

**BEFORE THE PLANNING AND ZONING COMMISSION  
OF THE  
CITY OF KETCHUM**

IN RE:	)	FILE NO. <b>P19-063</b>
	)	
PEG KETCHUM HOTEL, LLC	)	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION TO THE CITY COUNCIL</b>
	)	
Applicant for	)	
Planned Unit Development	)	
Conditional Use Permit	)	
	)	

---

THE ABOVE ENTITLED MATTER coming before the Planning and Zoning Commission of the City of Ketchum (the “Commission”), on the 28<sup>th</sup> day of March, 2023, pursuant to the Applicant’s request for an amendment of the Applicant’s Planned Unit Development/ Conditional Use Permit No. P19-063 (the “PUD/CUP Permit”) at page 29, Condition No. 5 paragraph 1.5.3 by an increase of the time period for a certificate of the occupancy to be issued for the Project after the issuance of a building permit from 18 months to 30 months (the “Requested Amendment”). The Applicant’s Requested Amendment is a part of a renegotiated Permit Conditions Acceptance Development Agreement which is also being heard simultaneously by the Commission. The Commission having reviewed the Requested Amendment, and the information provided at the hearing on this matter; and having reviewed the renegotiated Permit Conditions Acceptance Development Agreement, and the information provided at that hearing, does hereby make and set forth the Record of Proceedings, Findings of Fact, Conclusions of Law, and Recommendation to the City Council as follows:

**SECTION 1**

The record of the proceedings of the above-referenced matter consists of the following, to-wit:

**Notice of Hearing:** Notice of this hearing was:

- Published March 8, 2023 in the Idaho Mountain Express, the City’s official newspaper of general circulation; and
- Mailed on March 8, 2023 to the property owners within 300 feet of the subject real property and affected agencies; and
- Posted on the subject real property on March 21, 2023; and
- Posted on the City’s website on the March 13, 2023.

**Exhibits**

	<i>DESCRIPTION OF EVIDENCE</i>	<i>Withdrawn</i>	<i>Refused</i>	<i>Admitted</i>
<b>1</b>	<p>Staff Report dated March 28, 2023 with Attachments A-H the following additional attachments:</p> <p><b>Attachments:</b></p> <p>A: June 14, 2022 staff report for Design Review Permit P22-028</p> <p>B: Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Permit P22-028 (the “Findings”) approved June 14, 2022 together with Findings Attachment A: May 11, 2022 Memo Outlining Design Changes in Response to November 20, 2021 Pre-Application Design Review Meeting; and Findings; Attachment B: May 27, 2022 Design Review Plans.</p> <p>C: 3-2-23 Permit Conditions Acceptance Development Agreement.</p> <p>D: Proposed amendment to PUD/CUP P19-63</p>			X
<b>2</b>	Noticing Checklist/Certification			X

**PERSONS TESTIFYING and COMMENT:**

**Staff Report:** Suzanne Frick, presented and gave the City staff report with explanation and stood for questions from the Planning and Zoning Commissioners.

**Public Comment:** Scott Levy had questions about traffic issues related to Highway 75.

**Written Comment Received:** Two written comments were received prior to the distribution of the Planning and Zoning Commission packet. Those comments are provided in Attachment D of the Staff Report.

**DECISION and RECOMMENDATION**

WHEREUPON THE PLANNING AND ZONING COMMISSION being duly informed and having reviewed the record, evidence, and testimony received and being fully advised in the premises, DO HEREBY MAKE THE FOLLOWING FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION TO THE CITY COUNCIL, to-wit:

## II.

### FINDINGS OF FACT and CONCLUSIONS OF LAW

[As set forth in this section are findings of fact and corresponding citations to KMC provisions which are also Conclusions of Law]

#### 2.1 Findings Regarding Notice:

2.1.1 **Notice Required:** Notice has been given in accordance with the Law as required by KMC Sections 16.08.110 and 17.116.040.

#### 2.2 Findings Regarding Applications Filed:

2.2.1 PEG Ketchum Hotel, LLC has submitted and completed an application for an amendment of the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3 by an increase of the time period for a certificate of the occupancy to be issued for their hotel project after the issuance of a building permit from 18 months to 30 months.

2.2.2 The Applicant's Requested Amendment is a part of a renegotiated Permit Conditions Acceptance Development Agreement which was also heard simultaneously by the Commission.

#### 2.3 Findings Summarizing Public Comment Concerns and Objections to and Benefits of the Application:

The Commission having reviewed the written comment and having listened to the Staff Report and comments and the comments presented by the public summarizes the same as follows:

- There was no objection to the Amendment Request; and
- The Staff recommended approval of the Amendment Request to this Permit would align with the renegotiated Permits Conditions Acceptance Development Agreement which this Commission is recommending approval to the City Council subject to three modifications unrelated to this Amendment Request.

#### 2.4 PUD Ordinance Standards and Planning and Zoning Commission Evaluation Compliance Analysis and Findings:

##### **KMC § 16.08.080.0**

*The development will be completed within a reasonable time.*

The Commission finds this standard is met; provided that the Permit Conditions Acceptance Development Agreement is entered into between the Applicant and City Council for the Project prior to the issuance of any Building Permit for the construction of the Project.

### III. CONCLUSIONS OF LAW

The following are the legal principles that provide the basis for the Ketchum City Councils' decision which the Councilors have applied to the facts presented at the hearing of the above-entitled matter:

- 3.1 The City is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code; and
- 3.2 The City, pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code, has the authority to enact the Ordinances and regulations which the City has exercised and approved Ordinances codified in the Ketchum City Code ("KMC"), and which are identified in Section II of these Findings of Fact, and which are herein restated as Conclusions of Law by this reference, and which City Ordinances govern the Applicant's Project Applications for the Development and use of the Project Site.
- 3.3 The City pursuant to Idaho Code Section 67-6515 has the authority, which it has exercised by ordinance, codified at Chapter .08 of Title 16 of the KMC, which is separate from its zoning ordinance for the processing of applications for planned unit development permits.
- 3.4 KMC section 16.08.120 C provides that prior to final approval of a PUD conditional use permit, the City Council may require a written agreement executed by the Applicant to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to Development and may also require recordation of documents establishing and guaranteeing the operation and maintenance of the Project; and
- 3.5 The Project Applications, which includes waivers to the floor area ratio, side yard setbacks, and height and four-story requirements is governed under KMC Sections 16.08.020 B, 16.08.030, 16.08.040, 16.08.070, 16.08.080 and 17.124.050 are reviewed and considered by the Council in accordance with the following:
  - 3.5.1 In the event of a conflict Chapter 8 of Title 16 KMC controls over any other City ordinance; and
  - 3.5.2 A planned unit development involves a development of land in which the standard land use regulations of the City may be modified or waived in order to promote beneficial development of an entire tract of land in conformance with an approved planned unit development conditional use permit accentuating usable open space, recreational uses, public amenities, community housing, and harmonious development with surrounding properties and the city at large; and

- 3.5.3 Any person wishing to develop a planned unit development shall comply with the requirements of chapter 8 of Title 16 KMC in addition to the zoning, subdivision and other applicable laws, ordinances, regulations and rules, subject to any modification or waiver granted as part of the planned unit development (PUD) conditional use permit; and
- 3.5.4 The Planning and Zoning Commission can make recommendations and the City Council has authority to grant waivers or deferrals of any of the requirements of sections 16.08.070 and 16.08.080 KMC on a case-by-case basis when the waiver or deferral will not be detrimental to the public welfare, health and safety nor injurious to property owners in the immediate area; and
- 3.5.5 The Amendment Request of the Planned Unit Development and Conditional Use Permit meets the standards of approval under Title 16 and Title 17 KMC, subject to conditions of approval.

#### IV.

### DECISION AND RECOMMENDATION TO THE CITY COUNCIL

Based upon the above and foregoing Findings of Fact/Conclusions of Law and good cause appearing from the record, IT IS HEREBY RECOMMENDED TO THE CITY COUNCIL THAT:

**Recommendation No. 1:** PEG Ketchum Hotel, LLC's Application for an amendment of the Applicant's Planned Unit Development/ Conditional Use Permit No. P19-063 (the "PUD/CUP Permit") at page 29, Condition No. 5 paragraph 1.5.3, by an increase of the time period for a certificate of the occupancy to be issued for the Project after the issuance of a building permit from 18 months to 30 months, be granted subject to and contingent upon the following terms and conditions:

**Condition No. 1 Permits Conditions Acceptance Development Agreement:** That the Permit Conditions Acceptance Development Agreement (with the Commission's recommended modifications) has been entered into between the Applicant and City Council for the hotel project prior to the issuance of any Building Permit for the construction of the hotel project.

Findings of Fact **adopted** this \_\_\_\_ day of April, 2023.

---

Neil Morrow, *Chairman*  
City of Ketchum Planning and Zoning  
Commission