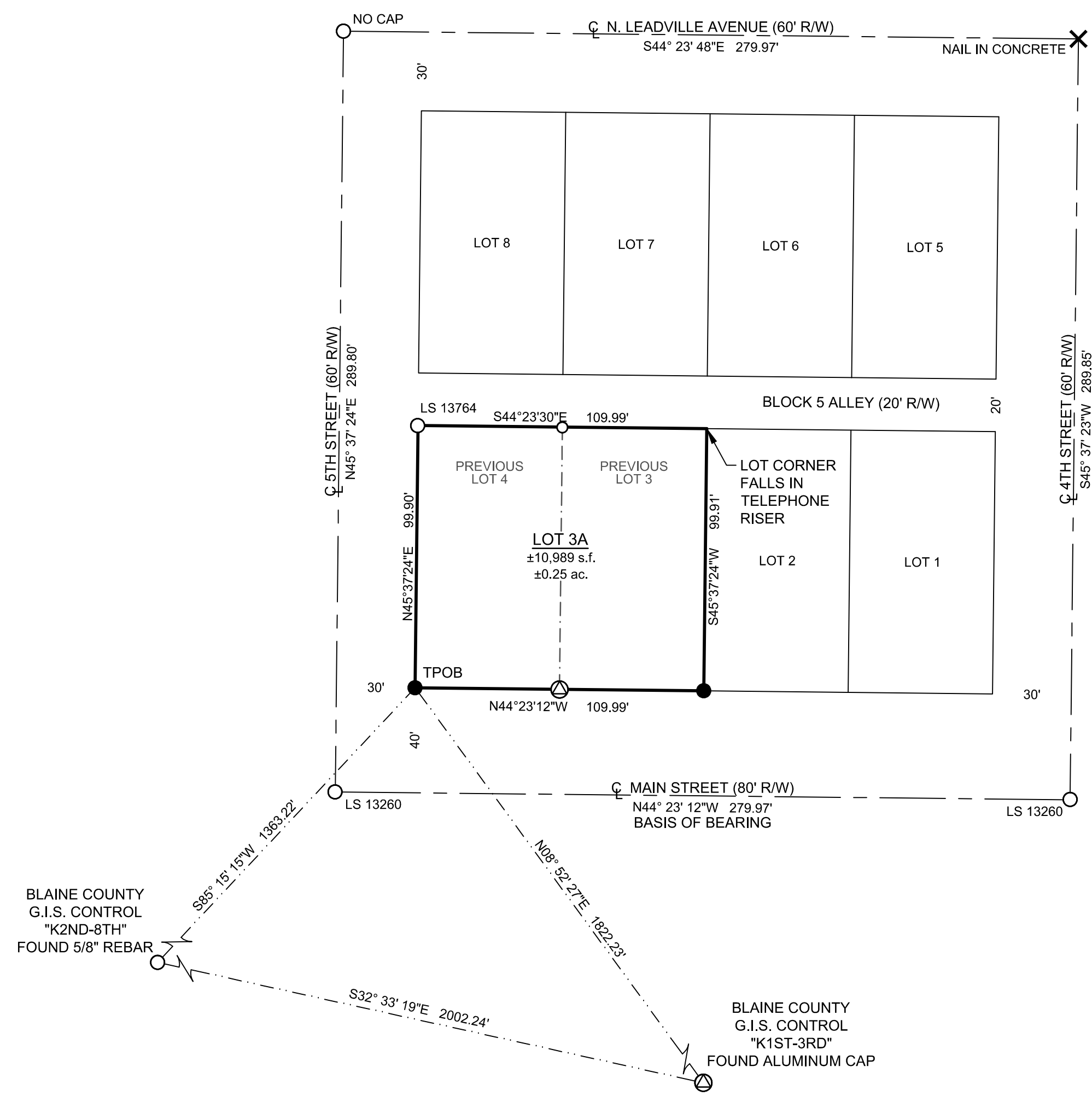


LEGEND

- Property Line
- Adjoiner's Lot Line
- Centerline
- GIS Tie Line
- Lot Line to be Vacated
- Found Aluminum Cap
- Found 5/8" Rebar
- Nail in Concrete
- Set 5/8" Rebar
- TPOB = True Point of Beginning

SURVEY NARRATIVE & NOTES

1. The purpose of this survey is to show the monuments found and set during the boundary retracement of Lots 3-4, Block 5, Ketchum Townsite and vacate the lot line between said lots as shown hereon. The boundary shown is based on A Record of Survey for Ketchum Block 5, Lots 3 & 4, Instrument Number 642700, records of Blaine County, Idaho. All found monuments have been accepted. Lot corner monuments were set by block breakdown and proportioning record distances.
2. The distances shown are measured. Refer to the above referenced survey for previous record data.
3. This survey does not purport to reflect any of the following which may be applicable to subject real property: natural hazards, encroachments, wetlands, easements, building setbacks, restrictive covenants, subdivision restrictions, zoning or any other land-use regulations.
4. Galena Engineering Inc. has not received a Title Policy from the client and has not been requested to obtain one. Relevant information that may be contained within a Title Policy may therefore not appear on this map and may affect items shown hereon. It is the responsibility of the client to determine the significance of the Title Policy information and determine whether it should be included. If the client desires for the information to be included they must furnish said information to Galena Engineering, Inc. and request it be added to this map.
5. The current zoning is CC. Refer to the City of Ketchum Zoning Ordinance for specific information about this zone.
6. The owner of Lots 3 & 4 is Fifth & Main LLC, PO Box 6770, Ketchum, ID 83340. The surveyor/representation is Mark E. Phillips, Galena Engineering, Inc., 317 N. River St., Hailey, Idaho 83333.



HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

Date _____ South Central District Health Dept., EHS

CERTIFICATE OF SURVEYOR

I hereby certify that I am a Registered Land Surveyor in the State of Idaho and that this map is a true and accurate representation of a survey done under my direct supervision.



MARK E. PHILLIPS, P.L.S. 16670

LOT 3A, BLOCK 5,
KETCHUM TOWNSITE

GALENA ENGINEERING,
INC. HAILEY, IDAHO

1 OF 2
Job No. 8146

CERTIFICATE OF OWNERSHIP

This is to certify that the undersigned are the owners in fee simple of the following described parcel of land:

A parcel of land located within Section 18, T.4N., R.18E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

Lots 3 & 4, Block 5, Ketchum Townsite

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements. We do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of the lots shown within this plat.

It is the intent of the owner to hereby include said land in this plat.

Fifth & Main, LLC, An Idaho Limited Liability Company

David F. Wilson, Member

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

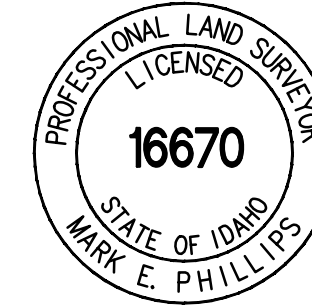
On this _____ day of _____, 2022, before me, a Notary Public in and for said State, personally appeared David F. Wilson, known or identified to me to be a member of the limited liability company that executed the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

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

Notary Public in and for said State
Residing in _____
My Commission Expires _____

SURVEYOR'S CERTIFICATE

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.



MARK E. PHILLIPS, P.L.S. 16670

BLAINE COUNTY SURVEYOR'S APPROVAL

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys

Sam Young, P.L.S. 11577
Blaine County Surveyor

Date

KETCHUM CITY ENGINEER'S APPROVAL

The foregoing plat was approved by _____, City Engineer for the City of Ketchum on this _____ day of _____, 2022.

City Engineer

KETCHUM CITY COUNCIL'S APPROVAL

I, _____, Planner in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision-Ordinance.

By: _____
Date

Certified by City Clerk

By: _____
Date

BLAINE COUNTY TREASURER'S APPROVAL

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

Blaine County Treasurer

Date

BLAINE COUNTY RECORDER'S CERTIFICATE

LOT 3A, BLOCK 5,
KETCHUM TOWNSITE

GALENA ENGINEERING,
INC. HAILEY, IDAHO



491 N. Main Street, Suite 102
Ketchum, ID 83340

ELECTRONICALLY RECORDED-DO NOT REMOVE THE COUNTY STAMPED FIRST PAGE AS IT IS NOW INCORPORATED AS PART OF THE ORIGINAL DOCUMENT

File No. 792729 /JD

Instrument # 689935

HAILEY, BLAINE, IDAHO
12-16-2021 4:30:49 PM No. of Pages: 1
Recorded for: PIONEER TITLE COMPANY OF BLAINE COUNTY
STEPHEN MCDUGALL GRAHAM Fee: \$15.00
Ex-Officio Recorder Deputy: GWB
Electronically Recorded by Simplifile

WARRANTY DEED

For Value Received Main Street Realty Partners, LLC, a Delaware limited liability company hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Fifth & Main, LLC, an Idaho limited liability company hereinafter referred to as Grantee, whose current address is P.O. Box 6770 Ketchum, ID 83340

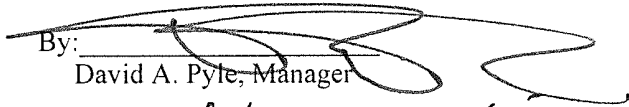
The following described premises, to-wit:

Lots 3 and 4, Block 5, Ketchum Townsite, Blaine County, Idaho, according to the official plat thereof, on file in the office of the County Recorder of Blaine County, Idaho.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the said Grantee(s), the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

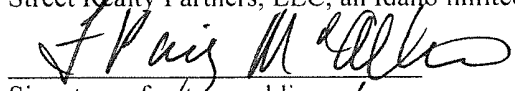
Dated: December 8, 2021

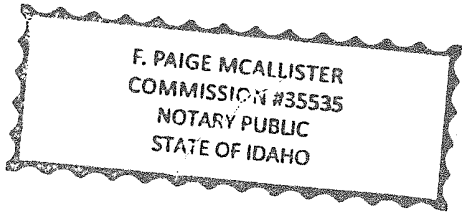
Main Street Realty Partners, LLC, a Delaware limited liability company

By: 
David A. Pyle, Manager

State of Idaho, County of Blaine

This record was acknowledged before me on 12/14/21 by David A. Pyle, as Manager of Main Street Realty Partners, LLC, an Idaho limited liability company.


Signature of notary public
Commission Expires: 1/5/24





COMMITMENT FOR TITLE INSURANCE
Issued by
TITLE RESOURCES GUARANTY COMPANY

Issuing Office: TitleOne Corporation dba Sun Valley Title
ALTA® Universal ID: 1065022
Commitment Number: 21435321-2

SCHEDULE A

1. Commitment Date: January 11, 2022 at 07:30 AM

2. Policy or Policies to be issued:

X ALTA Owners Policy (6/17/06)	Standard Coverage	Policy Amount:	
Proposed Insured:		Premium:	\$0.00
To Be Determined			

3. The estate or interest in the land described or referred to in this Commitment is:
Fee Simple

4. Title to the estate or interest in the Land is at the Commitment Date vested in:
Fifth & Main, LLC, an Idaho limited liability company

5. The Land described as follows:
See Attached Schedule C

Title Resources Guaranty Company
TitleOne Corporation dba Sun Valley Title

By:

Nick Busdon, Authorized Signatory

Title Resources Guaranty Company

By:

President/CEO

Secretary

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**SCHEDULE B, PART I
Requirements**

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

5. NOTE: According to the available records, the purported address of the land referenced herein is:

None at this time, North Main St, Ketchum, ID 83340

6. NOTE: In the event this transaction fails to close, or this commitment is cancelled, a cancellation fee will be charged to comply with the State of Idaho Department of Insurance regulations.

7. The Company will require delivery and approval of an Indemnity and Affidavit as to Debts, Liens, and Possession prior to the issuance of any Extended Coverage policy. The Company may make additional requirements and exceptions upon disclosure of the same.

8. NOTE: The only deed(s) affecting said land, which recorded within 24 months of the date of this report, or the last recorded vesting deed, is (are) as follows:

Document: Warranty Deed

Grantor: Main Street Realty Partners, LLC, a Delaware limited liability company

Grantee: Fifth & Main, LLC, an Idaho limited liability company

Recorded: December 16, 2021

Instrument No.: [689935](#), records of Blaine County, Idaho.

9. The Company will require that a new plat be accepted by the Blaine County Assessor's Office and recorded with the Blaine County Recorder's Office prior to any closings.

10. The Company will require any CCR-type documents be recorded prior to closing.

11. The Company will require a copy of the Operating Agreement and any amendment thereof for Fifth & Main, LLC, showing authority of the officers, managers, or members to execute the forthcoming documents on behalf of said limited liability company. The Company may make additional requirements or exceptions upon disclosure of the same.

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TRGC Form: Comm16 ALTA Commitment Form Adopted 6-17-2006 Revised 08-01-2016 Technical Corrections 04-02-2018

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SCHEDULE B, PART II
Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company. If the Company's requirements are satisfied, Exceptions 1 through 7 will be removed on Enhanced/Extended coverage policies.

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.
2. Rights or claims of parties in possession not shown by the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land, and that is not shown by the Public Records.
4. Easements, or claims of easements, not shown by the Public Records.
5. Any lien, or right to a lien, for services, labor, equipment, or materials heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
6. Taxes or special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records. Proceedings by a public agency which may result in taxes or assessments, or notices to such proceedings whether or not shown by the records of such agency, or by the Public Records.
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims to title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
8. Taxes, including any assessments collected therewith, for the year 2021 which are paid in full.
Parcel Number: RPK000005003A
Original Amount: \$10,597.64
Without Homeowner's Exemption
9. Taxes, including any assessments collected therewith, for the year 2022 which are a lien not yet due and payable.
10. The land described herein is located within the boundaries of the City of Ketchum and is subject to any assessments levied thereby.
11. Liens, levies, and assessments of a proposed homeowners/condominium association, if any.
12. Easements, reservations, restrictions, and dedications as shown on the official plat of Ketchum Townsite.
13. Easements, reservations, restrictions, and dedications as shown on the proposed plat of the new development.
14. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded October 25, 1883 in Book 1 of Patents, at Page [22](#), records of Blaine County, Idaho.
15. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded April 11, 1939 as Instrument No. [78777](#), records of Blaine County, Idaho.

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16. Right of way for ditches, tunnels, telephone, and distribution lines constructed by authority of the United States, as granted to the United States under the provisions of Section 58-604 Idaho Code.

17. All matters, and any rights, easements, interests or claims as disclosed by a Record of Survey recorded April 11, 2017 as Instrument No. [642700](#), records of Blaine County, Idaho.

18. Terms, provisions, covenants, conditions, restrictions and easements provided in a proposed Declaration of Covenants, Conditions and Restrictions, but omitting any covenants, conditions or restrictions, if any, to the extent that such violates 42 USC 3604 (c) or any other ordinance, statute or regulation.

Recorded:

Instrument No.:

19. A Deed of Trust to secure an indebtedness in the amount shown below and any other obligations secured thereby:

Amount: \$1,500,000.00

Trustor/Grantor: Fifth & Main, LLC, an Idaho limited liability company

Trustee: Pioneer Title Company

Beneficiary: Mountain West Bank, Division of Glacier Bank

Dated: December 15, 2021

Recorded: December 16, 2021

Instrument No.: [689936](#), records of Blaine County, Idaho.

(End of Exceptions)

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SCHEDULE C

Legal Description:

Lots 3 and 4, Block 5 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

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Attachment B

Condominium Subdivision Preliminary Plat Application File No. P22-006

- Draft Findings of Fact, Conclusions of Law, and Decision
- Condominium Subdivision Preliminary Plat Plans



City of Ketchum
Planning & Building

IN RE:)
)
460 North Main Street Mixed-Use Building) KETCHUM CITY COUNCIL
5th & Main Condominiums) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Condominium Subdivision Preliminary Plat) DECISION
)
Date: April 11, 2022)
)
File Number: P22-006)

PROJECT: 460 North Main Street Mixed-Use Building /5th & Main Condominiums

APPLICATION TYPE: Condominium Subdivision Preliminary Plat

FILE NUMBER: P22-006

ASSOCIATED APPLICATIONS: Design Review P22-007, Variance P22-013, and Lot Consolidation Preliminary Plat P22-005

ARCHITECT: Michael Bulls, Ruscitto Latham Blanton Architecture

DEVELOPER & OWNER: David Wilson, Main Street Realty Partners LLC

LOCATION: 460 N Main Street (Ketchum Townsite: Block 5: Lots 3 & 4)

ZONING: Retail Core of the Community Core (CC-1)

OVERLAY: None

RECORD OF PROCEEDINGS

The Planning and Zoning Commission considered the 460 N Main Mixed-Use Building (5th & Main Condominiums) Condominium Subdivision Preliminary Plat Application File No. P22-006 during their regular meeting on March 8th, 2022. The application was considered concurrently with Design Review Application File No. P22-007, Variance Application File No. P22-013, and Lot Consolidation Preliminary Plat Application File No. P22-005 and the public hearings were combined in accordance with Idaho Code §67-6522. After considering Staff’s analysis, the applicant’s presentation, and public comment, the Planning and Zoning Commission approved the 460 N Main Mixed-Use Building (5th & Main Condominiums) Design Review and Variance applications and recommended approval of the Lot Consolidation Preliminary Plat and Condominium Preliminary Plat applications to the Ketchum City Council.

Public Hearing Notice & Public Comment

The public hearing notice for the Planning and Zoning Commission's review of the project on March 8th, 2022 was mailed to all owners of property within 300 feet of the project site and all political subdivision on February 16th, 2022. The public hearing notice was published in the Idaho Mountain Express the on February 16th, 2022. A notice was posted on the City's website on February 16th, 2022. The public hearing notice was posted on the project site on March 1st, 2022.

FINDINGS OF FACT

The Ketchum City Council having reviewed the project record does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

The applicant, property owner and developer David Wilson represented by architect Michael Bulls of Ruscitto Latham Blanton Architecture, is proposing to develop a new 26,386-square-foot mixed-use building at the southeast corner of Main and 5th Streets within the Retail Core (CC-1) Zoning District. The mixed-use building will accommodate two retail units on the ground floor, a parking garage with 8 off-street parking spaces, 4 community housing units with private entrances accessed from the alley, and 4 market-rate residential units.

The Condominium Subdivision Preliminary Plat Application will subdivide the mixed-use building into 2 retail condominium units, 4 market-rate residential units, and 1 condominium unit for the 4 community housing rental units. Additionally, the developer plans to offer units for sale individually as construction is completed and will pursue a phased development plan for the project consistent with Ketchum Municipal Code §16.04.110. The developer will be required to complete required improvements in accordance with a phased development agreement. Staff will return with the draft phased development agreement for the City Council's final review and approval at a later date. The City Council must approve the phased development agreement prior to issuance of a building permit for the project. Final plat approval for all condominium units within the mixed-use buildings may occur once the improvements as specified in the phased development agreement are complete and approved by City Departments. As conditioned, the request to subdivide meets all applicable standards for Condominium Preliminary Plats outlined in Ketchum Municipal Code's Subdivision (Title 16) and Zoning (Title 17) Zoning regulations.

Memorializing Uses

Retail & Community Housing

Sheets A1.0 and A2.1 of the project plans designate the ground-level commercial units as retail. Pursuant to Ketchum Municipal Code §17.125.040.C1c, the first 5,500 square feet of retail trade is exempt from providing parking. The applicant has taken advantage of this exemption and has not provided parking spaces for the commercial units on site. As such, the retail units may not be converted to another commercial use that generate parking demand. Ketchum Municipal Code §17.124.040 encourages new development to include a reasonable supply of affordable and resident-occupied housing for sale or rent to help meet the demand and needs for housing of the community's workforce. The applicant has provided four community housing units within the mixed-

use building in exchange for an FAR increase. The Commission added the following conditions to the Condominium Subdivision Preliminary Plat to memorialize the retail and community housing uses within the mixed-use building:

Condition No. 4: Units 101 and 102 within the 5th & Main Condominiums shall be designated as retail units on the subdivision plat. In addition, the applicant shall add the following note to the final plat: *Units 101 and 102 are designated as retail and shall not be converted to another commercial use.*

Condition No. 5: The applicant shall add the following note to the final plat: *Unit CH1, Unit CH2, Unit CH3, and Unit CH4 on the second floor of the 5th & Main Condominiums are deed-restricted community housing units targeted for Blaine County Housing Authority Income Category 4 or lower. The configuration, number, and floor area of these units shall not be modified.*

FINDINGS REGARDING COMPLIANCE WITH PRELIMINARY PLAT SUBDIVISION REQUIREMENTS

Preliminary Plat Requirements				
Compliant			City Code	City Standards
Yes	No	N/A	City Code	City Standards
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Findings</i>	The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on February 14, 2021.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.
			<i>Findings</i>	The subdivision application was deemed complete on February 16, 2021.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .1	The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following: The scale, north point and date.
			<i>Findings</i>	This standard is met.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .2	The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.
			<i>Findings</i>	The subdivision is named "5 th & Main Condominiums" which is not the same as any other subdivision in Blaine County, Idaho.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .3	The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.
			<i>Findings</i>	This standard has been met.
			16.04.030.I .4	Legal description of the area platted.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Findings</i>	The legal description of the area platted is shown in the Certificate of Ownership on Sheet 5 of the preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .5	The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.
			<i>Findings</i>	Sheet 1 of the preliminary plat indicates the boundary lines of the adjoining Ketchum Townsite lots to the west, east, north, and south.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .6	A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.
			<i>Findings</i>	Existing site conditions, including topography, are included on Sheets A1.1 and C0.2 of the project plans approved with Design Review Application File No. P22-007.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I 7	The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.
			<i>Findings</i>	The project plans show the scaled location of existing building, dedicated streets, roadways, and easements.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .8	Boundary description and the area of the tract.
			<i>Findings</i>	Sheet 1 provides the boundary description of the area and includes square footage and acreage of the lot. Sheets 2, 3, and 4 indicate the area of each residential unit as will be platted for sale.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .9	Existing zoning of the tract.
			<i>Findings</i>	Plat note #9 on Sheet 1 of the preliminary plat lists the existing zoning of the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .10	The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.
			<i>Findings</i>	The preliminary plat shows the locations and lot lines for the master lot and the boundaries of each condominium unit. No new streets or blocks are being proposed with this application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .11	The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.
			<i>Findings</i>	This standard is not applicable as there is no requirement or proposal for land dedicated for public or common use.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .12	The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.
			<i>Findings</i>	Sheets C0.1, C0.2, C1.0, and C2.0, C2.1, C2.2, and C2.3 of the project plans approved with Design Review P22-007 show these existing and proposed improvements.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .13	The direction of drainage, flow and approximate grade of all streets.
			<i>Findings</i>	This standard does not apply as no new streets are proposed.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .14	The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.
			<i>Findings</i>	This standard does not apply as no new drainage canals or structures are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .15	All percolation tests and/or exploratory pit excavations required by state health authorities.
			<i>Findings</i>	This standard does not apply as no additional tests are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .16	A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.
			<i>Findings</i>	The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .17	Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.
			<i>Findings</i>	Sheet C0.1 of the project plans approved with Design Review P22-007 includes a vicinity map that satisfies this requirement.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .18	The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.
			<i>Findings</i>	N/A. The subject property is not within a floodplain, floodway, or avalanche zone district.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25%. This application will subdivide a mixed-use building into condominium units and does not create a new lot.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .20	Lot area of each lot.
			<i>Findings</i>	Sheets 1, 2, 3, and 4 of the preliminary plat shows the area of the overall lot and the boundaries and area of each condominium unit.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .21	Existing mature trees and established shrub masses.
			<i>Findings</i>	Sheet A1.1 and the topographic survey of the project plans approved with Design Review P22-007 show the existing vegetation on the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			<i>Findings</i>	The applicant provided a title commitment and a warranty deed with the initial application.
			16.04.030.I .23	Three (3) copies of the preliminary plat shall be filed with the administrator.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Findings</i>	The City of Ketchum received hard and digital copies of the preliminary plat at the time of application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<i>Findings</i>	This standard has been met. The construction design plans shall be submitted with the building permit application for final review by City Departments. Agreement All improvements indicated on the project plans, including landscaping and right-of-way improvements, shall be installed in accordance with the phased development agreement for the project.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			<i>Findings</i>	The developer will be required to complete required improvements in accordance with a phased development agreement. Staff will return with the draft phased development agreement for the City Council’s final review and approval at a later date. The City Council must approve the phased development agreement prior to issuance of a building permit for the project. Final plat approval for all condominium units within the mixed-use buildings may occur once the improvements as specified in the phased development agreement are complete and approved by City Departments. As conditioned, the request to subdivide meets all applicable standards for Condominium Preliminary Plats outlined in Ketchum Municipal Code’s Subdivision (Title 16) and Zoning (Title 17) Zoning regulations.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.C	Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the

				<p>subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.</p>
			<i>Findings</i>	<p>See above analysis for Ketchum Municipal Code §16.04.40B.</p> <p>The Condominium Subdivision Preliminary Plat Application will subdivide the mixed-use building into 2 retail condominium units, 4 market-rate residential units, and 1 condominium unit for the 4 community housing rental units. Additionally, the developer plans to offer units for sale individually as construction is completed and will pursue a phased development plan for the project consistent with Ketchum Municipal Code §16.04.110. The developer will be required to complete required improvements in accordance with a phased development agreement. Staff will return with the draft phased development agreement for the City Council’s final review and approval at a later date. The City Council must approve the phased development agreement prior to issuance of a building permit for the project. Final plat approval for all condominium units within the mixed-use buildings may occur once the improvements as specified in the phased development agreement are complete and approved by City Departments. As conditioned, the request to subdivide meets all applicable standards for Condominium Preliminary Plats outlined in Ketchum Municipal Code’s Subdivision (Title 16) and Zoning (Title 17) Zoning regulations.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.D	<p>As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.</p>
			<i>Findings</i>	<p>All improvements indicated on the project plans, including landscaping and right-of-way improvements, shall be installed in accordance with the phased development agreement.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.E	<p>Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows:</p> <ol style="list-style-type: none"> 1. All angle points in the exterior boundary of the plat. 2. All street intersections, points within and adjacent to the final plat. 3. All street corner lines ending at boundary line of final plat. 4. All angle points and points of curves on all streets.

				5. The point of beginning of the subdivision plat description.
			<i>Findings</i>	The applicant shall meet the required monumentation standards prior to recordation of the final plat.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.F	<p>Lot Requirements:</p> <p>1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings.</p> <p>2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter. Building envelopes shall be established outside of hillsides of twenty five percent (25%) and greater and outside of the floodway. A waiver to this standard may only be considered for the following:</p> <p style="padding-left: 40px;">a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met.</p> <p style="padding-left: 40px;">b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section.</p> <p>3. Corner lots shall have a property line curve or corner of a minimum radius of twenty five feet (25') unless a longer radius is required to serve an existing or future use.</p> <p>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</p> <p>5. Double frontage lots shall not be created. A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.</p> <p>6. Every lot in a subdivision shall have a minimum of twenty feet (20') of frontage on a dedicated public street or legal access via an easement of twenty feet (20') or greater in width. Easement shall be recorded in the office of the Blaine County recorder prior to or in conjunction with recordation of the final plat.</p>
			<i>Findings</i>	This standard is not applicable as no new lots are being created.

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p>G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> 1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots. 2. Blocks shall be laid out in such a manner as to comply with the lot requirements. 3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features. 4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.
			<i>Findings</i>	This standard is not applicable as no new lots or blocks are being created.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p>Street Improvement Requirements:</p> <ol style="list-style-type: none"> 1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land; 2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified; 3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features; 4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods; 5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing; 6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated; 7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;

			<p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <p>12. A tangent of at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets;</p> <p>13. Proposed streets which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confused with the names of existing streets within Blaine County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to council for preliminary plat approval;</p> <p>14. Street alignment design shall follow natural terrain contours to result in safe streets, usable lots, and minimum cuts and fills;</p> <p>15. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial streets;</p> <p>16. Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat, and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;</p> <p>17. In general, the centerline of a street shall coincide with the centerline of the street right of way, and all crosswalk markings shall be installed by the subdivider as a required improvement;</p> <p>18. Street lighting may be required by the commission or council where appropriate and shall be installed by the subdivider as a requirement improvement;</p> <p>19. Private streets may be allowed upon recommendation by the commission and approval by the council. Private streets shall be constructed to meet the design standards specified in subsection H2 of this section;</p> <p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the city;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement</p>
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				<p>shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters may be a required improvement installed by the subdivider; and</p> <p>23. Gates are prohibited on private roads and parking access/entranceways, private driveways accessing more than one single-family dwelling unit and one accessory dwelling unit, and public rights of way unless approved by the city council.</p>
			<i>Findings</i>	<p>The project is located at the southeast corner of Main and 5th streets. As shown on Sheet C2.0 of the project plans approved with Design Review P22-007, the applicant proposes to expand and repair the asphalt roadway adjacent to the property along Main Street, 5th Street, and the alleyway. The ground-level parking garage will be accessed from 5th Street. The applicant will construct a zero-reveal curb and gutter to access the parking garage.</p> <p>Final civil drawings for all associated right-of-way and alley improvements shall be submitted with the building permit application to be verified, reviewed, and approved by the City Engineer and the Streets Department prior to issuance of a building permit for the project pursuant to condition of approval #10 of Design Review P22-007.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in business, commercial and light industrial zoning districts. The width of an alley shall be not less than twenty feet (20'). Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be provided to permit safe vehicular movement. Dead end alleys shall be prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			<i>Findings</i>	<p>The north end of the block 5 alleyway is unpaved but contains significant improvements, including retaining walls, a streetlight, telephone and cable tv risers, a concrete pad, and power boxes. The City allowed the existing electrical infrastructure to be placed within the alley right-of-way in 2007 as part of a project to underground overhead powerlines. The existing improvements within the right-of-way block the alley creating a dead end. Pursuant to Ketchum Municipal Code §16.04.040.I, dead-end alleys shall only be permitted after due consideration of the interests of adjacent property owners, including, but not limited to, the provision of fire protection, snow removal, and trash collection services to such properties.</p> <p>The City currently maintains and removes snow from the improved portion of the Block 5 alleyway. The Streets Department must drive their equipment in reverse backing the loader up to the dead end and then pushing as much of the snow out of the alley as possible. The dead end makes it impossible for the City to remove all of the snow from the alleyway.</p>

				<p>As shown on Sheet C0.2 of the project plans approved with Design Review P22-007, only a portion of the existing alley right-of-way adjacent to the subject property is improved. This paved area serves as required access to five off-street parking spaces that serve the adjacent development on Lot 7 located at 471 N Leadville Avenue. Future emergency vehicle access for the community housing units within the proposed development will be provided from the block 5 alleyway.</p> <p>The Fire Department requires a minimum 20-foot-wide travel lane for emergency vehicle access to be maintained clear and unobstructed at all times. The full 20-foot-width of the alley must be improved with asphalt pavement to provide compliant emergency vehicle access to the community housing units. The alley improvements must extend from the southeast corner of the development site to the edge of the existing retaining walls enclosing the power boxes at the north end of the alley. As the dead end makes it impossible for the City remove all the snow, the paved portion of the alley must include a snowmelt system in order to keep the required access clear and unobstructed during winter.</p> <p>Pursuant to condition #2 of Design Review P22-007, the full 20-foot width of the alley must be improved with asphalt pavement and a snowmelt system. These improvements shall extend from the southeast corner of the development site to the edge of the existing retaining walls enclosing the power boxes at the north end of the alley.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right of way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the city engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that</p>

				<p>easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			<i>Findings</i>	No new easements are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.K	<p>Sanitary Sewage Disposal Improvements: Central sanitary sewer systems shall be installed in all subdivisions and connected to the Ketchum sewage treatment system as a required improvement by the subdivider. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the city engineer, council and Idaho health department prior to final plat approval. In the event that the sanitary sewage system of a subdivision cannot connect to the existing public sewage system, alternative provisions for sewage disposal in accordance with the requirements of the Idaho department of health and the council may be constructed on a temporary basis until such time as connection to the public sewage system is possible. In considering such alternative provisions, the council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare.</p>
			<i>Findings</i>	The mixed-use development will connect to the municipal sewer system. The project shall meet all requirements of the Wastewater Department.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.L	<p>Water System Improvements: A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district</p>

				sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.
			<i>Findings</i>	The mixed-use development will connect to the municipal water system. All utilities necessary 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.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	Planting Strip Improvements: Planting strips shall be required improvements. When a predominantly residential subdivision is proposed for land adjoining incompatible uses or features such as highways, railroads, commercial or light industrial districts or off street parking areas, the subdivider shall provide planting strips to screen the view of such incompatible features. The subdivider shall submit a landscaping plan for such planting strip with the preliminary plat application, and the landscaping shall be a required improvement.
			<i>Findings</i>	This standard does not apply as the mixed-use building is within the original Ketchum Townsite subdivision and no planting strip improvements are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.N	<p>Cuts, Fills, And Grading Improvements: Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:</p> <ol style="list-style-type: none"> 1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or council as part of the preliminary plat application. 2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Such plan shall contain the following information: <ol style="list-style-type: none"> a. Proposed contours at a maximum of five foot (5') contour intervals. b. Cut and fill banks in pad elevations. c. Drainage patterns. d. Areas where trees and/or natural vegetation will be preserved. e. Location of all street and utility improvements including driveways to building envelopes. f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements. 3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways. 4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision. 5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and

				<p>established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <ul style="list-style-type: none"> a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability. b. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHO T99 (American Association of State Highway Officials) and ASTM D698 (American standard testing methods). c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability. d. Fill slopes shall be no steeper than three horizontal to one vertical (3:1). Neither cut nor fill slopes shall be located on natural slopes of three to one (3:1) or steeper, or where fill slope toes out within twelve feet (12') horizontally of the top and existing or planned cut slope. e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3'), plus one-fifth (1/5) of the height of the cut or the fill, but may not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet (6'), plus one-fifth (1/5) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.
			<i>Findings</i>	The project shall meet all cut, fill, and grading standards.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.O	<p>Drainage Improvements: The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			<i>Findings</i>	All storm water shall be retained on site, including water from roof drains. All roof drain locations must be shown on the project plans submitted with the building permit application for final review and approval by the City Engineer. Sheets C2.0 and C2.1 of the project plans approved with Design Review P22-007 indicate the proposed drainage improvements. The drainage plan is comprised of a system of catch basins and drywells.

				Pursuant to condition #10 of Design Review P22-007, the applicant shall submit final civil drawings for all drainage improvements with the building permit application to be verified, reviewed, and approved by the City Engineer. The final project plans submitted with the building permit application must specify the location of all roof drains.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	Utilities: In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.
			<i>Findings</i>	All utilities shall be installed underground.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	Off Site Improvements: Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.
			<i>Findings</i>	The proposed condominium development does not create substantial additional traffic; therefore, no off-site improvements are required.

FINDINGS REGARDING COMPLIANCE WITH CONDOMINIUM SUBDIVISION REQUIREMENTS

Condominium Plat Requirements				
Compliant			City Code	Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.B	The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed bylaws and condominium declarations of the proposed condominium development. Said documents shall adequately provide for the control and maintenance of all common areas, recreational facilities and open space.
			<i>Findings</i>	The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.D	All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit.
			<i>Findings</i>	As shown on Sheet 2 of the preliminary plat, the garage units are designated as limited common elements and specifically referenced to a unit number.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.E	Adequate storage areas shall be provided for boats, campers and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit.
			<i>Findings</i>	The community housing units each have a separate storage area on the paver porches adjacent to the front entrance to each unit. Each of the market-rate residential units have areas designated as flex space that are sufficient for the storage of personal property.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.F	A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.
			<i>Findings</i>	Each floor includes limited common area that may be used for storage of maintenance equipment or supplies.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.G	The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area usable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access.
			<i>Findings</i>	The community housing units each have a small front porch area by the front door. All market-rate residential units have private terraces fronting Main Street. The two residential units on the third level have an additional terrace on the rooftop.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.H	All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions.
			<i>Findings</i>	The project has been reviewed for compliance with all other section of the subdivision standards. The project is in compliance as discussed above.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant’s Condominium Subdivision Preliminary Plat application for the development and use of the project site.
2. The City Council has authority to review and approve the applicant’s Condominium Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Condominium Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.
5. The 5th & Main (460 N Main Mixed-Use Building) Condominium Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

DECISION

THEREFORE, the Commission **approves** this Preliminary Plat Application File No. P22-006 this Tuesday, March 8, 2022 subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. The 5th & Main Condominium Subdivision Preliminary Plat is subject to all conditions of approval associated with Design Review Application File No P22-007.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.
3. The final plat application for the consolidated development parcel Ketchum Townsite Lot 3A must be approved by the City Council and the final plat shall be recorded in the records of Blaine County, Idaho prior to issuance of a building permit for the 460 N Main Mixed-Use Development and prior to the submittal of the final plat application for the 5th & Main Condominiums.
4. Units 101 and 102 within the 5th & Main Condominiums shall be designated as retail units on the subdivision plat. In addition, the applicant shall add the following note to the final plat: *Units 101 and 102 are designated as retail and shall not be converted to another commercial use.*
5. The applicant shall add the following note to the final plat: *Unit CH1, Unit CH2, Unit CH3, and Unit CH4 on the second floor of the 5th & Main Condominiums are deed-restricted community housing units targeted for Blaine County Housing Authority Income Category 4 or lower. The configuration, number, and floor area of these units shall not be modified.*

Findings of Fact **adopted** this 11th day of April 2022.

Neil Bradshaw, Mayor
City of Ketchum



**City of Ketchum
Planning & Building**

OFFICIAL USE ONLY	
Application Number:	P22-006
Date Received:	2/14/22
By:	
Fee:	\$1,375.00
Approved Date:	
By:	

Subdivision Application

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 191 th St. West, Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: 5th & Main Condominiums			
Owner of Record: Fifth & Main LLC c/o Dave Wilson			
Address of Owner: PO Box 6770, Ketchum, ID 83340			
Representative of Owner: Galena Engineering			
Legal Description: Lot 3A, Block 5, Ketchum Townsite			
Street Address: 460 N. Main St.			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 1 Lot, 6 Condominium Units			
Total Land Area: 10,989 Sq. Ft. (0.25 Ac.)			
Current Zoning District: CC			
Proposed Zoning District: CC			
Overlay District: n/a			
TYPE OF SUBDIVISION			
Condominium <input checked="" type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet: n/a			
Easements to be dedicated on the final plat: None			
Briefly describe the improvements to be installed prior to final plat approval: Construction of Condominium Units			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance			
One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations			
One (1) copy of current title report and owner's recorded deed to the subject property			
One (1) copy of the preliminary plat			
All files should be submitted in an electronic format.			

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

Sean Tilly

2/7/2022

Applicant Signature — Representative's Signature

Date

Once your application has been received, we will review it and contact you with next steps. No further action is required at this time.

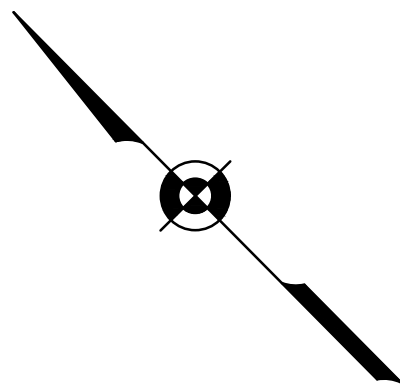
A PRELIMINARY CONDOMINIUM PLAT SHOWING 5TH & MAIN CONDOMINIUMS

WHEREIN LOT 3A, BLOCK 5, KETCHUM TOWNSITE IS CONVERTED TO CONDOMINIUMS
LOCATED WITHIN SECTION 18, T.4N., R.18E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

FEBRUARY 2022



SCALE: 1" = 40'

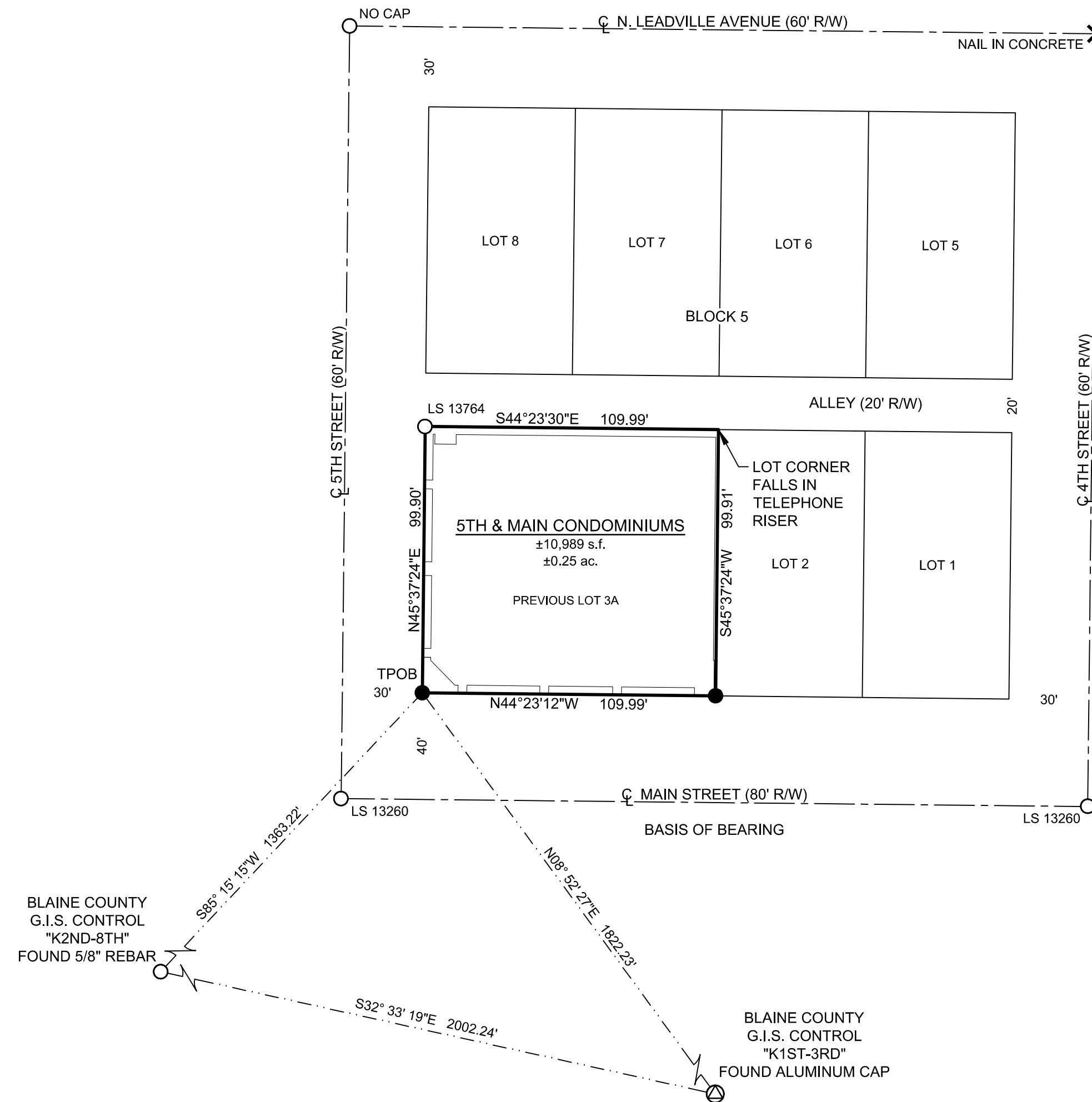


LEGEND

- Property Line
- Adjoiner's Lot Line
- - - Centerline
- · - · - GIS Tie Line
- · - · - Lot Line to be Vacated
- ⊙ Found Aluminum Cap
- Found 5/8" Rebar
- ⊗ Nail in Concrete
- Set 5/8" Rebar
- CA = Common Area
- CH = Community Housing Unit
- ELEV = Elevator
- LC = Limited Common Area
- MECH = Mechanical Room / Area
- TPOB = True Point of Beginning

SURVEY NARRATIVE & NOTES

1. The purpose of this survey is to show the monuments found and set during the boundary retracement of Lot 3A, Block 5, Ketchum Townsite, Instrument Number 302967, records of Blaine County, Idaho, and to condominiumize said property as shown hereon. All found monuments have been accepted. Lot corner monuments were set by block breakdown and proportioning record distances. Vertical Datum is NAVD 1988.
2. In interpreting the Declaration, Plat or Plats, and Deeds, the existing physical boundaries of the unit as originally constructed, or reconstructed in lieu thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed or depicted in the declaration, plat or plats, and/or deeds, regardless of settling or lateral movement of the building and regardless of minor variances between boundaries shown in the declaration, plat or plats, and/or deeds, and the actual boundaries of the units in the buildings.
3. Dimensions shown hereon will be subject to slight variations, owing to normal construction tolerances.
4. Horizontal or sloping planes shown hereon are top of finished subfloor and bottom of finished ceiling; vertical planes are finished surfaces of interior walls. Some structural members extend into units, limited common areas and parking spaces.
5. Property shown hereon is subject to terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens provided by applicable Condominium Law or the Condominium Declaration recorded under Instrument Number _____, records of Blaine County, Idaho. Consult the Condominium Declarations for the definition of common and limited common area.
6. All area outside of units that is not designated as limited common is common area. Areas of "common" or "limited common" are shown by diagram.
7. Building ties are to the interior corners of unit walls.
8. Utility easements necessary to allow for access and maintenance of utilities serving units other than the unit they are located in are hereby granted by this plat.
9. The current zoning is CC. Refer to the City of Ketchum Zoning Ordinance for specific information about this zone.
10. The owner of Lot 3A is Fifth & Main LLC, PO Box 6770, Ketchum, ID 83340. The surveyor/representation is Mark E. Phillips, Galena Engineering, Inc., 317 N. River St., Hailey, Idaho 83333.



CERTIFICATE OF SURVEYOR

I hereby certify that I am a Registered Land Surveyor in the State of Idaho and that this map is a true and accurate representation of a survey done under my direct supervision.



MARK E. PHILLIPS, P.L.S. 16670

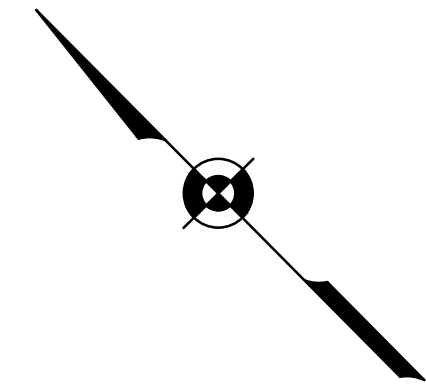
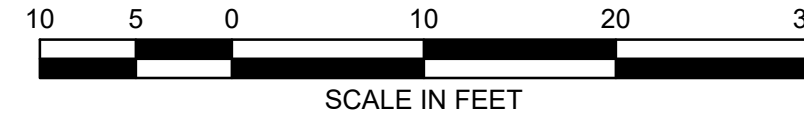
5TH & MAIN CONDOMINIUMS
GALENA ENGINEERING, INC.
HAILEY, IDAHO

1 OF 5
Job No. 8146

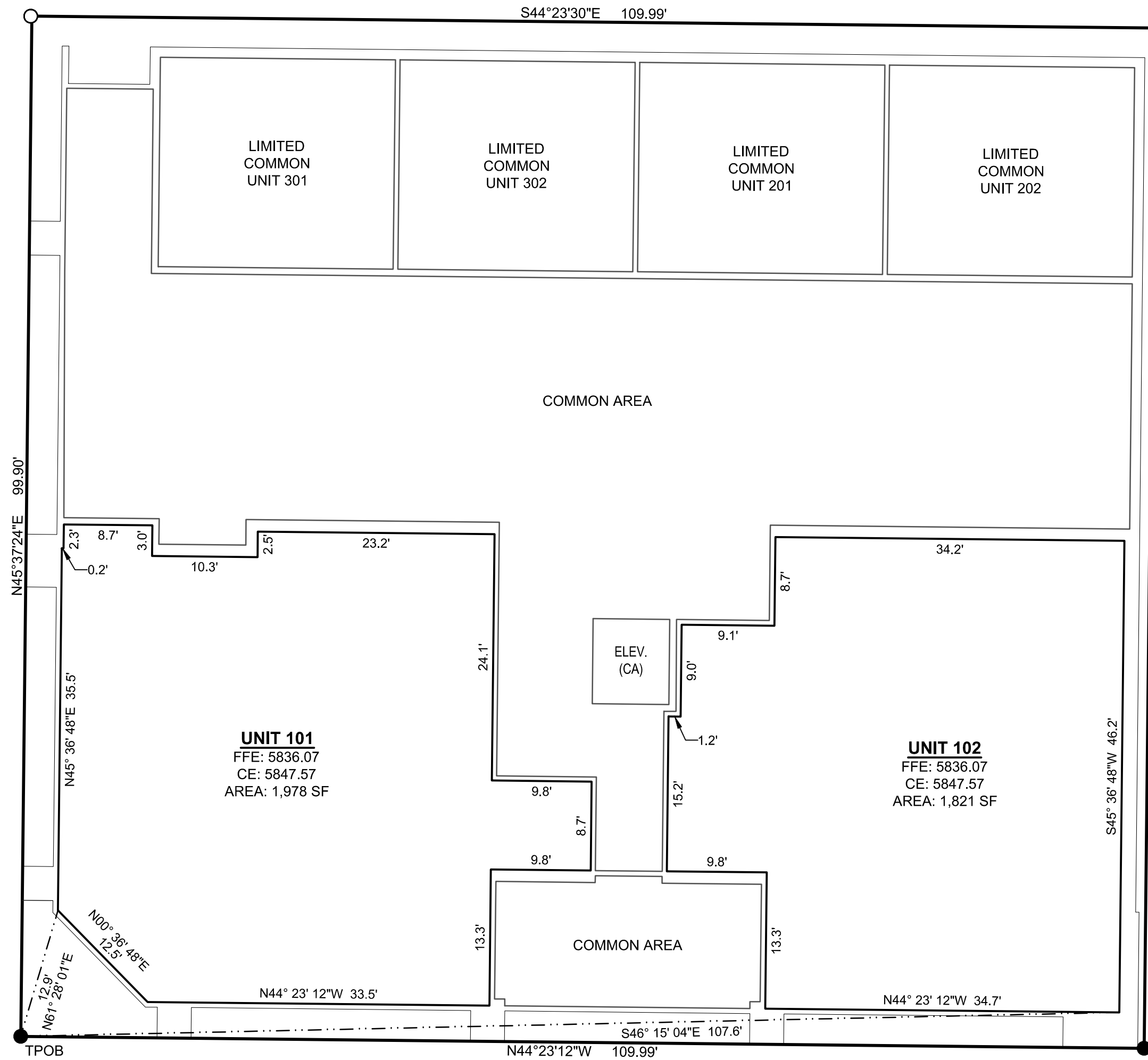
HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of Disapproval.

Date _____ South Central District Health Dept., EHS

A PRELIMINARY CONDOMINIUM PLAT SHOWING
5TH & MAIN CONDOMINIUMS
 FEBRUARY 2022



SCALE: 1" = 10'



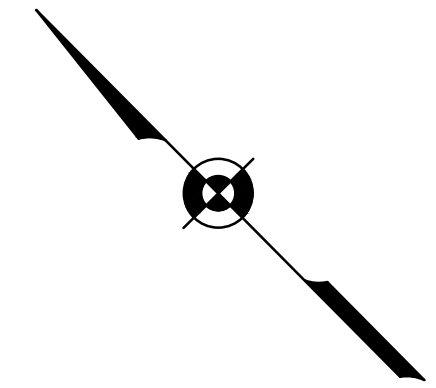
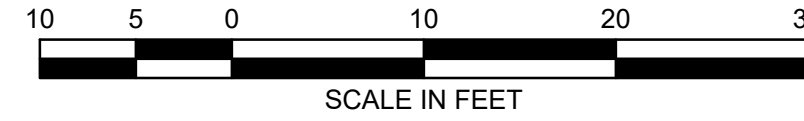
FIRST FLOOR
 UNITS 101 & 102

5TH & MAIN CONDOMINIUMS

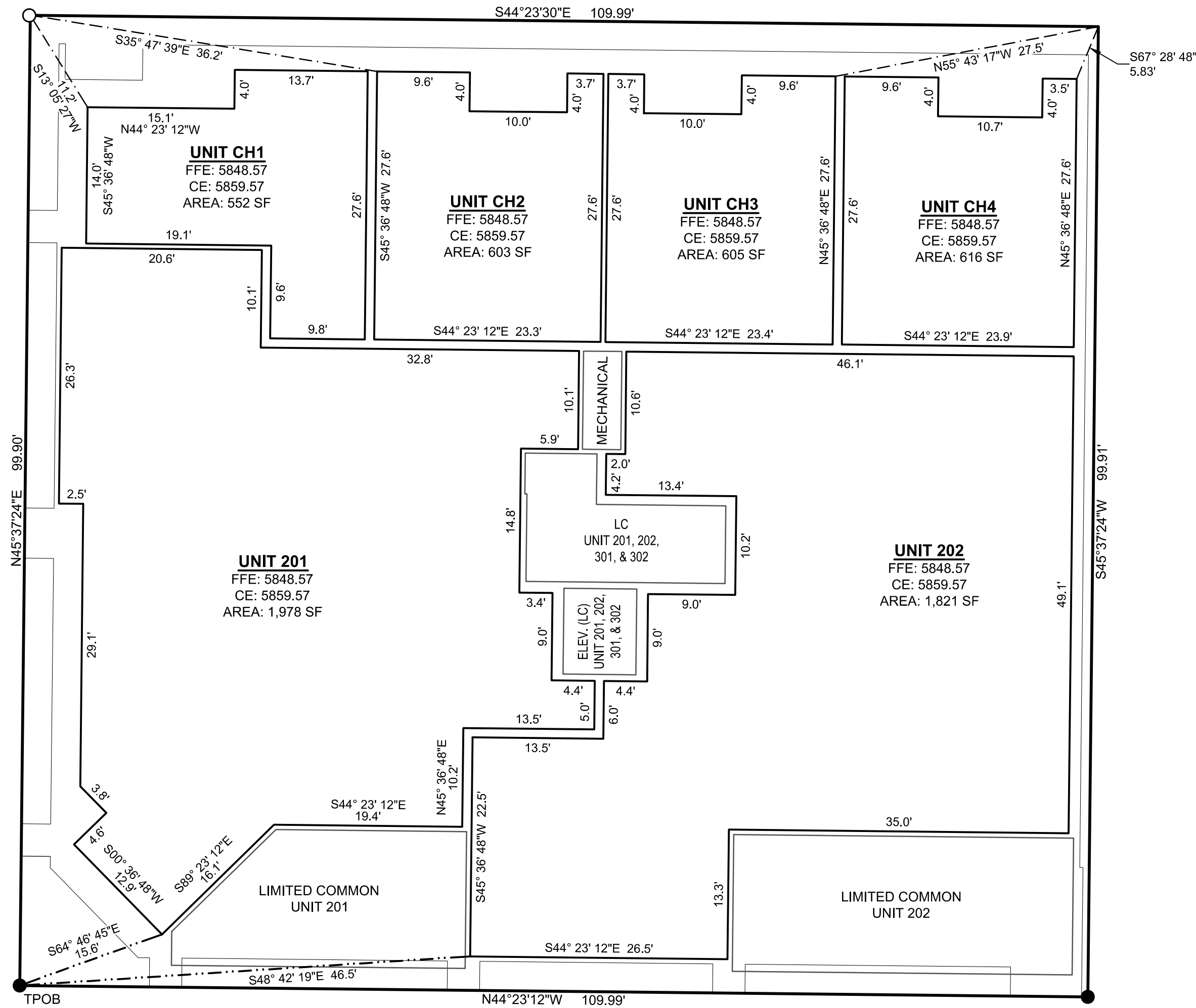
GALENA ENGINEERING, INC.
 HAILEY, IDAHO

2 OF 5
 Job No. 8146

A PRELIMINARY CONDOMINIUM PLAT SHOWING
5TH & MAIN CONDOMINIUMS
 FEBRUARY 2022

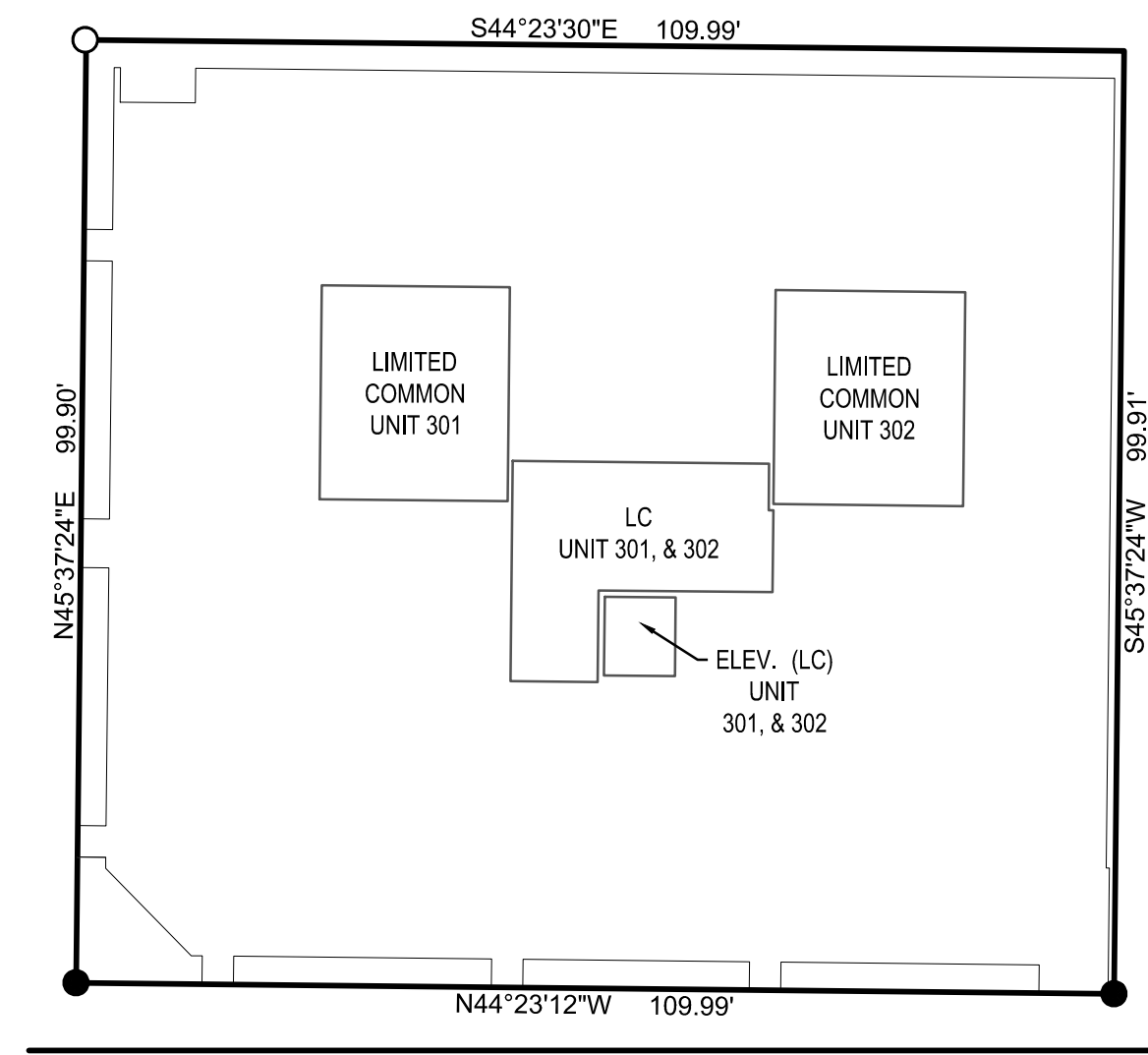
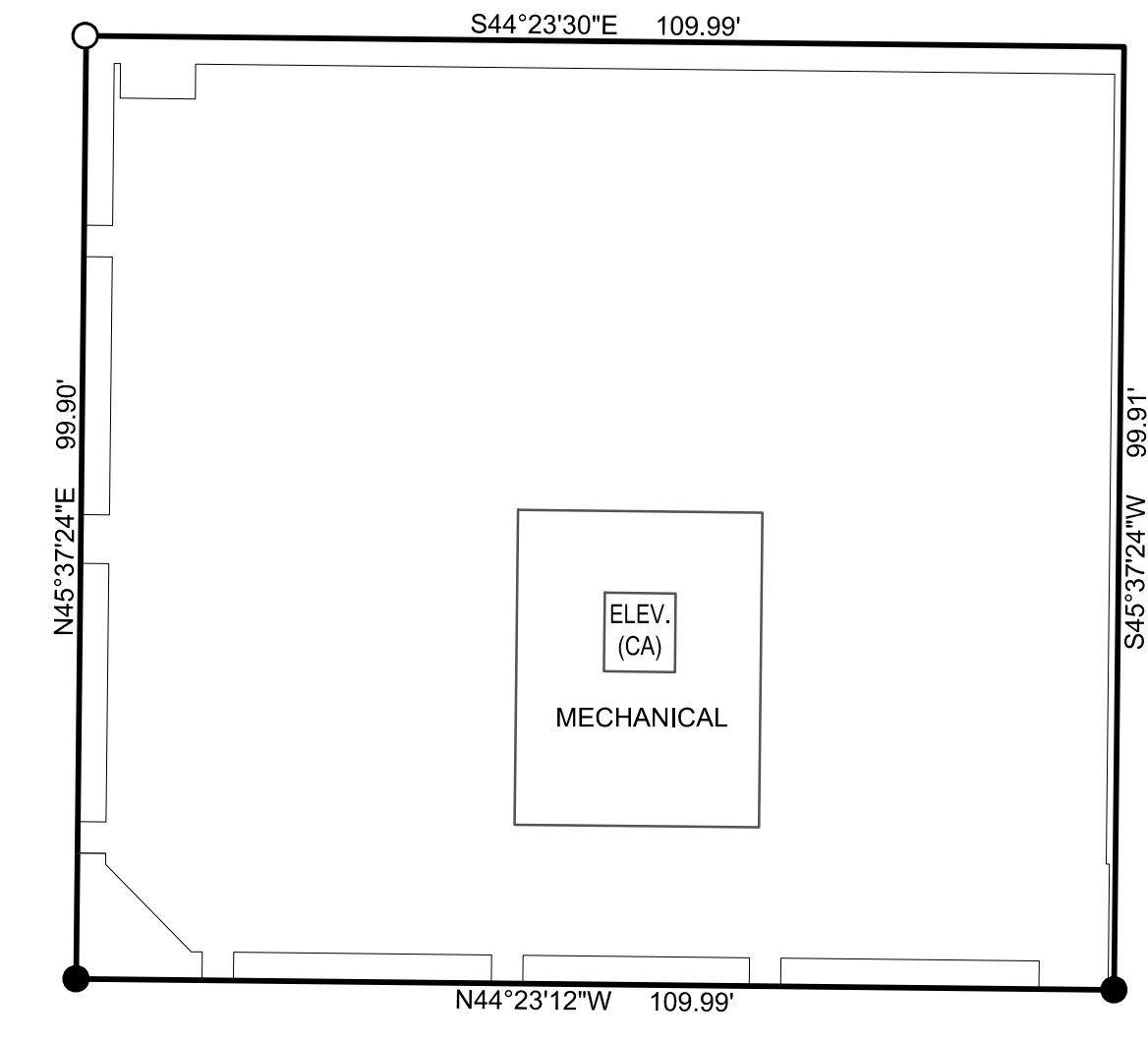
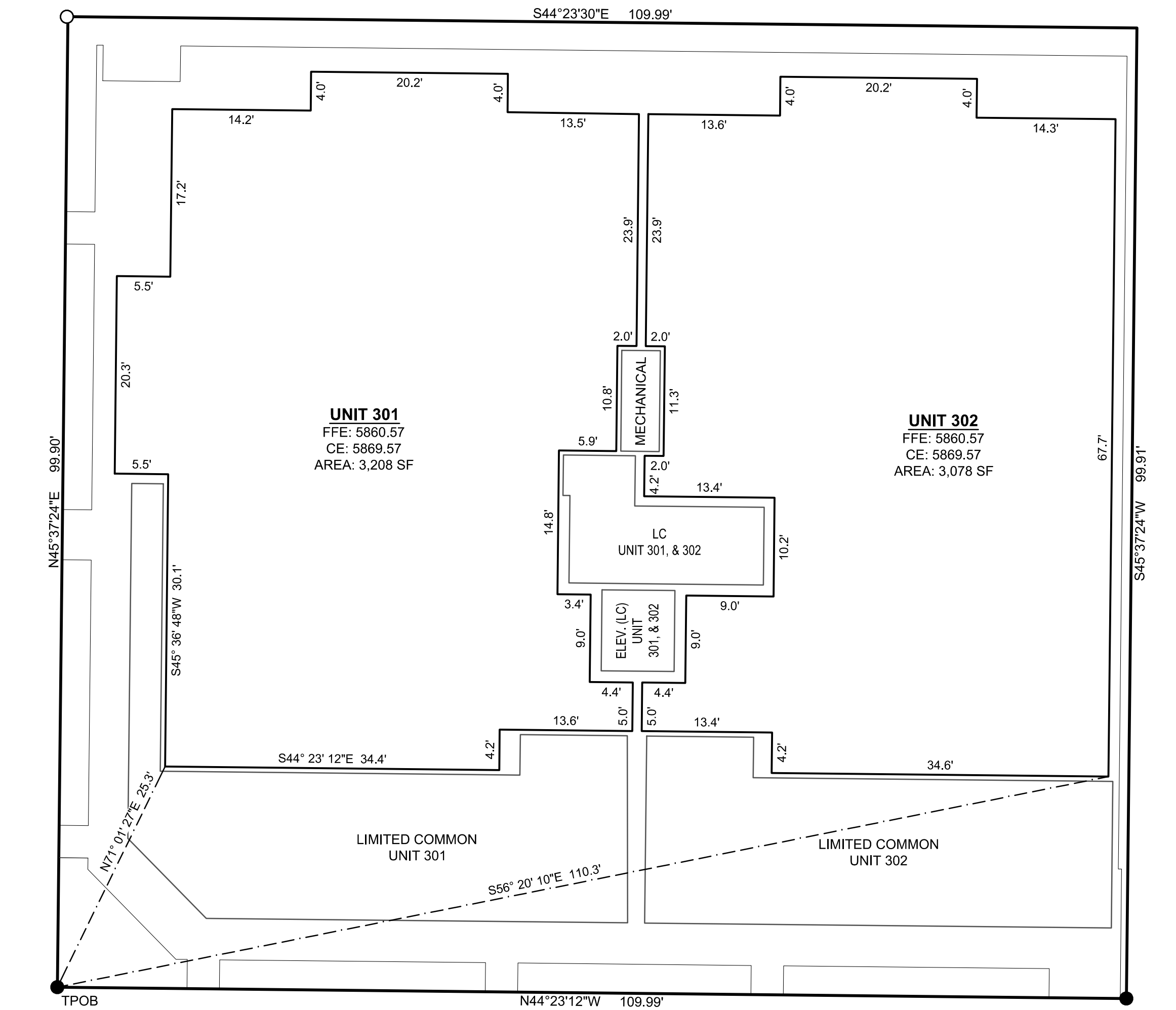
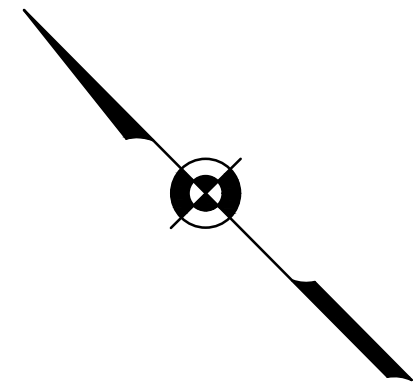


SCALE: 1" = 10'



SECOND FLOOR
 UNITS 201 & 202

A PRELIMINARY CONDOMINIUM PLAT SHOWING
5TH & MAIN CONDOMINIUMS
 FEBRUARY 2022



CERTIFICATE OF OWNERSHIP

This is to certify that the undersigned are the owners in fee simple of the following described parcel of land:

A parcel of land located within Section 18, T.4N., R.18E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

Lot 3A, Block 5, Ketchum Townsite

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements. We do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of the lots shown within this plat.

It is the intent of the owner to hereby include said land in this plat.

Fifth & Main, LLC, An Idaho Limited Liability Company

David F. Wilson, Member

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

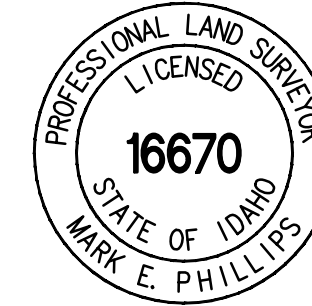
On this _____ day of _____, 2022, before me, a Notary Public in and for said State, personally appeared David F. Wilson, known or identified to me to be a member of the limited liability company that executed the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

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

Notary Public in and for said State
Residing in _____
My Commission Expires _____

SURVEYOR'S CERTIFICATE

I, Mark E. Phillips, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.



BLAINE COUNTY SURVEYOR'S APPROVAL

I, Sam Young County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys

Sam Young, P.L.S. 11577
Blaine County Surveyor
Date _____

KETCHUM CITY ENGINEER'S APPROVAL

The foregoing plat was approved by _____, City Engineer for the City of Ketchum on this _____ day of _____, 2022.

City Engineer

KETCHUM CITY COUNCIL'S APPROVAL

I, _____, Planner in and for the City of Ketchum, do hereby certify that the foregoing plat was duly accepted and approved according to the Ketchum Subdivision-Ordinance.

By: _____
Date _____

Certified by City Clerk

By: _____
Date _____

BLAINE COUNTY TREASURER'S APPROVAL

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

Blaine County Treasurer
Date _____

BLAINE COUNTY RECORDER'S CERTIFICATE

5TH & MAIN CONDOMINIUMS
GALENA ENGINEERING, INC.
HAILEY, IDAHO
5 OF 5
Job No. 8146

**CONDOMINIUM DECLARATION
FOR
FIFTH & MAIN BUILDING**

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

ARTICLE 1. IMPOSITION OF COVENANTS

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

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

Section 1.3 Condominium Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances, and facilities relating to or located on the Property now and in the future, to condominium ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved subject to the provisions of this Declaration.

Section 1.4 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to

the benefit of Declarant, all Unit Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

ARTICLE 2. DEFINITIONS

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

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

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

Section 2.3 "Articles of Incorporation" means the Articles of Incorporation of Sun Valley & First Owners' Association as filed with the Idaho Secretary of State, a copy of which is attached hereto as Exhibit C.

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

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

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

Section 2.7 "Bylaws" means any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including the amendments thereto, a copy of which is attached hereto as Exhibit D.

Section 2.8 "Commercial Unit" means Units 1 and 2 as shown on the Map which are designated in this Declaration for business or commercial uses.

Section 2.9 "Community Housing Unit" means Unit CH1, CH2, CH3 and CH4 as shown on the Map which are encumbered with community housing deed restrictions.

Section 2.10 "Common Elements" means all of the Condominium Project, other than the Units, but including, without limiting the generality of the foregoing, the following components:

- (a) the Property; and
- (b) the Improvements (including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Improvements consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, cable television, and heating and central air conditioning which exist for use by one or more of the Unit Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire, cable and other similar utility installations used in connection therewith), except for the Units; and
- (c) the yards, sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, gardens, parking areas, and related facilities upon the Property; and
- (d) the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts, and, in general, all apparatus, installations, and equipment of the Improvements existing for use of one or more of the Unit Owners; and
- (e) in general, all other parts of the Condominium Project designated by Declarant as Common Elements and existing for the use of one or more of the Unit Owners.

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

Section 2.11 "Common Expenses Liability" means the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

Section 2.12 "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

- (a) expenses of administration, insurance, operation, and management, repair or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of a Unit Owner as provided in this Declaration;
- (b) expenses declared Common Expenses by the provisions of this Declaration or the Bylaws;
- (c) all sums lawfully assessed against the Units by the Board of Directors;
- (d) expenses agreed upon as Common Expenses by the members of the Association; and
- (e) expenses provided to be paid pursuant to any Management Agreement.

Section 2.13 "Condominium Documents" means the basic documents creating and governing the Condominium Project, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws, the Map, and any procedures, Rules and Regulations, or policies relating to the Condominium Project adopted under such documents by the Association or the Board of Directors.

Section 2.14 "Condominium Map" or "Map" means that part of this Declaration that depicts all or any portion of the Condominium Project in three dimensions, is executed by the Declarant and is recorded in the Records. A Map and a Plat may be combined in one instrument. In a Map, a "Horizontal Boundary" means a plane of elevation relative to a described benchmark that defines either a lower or upper dimension of a Unit such that the real estate respectively below or above the defined plane is not part of the Unit. In a Map, a "Vertical Boundary" means the defined limit of a Unit that is not a Horizontal Boundary of that Unit.

Section 2.15 "Condominium Project" or "Project" means the term as defined in Section 1.1 hereof.

Section 2.16 "Condominium Unit" means the fee simple interest in and to a Unit, together with the undivided interest in the Common Elements appurtenant to the Unit, as allocated in Exhibit B.

Section 2.17 "Costs of Enforcement" means all monetary fees, fines, late charges, interest, expenses, costs, including receiver's and appraiser's fees, and

reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Condominium Documents.

Section 2.18 "Declarant" means Fifth & Main, LLC, an Idaho limited liability company, and its successors and assigns.

Section 2.19 "Declaration" means this Declaration, together with any amendment to this Declaration, recorded in the Records. The term Declaration includes all Maps and Plats recorded with this Declaration and all amendments to the Declaration and supplements to the Maps and Plats without specific reference thereto.

Section 2.20 "Deed" means each initial Warranty Deed recorded after the date hereof by which Declarant conveys a Unit.

Section 2.21 "Eligible First Mortgagee" means a First Mortgagee that has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in Article 19 entitled "Mortgagee Protections".

Section 2.22 "First Mortgagee" means a holder of a Security Interest in a Unit that has priority over all other Security Interests in the Unit.

Section 2.23 "Improvement(s)" means the building(s) (including all fixtures and improvements contained within it) located on the Property in which Units or Common Elements are located.

Section 2.24 "Limited Common Elements" means those parts of the Common Elements that are limited to and reserved for the use in connection with one or more, but fewer than all, of the Units. Without limiting the foregoing, the Limited Common Elements shall include any balcony, deck, patio, courtyard or porch appurtenant to and accessible only from a Unit, any shutters, awnings, window boxes, doorsteps, stoops, porch, balcony or patio designated or designed to serve a single Unit but located outside the Unit's boundaries, storage spaces and parking spaces outside Units designated as Limited Common Elements in this Declaration or on the Map, if any. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Limited Common Elements also

include any portion of the Common Elements allocated by this Declaration or on the Map as Limited Common Elements. All Limited Common Elements shall be used in connection with the appurtenant Unit(s) to the exclusion of the use thereof by the other Unit Owners, except by invitation. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, ceilings and floors of any balcony or of any other Limited Common Elements appurtenant to and accessible only from the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary, and attractive condition. No reference to Limited Common Elements need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Elements appurtenant to a Unit.

Section 2.25 "Majority of Owners" means a majority (or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration) of the total voting power of the members of the Association.

Section 2.26 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation, maintenance, and management of the Condominium Project.

Section 2.27 "Managing Agent" means a person, firm, corporation or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.28 "Occupant" means any member of a Unit Owner's family or a Unit Owner's guests, invitees, servants, tenants, employees, or licensees who occupy a Unit or are on the Common Elements for any period of time.

Section 2.29 "Period of Declarant Control" means the maximum period of time defined and limited by Section 8.6 of this Declaration during which the Declarant may, at its option, control the Association.

Section 2.30 "Person" means an individual, association, partnership, limited liability company, corporation, trust, governmental agency, political subdivision or any combination thereof.

Section 2.31 "Plat" means that part of a Declaration that is a land survey plat as set forth in Idaho Code § 50-1301, as amended, depicts all or any portion of the Condominium Project in two dimensions, is executed by the Declarant, and is recorded in the Records.

Section 2.32 "Property" means the real property in Blaine County, Idaho, more particularly described on the attached Exhibit A.

Section 2.33 "Real Estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. Real Estate includes parcels with or without Horizontal Boundaries and spaces that may be filled with air or water.

Section 2.34 "Records" means the Office of the Clerk and Recorder in Blaine County, Idaho, and each other county in which any portion of the Condominium Project is located.

Section 2.35 "Residential Unit" means any Unit which is not a Commercial Unit, and includes Community Housing Units.

Section 2.36 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors for the management, preservation, safety, control, and orderly operation of the Condominium Project in order to effectuate the intent and to enforce the obligations set forth in the Condominium Documents, as amended and supplemented from time to time. Separate Rules and Regulations may be promulgated to apply only to Commercial Units, Residential Units, Community Housing Units and/or any combination thereof.

Section 2.37 "Security Interest" means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest.

Section 2.38 "Special Declarant Rights" means those rights reserved by Declarant in Article 15 of this Declaration.

Section 2.39 "Unit" means a physical portion of the Condominium Project which is designated for separate ownership or occupancy and the boundaries of which are described in or determined by this Declaration. Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Condominium Project as more specifically set forth on Exhibit B. If walls, floors or ceilings are designated as

boundaries of a Unit in this Declaration, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit and all other portions of the walls, floors or ceilings are a part of the Common Elements. Subject to Section 2.24, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

Section 2.40 "Unit Owner" or "Owner" means the Declarant or any other person who owns record title to a Unit (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Unit unless such person has acquired record title to the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure.

ARTICLE 3. DIVISION OF PROJECT INTO CONDOMINIUM OWNERSHIP

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

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

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

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

Section 3.5 Alterations and Relocation of Boundaries Between Adjoining Units. Unit Owner(s) shall have the right to alter their Units and relocate boundaries between their Unit and an adjoining Unit and reallocate Limited Common Elements between or among Units, subject to the provisions and requirements of this Declaration and of the Act.

ARTICLE 4. ALLOCATED INTERESTS

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

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

- (a) Undivided Interest in the Common Elements. The percentage of the undivided interest in the Common Elements allocated to each Unit is based upon the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project.
- (b) Common Expenses Liability. The percentage of Common Expenses Liability allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all Units in the Condominium Project.
- (c) Votes. Each Unit shall be allocated a single vote as set forth on Exhibit B.

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

ARTICLE 5. CONDOMINIUM MAP

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

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

The Map shall also show the following:

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

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

ARTICLE 6. LEGAL DESCRIPTION AND TAXATION OF UNITS

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

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

Condominium Unit _____, according to the Condominium Declaration for Fifth & Main Building, recorded May ____, 2023, as (Instrument No. _____) and the Condominium Map recorded May _____, 2023, as (Instrument No. _____) in the office of the Recorder of Blaine County, Idaho.

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

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

ARTICLE 7. UNIT OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS

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

- (a) the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, and the Map;
- (b) the right of the Association from time to time to assign on an equitable basis portions of the Common Elements such as parking spaces or storage spaces for the exclusive use of the Unit Owner of a particular Unit by an appropriate instrument in writing;
- (c) the right of the Association to adopt, from time to time, any and all rules and regulations concerning vehicular traffic and travel upon, in, under, and across the Condominium Project; and
- (d) the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Condominium Project as the Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Condominium Project for the benefit of all Unit Owners, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Unit Owners.

Section 7.2 Limited Common Elements. Subject to the provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit, and such Limited Common Elements shall be conveyed along with title to the Unit.

ARTICLE 8. MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATIONS

Section 8.1 Association Membership. The Association's Articles of Incorporation shall be filed no later than the date the first interest in a Unit in the Condominium Project is conveyed to a purchaser. Every Unit Owner shall be a member of the Association and shall remain a member for the period of the Unit Owner's ownership of a Unit. No Unit Owner, whether one or more persons or entity, shall have more than one membership per Unit owned, but all of the persons or entities owning a Unit shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. If title to a Unit is held by more than one individual, by a firm, corporation, partnership, association or other legal entity or any combination thereof, such individuals, entity or entities shall appoint and authorize one person or alternate persons to represent the Unit Owners of the Unit. Such representative shall be a natural person who is a Unit Owner, or a designated board member or officer of a corporate Unit Owner, or a general partner of a partnership Unit Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Unit Owners as a member of the Association, and serve on the Board of Directors if elected, subject to the provisions of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if only one of the multiple Unit Owners of a Unit is present at a meeting of the Association, such Unit Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Unit Owners are present and there is no written designation of an authorized representative, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Unit Owners, which majority agreement may be assumed for all purposes if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

Section 8.2 Voting Rights and Meetings. Each Unit in the Condominium Project shall have the votes allocated in Section 4.2; provided, however, no vote allocated to a Unit owned by the Association may be cast. Class voting by Commercial Unit Owner(s) or Residential Unit Owner(s), or combinations thereof, shall be allowed on issues specified in Section 8.10. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board of Directors, or by Unit Owners having fifty percent (50%), or any lower percentage specified in the Bylaws, of the votes in the Association. Not less than ten (10)

and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast fifty percent (50%) of the votes which may be cast for election of the Board of Directors are present, in person or by proxy, at the beginning of the meeting.

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

Section 8.4 Unit Owners' and Association's Addresses for Notices. All Unit Owners of each Unit shall have one and the same registered mailing address to be used by the Association or other Unit Owners for notices, demands, and all other communications regarding Association matters. The Unit Owner or the representative of the Unit Owners of a Unit shall furnish such registered address to the secretary of the Association within ten days after transfer of title to the Unit to such Unit Owner or Unit Owners. Said address may be an electronic or email address, in which case the Unit Owner consents to notice by email at that address. Such registration shall be in written form and signed by all of the Unit Owners of the Unit or by such persons as are authorized to represent the interests of all Unit Owners of the Unit. If no address is registered or if all of the Unit Owners cannot agree, then the address of the Unit shall be deemed their registered address until another registered address is furnished as required under this Section 8.4. If the address of the Unit is the

registered address of the Unit Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Unit Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the Condominium Project or such other address as the Board of Directors may designate from time to time by notice to the Unit Owner(s).

Section 8.5 Transfer Information. All Persons who acquire Unit(s) other than from Declarant shall provide to the Association written notice of the Person's name, address, Unit owned, date of transfer, and name of the former Unit Owner within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Unit or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Units. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

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

- (a) sixty (60) days after conveyance of the fourth (4th) Unit to Unit Owners other than a Declarant; or
- (b) two (2) years after Declarant's last conveyance of a Unit in the ordinary course of business.

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

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

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

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

- (a) the original or a certified copy of the recorded Declaration as amended, the Association's articles of incorporation, Bylaws, minute books, other books and records, and any Rules and Regulations which may have been promulgated;
- (b) an accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in

conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;

- (c) the Association funds or control thereof;
- (d) all of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;
- (e) a copy, for the non-exclusive use of the Association, of any plans and specifications used in the construction or renovation of the Improvements;
- (f) all insurance policies then in force, in which the Unit Owners, the Association or its members of the Board of Directors and officers are named as insured persons;
- (g) copies of any certificates of occupancy that may have been issued with respect to the Improvements;
- (h) any other permits issued by governmental bodies applicable to the Condominium Project and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Association;
- (i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (j) a roster of Unit Owners and First Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (k) employment contracts in which the Association is a contracting party; and
- (l) any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

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

ARTICLE 9. ASSOCIATION POWERS AND DUTIES

Section 9.1 Association Management Duties. Subject to the rights and obligations of Declarant and other Unit Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Condominium Project and for the exclusive management, control, maintenance, repair, replacement, and improvement of the Common Elements and the Limited Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Association shall be part of the Assessments, and prior approval of the Unit Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Unit Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. All financial and other records of the Association shall be made reasonably available for examination by any Unit Owner and such Unit Owner's authorized agents.

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

- (a) adopt and amend Bylaws and Rules and Regulations;

- (b) adopt and amend budgets for revenues, expenditures and reserves;
- (c) collect assessments for Common Expenses from Owners;
- (d) hire and discharge managing agents;
- (e) hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Condominium Project;
- (g) make contracts and incur liabilities;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional improvements to be made as part of the Common Elements;
- (j) acquire, hold, encumber, and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act;
- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;
- (l) impose and receive a payment, fee, or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;
- (m) impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;

(n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for preparation of statements of unpaid Assessments;

(o) provide for the indemnification of the Association's officers and Board of Directors and maintain Board of Directors' and officers' liability insurance;

(p) assign the Association's right to future income, including the right to receive Assessments;

(q) by resolution, establish committees of the Board of Directors and/or Unit Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;

(r) exercise any other powers conferred by this Declaration or the Bylaws;

(s) exercise any other power that may be exercised in Idaho by legal entities of the same type as the Association; and

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

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

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

(a) matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;

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

Section 9.5 Right to Notice and Hearing. Whenever the Condominium Documents require that an action be taken after “notice and hearing,” the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, a committee, an officer, the Managing Agent, etc.) shall give notice of the proposed action to all Unit Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally and/or in writing, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Unit Owner having a right to notice and hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten (10) days after being notified of the decision. The Board of Directors shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 9.6 Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association may collect from purchasers at the time of the initial sale of each Unit by Declarant an amount equal to three months’ worth of annual Assessments based on the

Association's budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments.

ARTICLE 10. ASSESSMENTS

Section 10.1 Commencement of Annual Assessments. Until the Association makes an Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

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

Section 10.3 Apportionment of Annual Assessments. The total annual Assessment for any fiscal year of the Association shall be assessed to the Units in proportion to their Percentage of Common Expenses Liability set forth on Exhibit B, subject to: (a) Common Expenses which are separately metered or assessed to the Units by third parties; (b) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements which shall be assigned equally or on such other equitable basis as the Board of Directors shall determine to the Units to which the specific Limited Common Elements are appurtenant; (c) Common Expenses or portions thereof benefiting fewer than all of the Units which shall be assessed exclusively against the Units benefited; (d) any increased cost of insurance based upon risk which shall be assessed to Units in proportion to the risk; (e) any Common Expense caused by the misconduct of any Unit Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Directors shall determine against such Unit Owner(s); and (f) any expenses which are charged equally to the Units. All such allocations of Common Expenses Liability to the Commercial Units and Residential Units on a basis other than the Units' Percentage of Common Expenses Liability shall be made by the Board of Directors. In making the allocations, the Board of Directors shall use as a guide the assignment of various

Common Expenses to the following categories: utilities (unless separately metered or disproportionately benefiting fewer than all Units), insurance, exterior building maintenance and repairs, and reserves.

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

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

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

Section 10.7 Covenant of Personal Obligation for Assessments. Declarant, by creating the Units pursuant to this Declaration, and all other Unit Owners, by acceptance of the deed or other instrument of transfer of his Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Unit Owners and with the Association, and hereby do so covenant and agree to pay to the Association the (a) annual Assessments, (b) special Assessments, and (c) default Assessments applicable to the Unit Owner's Unit. No Unit Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Elements or the facilities contained in the Common Elements or by abandoning or leasing his Unit.

Section 10.8 Lien for Assessments; Assignment of Rents. The annual, special, and default Assessments (including installments of the Assessments) arising under the provisions of the Condominium Documents shall be burdens running with, and a perpetual lien in favor of the Association upon the specific Unit to which such Assessments apply. To further evidence such lien upon a specific Unit, the Association shall prepare a written lien notice setting forth the description of the Unit, the amount of Assessments on the Unit unpaid as of the date of such lien notice, the rate of default interest as set by the Rules and Regulations, the name of the Unit Owner or Unit Owners of the Unit, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Directors, an officer of the Association, or the Managing Agent and shall be recorded in the Records. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning of the first day of any period for which any Assessment is levied. Upon any default in the payment of annual, special, or default Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Unit payable to the Unit Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Unit Owner, by ownership of a Unit, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of annual, special, or default Assessments.

Section 10.9 Remedies for Nonpayment of Assessments. If any annual, special, or default Assessment (or any installment of the Assessment) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment, (b) the Association may declare due and

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

Section 10.10 Purchaser's Liability for Assessments.

Notwithstanding the personal obligation of each Unit Owner to pay all Assessments on the Unit, and notwithstanding the Association's perpetual lien upon a Unit for such Assessments, all purchasers shall be jointly and severally liable with the prior Unit Owner(s) for any and all unpaid Assessments against such Unit, without prejudice to any such purchaser's right to recover from any prior Unit Owner any amounts paid thereon by such purchaser. A purchaser's obligation to pay Assessments shall commence upon the date the purchaser becomes the Unit Owner of a Unit. For Assessment purposes, the date a purchaser becomes the Unit Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the Unit Owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the Unit Owner of a Unit upon the execution and delivery of the deed or other instruments conveying or transferring title to the Unit, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the Unit Owner upon the execution and delivery of the deed or other instruments conveying or transferring title of the Unit, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the

existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

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

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

Any First Mortgagee who acquires title to a Unit by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Unit free of any claims for unpaid Assessments and Costs of Enforcement against the Unit which accrue prior to the time such First Mortgagee acquires title to the Unit except to the extent the amount of the extinguished lien may be reallocated and assessed to all Units as a Common Expense and except to the extent the Act grants lien priority for Assessments to the Association. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Unit after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

Sale or other transfer of any Unit, (a) except as provided above with respect to First Mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section, and (c) except as provided in the next Section, shall not affect the Association's lien on such Unit for Assessments due and owing prior to the time such purchaser acquired title and shall not affect the personal liability of each Unit Owner who shall have been responsible for the payment

thereof. Further, no such sale or transfer shall relieve the purchaser of a Unit from liability for, or the Unit from the lien of, any Assessments made after the sale or transfer.

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

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

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

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

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

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

Section 10.13 Liens. Except for Assessment liens as provided in this Declaration, mechanics' liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interest of any Unit Owner in the Common Elements except a Security Interest in the Common Elements granted by the Association pursuant to the requirements of the Act.

ARTICLE 11. MAINTENANCE RESPONSIBILITY

Section 11.1 Unit Owner's Rights and Duties with Respect to Interiors. Except as may be provided in the purchase and sale agreement or other

conveyancing documents executed by Declarant in connection with sales to initial purchasers of the Units, each Unit Owner of a Unit shall have the exclusive right and duty to paint, tile, paper, or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings, windows and doors forming the boundaries of such Unit Owner's Unit and all walls, floors, ceilings, and doors within such boundaries. Notwithstanding the foregoing, no Unit Owner shall be permitted to install any hardwood floor or other hard surface improvements in his Unit that might affect adjoining Units by increasing noise or vibrations, without the prior written approval of the Association, which approval may be denied, or conditioned, in the Association's sole discretion.

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

Section 11.3 Unit Owner's Negligence. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Unit Owner or Occupant, then the expenses incurred by the Association for such maintenance, repair, or replacement shall be a personal obligation of such Unit Owner; and, if the Unit Owner fails to repay the expenses incurred by the Association within seven days after notice to the Unit Owner of the amount owed, then the failure to so repay shall be a default by the Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Unit, enforceable by the Association in accordance with this Declaration.

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

ARTICLE 12. MECHANICS' LIENS

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

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

ARTICLE 13. USE RESTRICTIONS

Section 13.1 Use of Units. Except for uses reserved to Declarant in Article 15 entitled "Special Declarant Rights and Additional Reserved Rights", and except for Commercial Units, all Units shall be used for residential purposes and other commercial activities permitted by applicable zoning codes which do not cause unreasonable disturbance to other Unit Owners. Subject to Section 13.6, below, Unit Owners may rent or lease such Units to others for such purposes.

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

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

Section 13.4 Structural Alterations and Exterior Appearance. No structural alterations to any Unit, including the construction of any additional skylight, window, door or other alteration visible from the exterior of the Unit or to any Common Element shall be made or caused to be made by any Unit Owner without the prior written approval of the Declarant during the Period of Declarant

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

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

Section 13.6 Limits on Timesharing / Short-Term Rentals.

- (a) No Unit Owner shall offer or sell any interest in such Unit under a “timesharing” or “interval ownership” plan, or any similar plan without the specific prior written approval of the Declarant during the Period of Declarant Control, and thereafter the Association.
- (b) No Unit Owner shall rent his Unit for any period less than fourteen (14) consecutive days (“Short Term Rental”) nor shall any Unit be rented more

than four (4) separate times in any twelve (12) month period. Any lease of ninety (90) days or more shall not be considered a Short Term Rental. By purchasing a Unit, each Unit Owner expressly agrees to the limitations contained herein.

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

Section 13.8 Commercial Operations. Each Owner of a Commercial Unit must comply with the Rules and Regulations for commercial establishments as adopted from time to time by the Association; provided, however, that the Association shall not adopt Rules and Regulations that substantially impede or effectively prohibit commercial and retail operations. No cooking of food shall be allowed in any Commercial Unit and the time for open commercial activity must conform to Ketchum City code, and in no event shall any Commercial Unit remain open for operations later than 10:00pm.

Section 13.9 Restrictions on Use of Parking and Storage Areas. No parking shall be permitted at any location on the Property unless specifically designated for parking by the Association. No storage is permitted outside of Units except in specifically designated storage areas. No Owner may use any parking or storage space assigned to another. No Owner may use any parking space for storage or use any parking or storage space in any manner that obstructs or interferes with any other Owner's parking or storage rights or that constitutes a safety hazard. Without limiting the generality of the powers of the Association with respect to parking or storage, the Association is specifically authorized, but not obligated, to remove any vehicle parked in any area not designated for parking, or any vehicle parked in any space that is assigned to another person or reserved for a specific use, or any vehicle parked in an obstructing or hazardous manner, or any improperly stored or hazardous materials, in all cases at the expense of the Owner or Occupant that owns such vehicle or materials. Expenses incurred by the Association in connection with such removal (and storage, if necessary) shall be a personal obligation of such

Owner and, if the Owner fails to pay such amount within seven (7) days after notice to the Owner of the amount owed, then the failure to pay shall be a default by the Owner and such expenses shall automatically become a default Assessment determined and levied against such Unit enforceable by the Association as provided in this Declaration.

ARTICLE 14. EASEMENTS

Section 14.1 Easement of Enjoyment. Every Unit Owner shall have a non-exclusive easement for the use and enjoyment of the Common Elements, which shall be appurtenant to and shall pass with the title to every Unit, subject to the easements set forth in this Article 14 and the easements and restrictions set forth in Article 7 entitled "Unit Owners' Property Rights in Common Elements".

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

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

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

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

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

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

Encroachments referred to in this Section 14.4 include, but are not limited to, encroachments caused by error or variance from the original plans in the construction of the Improvements or any Unit constructed on the Property, by error in the Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any part of the Condominium Project. Such encroachments shall not be considered to be encumbrances upon

any part of the Condominium Project; provided, however, that encroachments created by the intentional act of a Unit Owner shall not be deemed to create an easement on the Property and shall be considered an encroachment upon the Condominium Project. Such encroachment shall be removed at Unit Owner's expense immediately upon notice from the Association. In the event such encroachment is not timely removed, the Association may effect removal of the encroachment and the expense thereof shall be a default Assessment to the Unit Owner.

Section 14.5 Utility Easements. There is hereby created a general easement upon, across, over, in, and under all of the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity, and a cable communication system. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such utilities to erect and maintain the necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits under the Property. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided without disturbing the uses of other utilities, the Unit Owners, the Association, and Declarant; shall complete its installation and maintenance activities as promptly as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by this general easement request a specific easement by separate recordable document, Declarant during the Period of Declarant Control and, thereafter, the Association, shall have the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section 14.5 shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

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

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

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

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

ARTICLE 15. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15.4 Interference with Special Declarant Rights. Neither the Association nor any Unit Owners may take any action or adopt any rule and/or

regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant.

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

ARTICLE 16. INSURANCE

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

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

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

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

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

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

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

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

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

(c) no act or omission by any Unit Owner or Eligible First Mortgagee, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(d) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the risks covered by the policy, the Association's policy provides primary insurance;

(e) any loss covered by the policies must be adjusted with the Association;

(f) the insurance proceeds for any loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association and not to any holder of a Security Interest;

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a Security Interest; and

(h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association and any Unit Owner(s) and holder(s) of Security Interests to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Section 16.3 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro rata share of any deductible paid by the Association.

Section 16.4 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Eligible First Mortgagee at reasonable times.

ARTICLE 17. RESTORATION UPON DAMAGE OR DESTRUCTION

Section 17.1 Duty to Restore. Any portion of the Condominium Project, for which insurance is required under the Act or for which insurance carried by the Association is in effect, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) the Condominium Project is terminated;

(b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety;

(c) seventy-five percent (75%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or

(d) prior to the conveyance of any Unit to a purchaser, the holder of a Security Interest on the damaged portion of the Condominium Project rightfully demands all or a substantial part of the insurance proceeds.

In the event the Condominium Project is not repaired or replaced as allowed by Subparagraphs (a), (b) and (c) above, then the Real Estate in the Condominium Project shall be sold and the proceeds distributed pursuant to the procedures provided for in the Act for termination of condominium projects.

Section 17.2 Cost. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

Section 17.3 Plans. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board of Directors and a Majority of Owners.

Section 17.4 Replacement of Less Than Entire Property. If the entire Condominium Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium Project and, except to the extent that other persons will be distributees:

(a) the insurance proceeds attributable to a Unit and Limited Common Elements that are not rebuilt must be distributed to the Unit Owner of the Unit and the Unit Owner of the Unit to which the Limited Common Elements were allocated, or to holders of Security Interests, as their interests may appear;

(b) the remainder of the proceeds must be distributed to each Unit Owner or holders of Security Interests, as their interests may appear, in proportion to the Allocated Interests in the Common Elements of all the Units; and

(c) if the Unit Owners vote not to rebuild a Unit, the Allocated Interests of the Unit are reallocated upon the vote as if the Unit had been condemned, and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations.

Section 17.5 Insurance Proceeds. The insurance trustee, or if there is no insurance trustee, then the Board of Directors, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and holders of Security Interests as their interest may appear. Subject to the provisions of the Sections above, the proceeds shall be disbursed first for the repair or restoration of the damaged Property, and the Association, Unit Owners and holders of Security Interests are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Condominium Project is terminated, in which event the surplus proceeds will be distributed as provided in this Declaration.

Section 17.6 Certificates by the Board of Directors. The insurance trustee, if any, may rely on the following certifications in writing made by the Board of Directors:

(a) whether or not damaged or destroyed Property is to be repaired or restored; and

(b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 17.7 Certificates by Attorneys or Title insurance Companies. If payments are to be made to Unit Owners or holders of Security Interests, the Board of Directors, and the insurance trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records from the date of recording of this Declaration stating the names of the Unit Owners and the holders of Security Interest.

ARTICLE 18. CONDEMNATION

If all or part of the Condominium Project is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with the provisions on eminent domain in the Act.

ARTICLE 19. MORTGAGEE PROTECTIONS

Section 19.1 Introduction. This Article 19 establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article 19 is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 19.2 Percentage of First Mortgagees. Unless specifically provided otherwise, wherever in this Declaration the approval or consent of a specified percentage of Eligible First Mortgagees is required, it shall mean the approval or consent of sixty-seven percent (67%) of Eligible First Mortgagees. Each Eligible First Mortgagee shall be entitled to one vote for each Security Interest held by such Eligible First Mortgagee.

Section 19.3 Notice of Actions. If requested in writing to do so, the Association shall give prompt written notice of the following to each Eligible First Mortgagee making such request:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Unit in which an interest is held by the Eligible First Mortgagee;

(b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by a Unit Owner whose Unit is encumbered by a Security Interest held by such Eligible First Mortgagee;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of Eligible First Mortgagees as set forth in this Article;

(e) any judgment rendered against the Association; and

(f) a copy of any financial statement of the Association.

Section 19.4 Consent Required. The Association may not take any of the following actions, except as such rights have been specifically reserved by Declarant under the provisions of this Declaration, without the consent of sixty-seven percent (67%) of the Eligible First Mortgagees:

(a) sale, conveyance or encumbrance of the Common Elements (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Condominium Project, or for other purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause);

(b) restoration or repair of the Condominium Project (after hazard damage or partial condemnation) in a manner other than that specified in this Declaration;

(c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

(d) merger of the Condominium Project with any other common interest community; or

(e) any action not to repair or to replace the Common Elements except as permitted in this Declaration.

Section 19.5 Notice of Objection. Unless an Eligible First Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of Eligible First Mortgagees within thirty (30) days following the receipt of notice of such proposed amendment or action, the Eligible First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

Section 19.6 First Mortgagees' Rights.

(a) Advances. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Elements. First Mortgagees making such payments shall be owed immediate reimbursement from the Association.

(b) Cure Rights. First Mortgagees shall be entitled to cure any delinquency of the Unit Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

(c) Priority. No provision of the Condominium Project documents gives a Condominium Unit Owner or any other party priority over any rights of the First Mortgagee of the Condominium Unit pursuant to its mortgage in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

Section 19.7 Limitations on First Mortgagee's Rights. No requirement for approval or consent by a First Mortgagee provided in this Article 19 shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Unit Owners or the Board of Directors;

(b) prevent the Association or Board of Directors from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article 18 entitled "Restoration Upon Damage or Destruction".

Section 19.8 Special Declarant Rights. No provision or requirement of this Article 19 entitled "Mortgagee Protections" shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

ARTICLE 20. DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 20.1 Term. This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of fifty (50) years. Thereafter, this Declaration shall be automatically extended for successive periods of ten (10) years each, unless otherwise terminated or modified as provided in this Article.

Section 20.2 Amendment of Declaration. Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration (including the Map) may be amended only by a vote or agreement of Unit Owners to which more than sixty-seven percent (67%) of the votes in the Association are allocated.

Section 20.3 Execution of Amendments; Expenses. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of: (a) any Unit Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this

Declaration is reserved to the Declarant and exercised by the Declarant; or (c) in all other cases by the Association as a Common Expense.

Section 20.4 When Modifications Permitted. Notwithstanding the provisions of Section 20.2 above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 20.5 Recording of Amendments. Any amendment to this Declaration made in accordance with this Article 20 shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Unit Owners, if any, and required consents of First Mortgagees (and/or Eligible First Mortgagee, as applicable) were obtained and are on file in the office of the Association. The amendment must be indexed in the grantee's index in the name of the Condominium Project and the Association and in the grantor's index in the name of each person or entity executing the Amendment.

Section 20.6 Rights of Eligible First Mortgagees. To the extent allowed by the Act, Eligible First Mortgagees shall have the rights to approve specified action of the Unit Owners or the Association as a condition to the effectiveness of those actions as provided in Article 19 entitled "Mortgagee Protections".

Section 20.7 Termination of the Condominium Project. The Condominium Project may only be terminated as provided in the Act.

ARTICLE 21. MISCELLANEOUS

Section 21.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration and the other Condominium Documents shall be through any proceedings at law or in equity brought by any aggrieved Unit Owner, the Association, or Declarant against the Association or any Unit Owner. Such actions may seek remedy by injunction or restraint of a violation or attempted violation, or an action for damages, or any of them, without the necessity of making an election.

Section 21.2 Notices. All notices, demands, or other communications required or permitted to be given hereunder shall be in writing, and any and all such items shall be deemed to have been duly delivered upon personal delivery; upon actual receipt, in the case of notices forwarded by certified mail, return receipt requested, postage prepaid; as of 12:00 Noon on the immediately

following business day after deposit with Federal Express or a similar overnight courier service; or as of the third business hour (a business hour being one of the hours from 8:00 a.m. to 5:00 p.m. on business days) after transmitting by telecopier. Notices by email shall be valid only if all parties to the communication have consented to notice by email.

Section 21.3 Nonwaiver. Failure by Declarant, the Association, or any Unit Owner or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Condominium Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 21.4 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 21.5 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 21.6 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 21.7 Conflicts in Legal Documents. In case of conflicts between the provisions in this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control.

Section 21.8 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 21.9 Choice of Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Idaho.

Executed as of the _____ day of _____ 2023

Fifth & Main, LLC, an Idaho limited liability company

By: David Wilson, Managing Member

STATE OF IDAHO)
 ss
County of Blaine)

On this _____ day of _____ 2023, before me, a notary public in and for said state, personally appeared David Wilson, known or identified to me to be the Managing Member of Fifth & Main, LLC, and the person that executed the foregoing instrument on behalf of said limited liability company.

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

Notary Public for Idaho
Residing at _____
My commission expires _____

**EXHIBIT A
TO
DECLARATION**

Legal Description

**Lots 3 and 4, Block 5, Ketchum Townsite
Blaine County, Idaho**

**EXHIBIT B
TO
DECLARATION**

TABLE OF ALLOCATED INTERESTS

Unit No.	Percentage share of Common Elements	Percentage share of Common Expenses	Vote in the affairs of Association
Commercial Units			
1			
2			
Residential Units			
201			
202			
CH-1			
CH-2			
CH-3			
CH-4			
301			
302			
	100 percent	100 percent	100

**EXHIBIT C
TO
DECLARATION**

ARTICLES

DRAFT

**EXHIBIT D
TO
DECLARATION**

BYLAWS

DRAFT