



City of Ketchum

September 20, 2021

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

**Recommendation to Hold a Public Hearing and Approve the Winter Sun Condominiums: Unit 2A
Lot Line Shift Application**

Recommendation and Summary

Staff recommends the Ketchum City Council hold a public hearing and approve the Winter Sun Condominiums: Unit 2A Lot Line Shift Application.

Recommended Motion: "I move to approve the Winter Sun Condominiums: Unit 2A Lot Line Shift Application subject to conditions of approval 1-6."

The reasons for the recommendation are as follows:

- The request to amend the boundaries of condominium unit 2 meets all applicable standards for Readjustment of Lot Lines as specified in the City's subdivision regulations and the project meets all zoning requirements.
- Consistent with Ketchum Municipal Code (KMC) §16.04.020, the proposal meets the definition of Readjustment of Lot Lines because: (1) the project does not reduce the area, frontage, width, or depth of either of the two lots within Winter Sun Condominiums subdivision, (2) condominium unit 2A will comply with all dimensional standards required in the GR-L Zone, and (3) the proposal does not create additional lots or dwelling units.

Analysis

This Lot Line Shift application, submitted by Galena Engineering on behalf of property owners Mitchell Long and Margit Donhowe, proposes to amend the boundaries of unit 2 within the Winter Sun Condominiums located at 420 Sage Road within the City's General Residential Low Density (GR-L) Zoning District as well as the Mountain Overlay (MO) and Avalanche Zone. This readjustment of lot lines will expand the boundaries of the condominium unit to accommodate a new addition.

The applicant has submitted MO Design Review Application File No. P21-060 and Building Permit Application File No. B21-046 to construct a 144-square-foot addition to accommodate a new enclosed sauna. The proposal is subject to Administrative MO Design Review pursuant to Ketchum Municipal Code §17.96.030.A1b, which authorizes the Planning and Zoning Administrator to review and approve additions that are less than 1,200 square feet. Following the Ketchum's City Council's review and approval of the Lot Line Shift application, City Departments will review the MO Design Review and Building Permit applications concurrently.

The Winter Sun development was constructed in 1979 (Building Permit Application File Nos. 79-129 & 79-130) and subdivided into condominiums in 1980 (Application File No. 80-36). The subdivision is comprised of two parent lots—Lots 24 and 25 of Warm Springs Village Subdivision 4th Addition. Each lot is developed with a duplex containing 2 condominium units. A 62-foot-long, 20-foot-wide access easement straddles the common property line between the two lots. When the Winter Sun development was subdivided, the Ketchum Zoning Commission and City Council conditioned the subdivision's approval upon the lot line remaining on the final

plat with an access easement shown across each lot. The lot line was required to remain on the plat as the property is located within GR-L Zoning District, which only permits a maximum of 2 multi-family dwelling units per lot. This project does not propose any changes to the two parent lots within the Winter Sun Condominiums subdivision or the existing residential use on the property.

Sustainability

The proposed final plat does not limit the City's ability to reach the goals of the 2020 Ketchum Sustainability Action Plan.

Financial Impact

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

Attachments:

- A. Draft Findings of Fact, Conclusions of Law, and Decision
- B. Lot Line Shift Application Submittal

Attachment A:
Draft Findings of Fact,
Conclusions of Law, and
Decision



City of Ketchum
Planning & Building

IN RE:)	
)	
Winter Sun Condominiums: Unit 2A)	KETCHUM CITY COUNCIL
Lot Line Shift (Readjustment of Lot Lines))	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: September 20, 2021)	DECISION
)	
File Number: P21-072)	

Findings Regarding Application Filed

PROJECT: Winter Sun Condominiums: Unit 2A Lot Line Shift

APPLICATION TYPE: Lot Line Shift (Readjustment of Lot Lines)

FILE NUMBER: P21-072

ASSOCIATED APPLICATIONS: Mountain Overlay Design Review P21-060 & Building Permit B21-046

OWNER: Mitchell Long & Margit Donhowe

REPRESENTATIVE: Sean Flynn, Galena Engineering

REQUEST: Amend the boundary of unit 2 within Winter Sun Condominiums to accommodate a proposed 144-square-foot addition

LOCATION: 420 Sage Road 2 (Winter Sun Condominiums: Unit 2)

NOTICE: A public hearing notice was mailed to all property owners within 300 feet of the project site and political subdivisions on September 1, 2021. The public hearing notice was published in the Idaho Mountain Express on September 1, 2021. The public hearing notice was posted on site and on the city’s website on September 14, 2021.

ZONING: General Residential Low Density (GR-L)

OVERLAY: Mountain Overlay & Avalanche Zone

Findings Regarding Application Filed

This Lot Line Shift application, submitted by Galena Engineering on behalf of property owners Mitchell Long and Margit Donhowe, proposes to amend the boundaries of unit 2 within the Winter Sun Condominiums located at 420 Sage Road within the City’s General Residential Low Density (GR-L) Zoning District as well as the Mountain Overlay (MO) and Avalanche Zone. This readjustment of lot lines will expand the boundaries of the condominium unit to accommodate a new addition.

The applicant has submitted MO Design Review Application File No. P21-060 and Building Permit Application File No. B21-046 to construct a 144-square-foot addition to accommodate a new enclosed sauna. The proposal is subject to Administrative MO Design Review pursuant to Ketchum Municipal Code §17.96.030.A1b, which authorizes the Planning and Zoning Administrator to review and approve additions less than 1,200 square feet. Following the Ketchum's City Council's review and approval of the Lot Line Shift application, City Departments will review the MO Design Review and Building Permit applications concurrently.

The Winter Sun development was constructed in 1979 (Building Permit Application File Nos. 79-129 & 79-130) and subdivided into condominiums in 1980 (Application File No. 80-36). The subdivision is comprised of two parent lots—Lots 24 and 25 of Warm Springs Village Subdivision 4th Addition. Each lot is developed with a duplex containing 2 condominium units. A 62-foot-long, 20-foot-wide access easement straddles the common property line between the two lots. When the Winter Sun development was subdivided, the Ketchum Zoning Commission and City Council conditioned the subdivision's approval upon the lot line remaining on the final plat with an access easement shown across each lot. The lot line was required to remain on the plat as the property is located in the General Residential Low Density (GR-L) Zoning District, which only permits a maximum of 2 multi-family dwelling units per lot. This project does not propose any changes to the two parent lots within the Winter Sun Condominiums subdivision or the existing residential use on the property.

Findings Regarding Readjustment of Lot Lines (KMC §16.04.060)

Consistent with Ketchum Municipal Code (KMC) §16.04.020, the proposal meets the definition of Readjustment of Lot Lines because: (1) the project does not reduce the area, frontage, width, or depth of either of the two lots within Winter Sun Condominiums subdivision, (2) condominium unit 2A will comply with all dimensional standards required in the GR-L Zone, and (3) the proposal does not create additional lots or dwelling units.

Readjustment of Lot Lines: A change or modification of the boundary lines between existing lots or parcels of land or between dwelling units which does not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements and which does not create additional lots or dwelling units. "Readjustment of Lot Lines" includes other minor changes to a subdivision, condominium, or townhouse plat such as, but not limited to, notation changes, boundary shifts and removal of lot line(s), each of which do not reduce the area, frontage, width, depth or building setback lines of each lot below the minimum zoning requirements nor create additional lots or dwelling units (KMC §16.04.020).

Consistent with KMC §16.04.060.B, the Readjustment of Lot Lines application was transmitted to City Departments including the City Engineer, Fire, Building, Utilities, and Streets departments for review. As specified in Condition of Approval #2, the amended plat map shall meet all governing ordinances, requirements, and regulations of the Fire Department (2018 International Fire Code and local Fire Protection Ordinance No.1217), Building Department (2018 International Existing Building Code, the 2018 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.

All land, condominium, and townhouse subdivisions within the City of Ketchum are subject to the standards contained in Ketchum Municipal Code, Title 16, Subdivision Regulations. Pursuant to Ketchum Municipal Code §16.04.010.D, the change or modification of boundary lines, whether or not any additional lot is created, shall comply with these regulations. Many subdivision standards are related to the design and construction of multiple new lots that will form new blocks and infrastructure, such as streets that will be dedicated and maintained by the City. The standards for certain improvements (KMC §16.04.040), including street, sanitary sewage disposal, and planting strip improvements, are not applicable as the project proposes to expand the boundaries of an existing condominium unit. As conditioned, the proposed Winter Sun Condominiums: Unit 2A subdivision plat meets the standards for Readjustment of Lot Lines under Title 16 of Ketchum Municipal Code.

Table 1: Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements

Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements				
Compliant			Standards and Council Findings	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	Contents Of Final Plat: The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen inch by twenty four inch (18" x 24") Mylar paper with no part of the drawing nearer to the edge than one-half inch (1/2"), and shall be in conformance with the provisions of title 50, chapter 13, Idaho Code. The reverse side of such sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information. The contents of the final plat shall include all items required under title 50, chapter 13, Idaho Code, and also shall include the following:
			<i>Council Findings</i>	<i>The final plat mylar paper shall be prepared following Ketchum City Council review and approval of the lot line shift application and shall meet these standards.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	Point of beginning of subdivision description tied to at least two (2) governmental survey corners, or in lieu of government survey corners, to monuments recognized by the city engineer.
			<i>Council Findings</i>	<i>As conditioned, this standard shall be met. The final plat mylar shall show a minimum of two Blaine County survey control monuments with ties to the property. The survey control monuments shall be clearly identified on the face of the map.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	Location and description of monuments.
				<i>As conditioned, this standard shall be met. The final plat mylar shall show the location and description of monuments.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	Tract boundary lines, property lines, lot lines, street right of way lines and centerlines, other rights of way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs,

				central angles, tangents and chord lengths of all curves to the above accuracy.
			<i>Council Findings</i>	<i>As required when the Winter Sun Condominiums was originally subdivided in 1980 (Application File No. 80-36), the plat map indicates the parent lots' (Lots 24 and 25 of Warm Springs Village 4th Addition) as well as the shared driveway easement. Plat Note 7 states that the entire property is located within the City of Ketchum's Avalanche Overlay District.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	Names and locations of all adjoining subdivisions.
			<i>Council Findings</i>	<i>The plat map indicates neighboring Eagle Ridge Townhomes and Warm Springs Village 4th Addition.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	Name and right of way width of each street and other public rights of way.
			<i>Council Findings</i>	<i>This standard has been met. The plat map indicates the Sage Road public rights-of-way.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	Location, dimension and purpose of all easements, public or private.
			<i>Council Findings</i>	<i>The plat map shows the location and dimensions of the shared driveway easement.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>Council Findings</i>	<i>N/A. This lot line application expands the boundaries of an existing condominium unit and does not create a new block.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>Council Findings</i>	<i>N/A as no dedications of this type have been proposed.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the city, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>Council Findings</i>	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
				<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision
			<i>Council Findings</i>	<i>This standard has been met. Existing Sage Road is indicated on the plat map.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.12	A provision in the owner's certificate referencing the county recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.

			<i>Council Findings</i>	<i>Plat Note 6 references that the property is subject to the Condominium Declaration recorded as Instrument No. 210801 within the records of Blaine County.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
			<i>Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the final plat. The signature block page shall include the surveyor's certification.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat.
			<i>Council Findings</i>	<i>This standard has been met. A title report and warranty deeds were submitted for the properties.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
			<i>Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the final plat. The signature block page shall include a certificate of ownership and associated acknowledgement from all owners and holders of security interest with regard to the subject property, which shall be signed following Ketchum City Council review and approval of the application and prior to recordation of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all city requirements.
			<i>Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the final plat. The signature block page shall include the certification and signature of the surveyor verifying that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the city engineer verifying that the subdivision and design standards meet all city requirements.
			<i>Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the final plat. The signature block page shall include the City Engineer's approval and verification that the subdivision and design standards meet all City requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	Certification and signature of the city clerk of the city of Ketchum verifying that the subdivision has been approved by the council.
			<i>Council Findings</i>	<i>As conditioned, this standard will be met prior to recordation of the final plat. The signature block page shall include the certification and signature of the City Clerk verifying the subdivision has been approved by City Council.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.19	Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.
			<i>Council Findings</i>	<i>This standard is not applicable as this application expands the boundaries of an existing condominium unit to accommodate an addition. No additional restrictions are necessary to provide for the public health, safety, and welfare.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.L	Final Plat Copies: Both a hard copy and a digital copy of the final plat shall be filed with the administrator prior to being placed upon the Council's agenda. A digital copy of the final plat as approved by the council and signed by the

				city clerk shall be filed with the administrator and retained by the city. The Applicant shall also provide the city with a digital copy of the recorded document with its assigned legal instrument number.
			<i>Council Findings</i>	<i>This standard has been met.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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.
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. No additional improvements are required or proposed for the lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the Council, 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>Council Findings</i>	<i>This standard is not applicable as this project expands an existing condominium unit to accommodate a 144-square-foot addition.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	Performance Bond: 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, factors beyond the control of the subdivider, or other conditions as determined acceptable at the sole discretion of the city, 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 two years 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.
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-</i>

				<i>foot addition. No improvements are required or proposed for the lot consolidation.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. No improvements are required or proposed for the lot consolidation.</i>
<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>Council Findings</i>	<i>The applicant shall meet the required monumentation standards prior to recordation of the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.F	<p>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

			<p>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> <ul 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. <p>3. Corner lots outside of the original Ketchum Townsite 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. Minimum lot sizes in all cases shall be reversed frontage lot(s).</p>
			<p><i>Council Findings</i></p> <p><i>Standard #1 has been met as no changes are proposed to the parent lot's size, width, or shape. The proposed addition will comply with the required setbacks in the GR-L Zone. Standard #2 has been met. The plat map shows the area of 25% or greater slope on the two parent lots. The duplex's building footprint, which serve as the condominiums' building envelope, is contained outside of areas of 25% or greater slope. Standard #3 is not applicable subject property is not a corner lot. Standard #4 has been met. Standard #5 is not applicable as the property is not adjacent to an arterial street or incompatible zoning district. Standard #6 has been met as Lot 25 has 131 feet of frontage along Sage Road.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>16.04.040.G</p> <p>G. Block Requirements: The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ul 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.

				<p>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</p> <p>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.</p> <p>4. Except in the original Ketchum Townsite, corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</p>
			<i>Council Findings</i>	<i>N/A. This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. This application does not create a new block.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.H	<p>Street Improvement Requirements:</p> <p>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;</p> <p>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;</p> <p>3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;</p> <p>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</p> <p>5. Street grades shall not be less than three-tenths percent (0.3%) and not more than seven percent (7%) so as to provide safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing;</p> <p>6. In general, partial dedications shall not be permitted, however, the council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;</p> <p>7. Dead end streets may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead end street serves more than two (2) lots, a temporary turnaround easement shall be provided, which easement shall revert to the adjacent lots when the street is extended;</p>

			<p>8. A cul-de-sac, court or similar type street shall be permitted only when necessary to the development of the subdivision, and provided, that no such street shall have a maximum length greater than four hundred feet (400') from entrance to center of turnaround, and all cul-de-sacs shall have a minimum turnaround radius of sixty feet (60') at the property line and not less than forty five feet (45') at the curb line;</p> <p>9. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70°);</p> <p>10. Where any street deflects an angle of ten degrees (10°) or more, a connecting curve shall be required having a minimum centerline radius of three hundred feet (300') for arterial and collector streets, and one hundred twenty five feet (125') for minor streets;</p> <p>11. Streets with centerline offsets of less than one hundred twenty five feet (125') shall be prohibited;</p> <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 County Assessor's office 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 shall be required consistent with adopted city standards and where designated 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 and chapter 12.04 of this code;</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>
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				<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 shall be required consistent with adopted city standards and where designated shall be a required improvement installed by the subdivider;</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; and</p> <p>24. No new public or private streets or flag lots associated with a proposed subdivision (land, planned unit development, townhouse, condominium) are permitted to be developed on parcels within the Avalanche Zone.</p>
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. This proposal does not create a new street, private road, or bridge.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.I	<p>Alley Improvement Requirements: Alleys shall be provided in, 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 permitted only within the original Ketchum Townsite and only after due consideration of the interests of the owners of property adjacent to the dead-end alley including, but not limited to, the provision of fire protection, snow removal and trash collection services to such properties. 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>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. Alleys are not required in residential neighborhoods.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right-of-way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the City Engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to</p>

			<p>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>
			<p>Council Findings</p> <p><i>N/A. No easements are required or proposed with this project. The project does not create a new private street. The property is not adjacent to Warm Springs or located within the floodplain or riparian area.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>16.04.040.K</p> <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>
			<p>Council Findings</p> <p><i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-</i></p>

				<i>foot addition. No sanitary sewage disposal improvements are required for this project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 Sanitarian, Idaho State Public Utilities Commission, Idaho Department of Reclamation, and all requirements of the City.</p>
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. Water system improvements are not required for this project.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	<p>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.</p>
			<i>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. Planting strip improvements are not required for this project.</i>
<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.

				<p>e. Location of all street and utility improvements including driveways to building envelopes.</p> <p>f. Any other information which may reasonably be required by the Administrator, commission or Council to adequately review the affect of the proposed improvements.</p> <p>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</p> <p>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</p> <p>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <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.
			<p><i>Council Findings</i></p>	<p><i>City Departments will review the proposed grading plan for the project through their review of Building Permit Application File No. B21-046. The project shall comply with these standards.</i></p>

<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>Council Findings</i>	<i>All storm water shall be retained on site, including storm water from roof drains. All drainage facilities within the project site and the public right-of-way shall meet City standards.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>Council Findings</i>	<i>This standards is not applicable as no new utilities are required to be installed to serve the 144-square-foot sauna addition within the existing condominium unit.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	<p>Off Site Improvements: Where the off site 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>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition. Off-site improvements are not required or proposed with this project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.R	<p>Avalanche And Mountain Overlay: All improvements and plats (land, planned unit development, townhouse, condominium) created pursuant to this chapter shall comply with City of Ketchum Avalanche Zone District and Mountain Overlay Zoning District requirements as set forth in Title 17 of this Code.</p>
			<i>Council Findings</i>	<i>This project shall comply with all standards required for projects located within the Avalanche Zone and Mountain Overlay as specified in Chapters 17.92 and 17.124 of Ketchum Municipal Code.</i>

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.S	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>Council Findings</i>	<i>This standard is not applicable as this project proposes to expand the boundaries of an existing condominium unit to accommodate a 144-square-foot addition.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum City Code (“KMC”) and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which city ordinances govern the applicant’s application for the development and use of the project site.
2. The Council has authority to hear the applicant’s Lot Line Shift Application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The City of Ketchum Planning Department provided adequate notice for the review of this application.
4. The Lot Line Shift (Readjustment of Lot Lines) application is governed under Sections 16.04.010, 16.04.020, 16.04.030, 16.04.040, and 16.04.060 of Ketchum Municipal Code Chapter 16.04.
5. As conditioned, the proposed Lot Line Shift meets the standards for approval under Title 16 of Ketchum Municipal Code.

DECISION

THEREFORE, the Ketchum City Council **approves** the Winter Sun Condominiums: Unit 2A Lot Line Shift this Monday, September 20th, 2021 subject to the following conditions:

CONDITIONS OF APPROVAL

1. The amended plat mylar shall meet all conditions specified in Table 1: Findings Regarding Contents of Final Plat and Subdivision Design & Development Requirements.
2. The amended subdivision plat shall meet all governing ordinances, requirements, and regulations of the Fire Department (2018 International Fire Code and local Fire Protection Ordinance No. 1217), Building Department (2018 International Existing Building Code, the 2018 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities

Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.

3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map.
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder's office concurrent with the recording of the Plat containing the following minimum data:
 - a. Line work delineating all parcels and roadways on a CAD layer/level designated as "parcel";
 - b. Line work delineating all roadway centerlines on a CAD layer/level designated as "road"; and,
 - c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as "control"; and,
 - d. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a ".dwg", ".dgn" or ".shp" format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.
5. The final plat mylar shall contain all items required under Title 50, Chapter 13, Idaho Code as well as all items required pursuant to KMC §16.04.030J including certificates and signatures.
6. The applicant shall provide a copy of the recorded final plat to the Planning and Building Department for the project record.

Findings of Fact **adopted** this 20th day of September 2021.

Neil Bradshaw, Mayor

Tara Fenwick, City Clerk

**Attachment B:
Lot Line Shift Application
Submittal**



City of Ketchum
Planning & Building

OFFICIAL USE ONLY	
File Number:	P21-072
Date Received:	8-12-21
By:	mf
Fee Paid:	95000
Approved Date:	
Denied Date:	
By:	

Lot Line Shift Application

OWNER INFORMATION	
Owner Name: Mitchell Long & Margit Donhowe	
Mailing Address: PO Box 4228, Ketchum, ID 83340	
Phone: 208-484-6866	
Email: m.long.boise@gmail.com	
PROJECT INFORMATION	
Name of Proposed Plat: Unit 2A, Winter Sun Condominiums	
Representative of Owner: Sean Flynn	
Phone: 208-788-1705	
Mailing Address: 317 N. River St. Hailey, ID 83333	
Email: sflynn@galena-engineering.com	
Legal Land Description: Unit 2, Winter Sun Condominiums	
Project Address: 420 Sage Rd. 2	
Number of Lots: 1	Number of Units: 1
Total Land Area in Square Feet: 235,011 Sq. Ft.	Current Zoning District: General Residential Low Density
Overlay District: <input type="checkbox"/> Flood <input type="checkbox"/> Mountain <input checked="" type="checkbox"/> Avalanche	
Easements to be Dedicated on the Final Plat (Describe Briefly):	
n/a	
ATTACHMENTS	
Attachments Necessary to Complete Application:	
1. A copy of a current lot book guarantee and recorded deed to the subject property;	
2. One (1) copy of preliminary plat; and,	
3. A CD or email of an electronic (.pdf) of the plat.	

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Lot Line Shift Application, in which the City of Ketchum is the prevailing party, to pay reasonable attorney fees, including attorney fees on appeal, and expenses of the City of Ketchum. I, the undersigned, certify that all information submitted with and upon this application form is true and accurate to the best of my knowledge and belief.

Sean Flynn

8/2/2021

Signature of Owner/Representative

Date

CERTIFICATE OF OWNERSHIP

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

A parcel of land located within Section 14, T.4N., R.17E., B.M., City of Ketchum, Blaine County, Idaho, more particularly described as follows:

UNIT 2, WINTER SUN CONDOMINIUM, as shown on the official plat thereof recorded as Instrument No. 210802, records of Blaine County, Idaho.

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

It is the intent of the owners to hereby include said condominium property in this plat.

Mitchell Long

Margit Donhowe

ACKNOWLEDGMENT

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____ 2021, before me, a Notary Public in and for said State, personally appeared Mitchell Long & Margit Donhowe, husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they 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

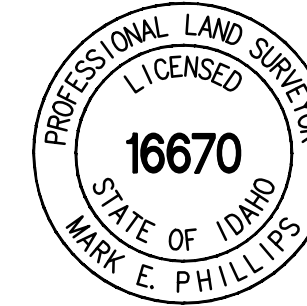
Residing in _____

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 Condominiums and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.

Mark E. Phillips, P.L.S. 16670



BLAINE COUNTY SURVEYOR'S APPROVAL

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

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

Date

KETCHUM CITY ENGINEER'S APPROVAL

The foregoing plat was approved by _____, City Engineer for the City of Ketchum on this _____ day of _____, 2021.

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 Robin Crotty

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

UNIT 2A, WINTER SUN
CONDOMINIUMS

GALENA ENGINEERING, INC.
HAILEY, IDAHO

2 OF 2
Job No. 8107

File Number: 17286850
Policy Number: OP-6-ID1000-5679772

ALTA Owner's Policy (6/17/06)



Sun Valley Title
Authorized Agent for:
Westcor Land Title Insurance Company

SCHEDULE A

Name and Address of Title Insurance Company: Westcor Land Title Insurance Company
2000 Colorado Blvd., Suite 1-3100
Denver, CO 80222

File Number: 17286850

Policy Number: OP-6-ID1000-5679772

Date of Policy: April 11, 2017 at 1:25PM

Amount of Insurance: \$660,000.00

Premium: \$2,015.00

Property Address Reference: 420 Sage Rd, Unit 2, Ketchum, ID 83340

- 1. Name of Insured:**
Mitchell Long and Margit Donhowe
- 2. The estate or interest in the land that is insured by this policy is:**
Fee Simple
- 3. Title is vested in:**
Mitchell Long and Margit Donhowe, husband and wife, as community property with right of survivorship
- 4. The Land referred to in this policy is described as follows:**
See Attached Schedule C

TitleOne Corporation dba Sun Valley Title
By:

Nick Busdon, Authorized Signatory

SCHEDULE B
Exceptions from Coverage

File Number: 17286850
Policy Number: OP-6-ID1000-5679772

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Rights or claims of parties in possession not shown by the public records.
 2. 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.
 3. Easements, or claims of easements, not shown by the public records.
 4. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and not shown by the public records.
 5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims to title to water, whether or not the matters excepted under (a), (b), or (c) are 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. Taxes, including any assessments collected therewith, for the year 2017 which are a lien not yet due and payable.
 8. Water and sewer charges, if any, for the City of Ketchum. Paid Current.
 9. Liens, levies, and assessments of the Winter Sun Condominium Owners Association, Inc. Paid Current.
 10. Easements, reservations, restrictions, and dedications as shown on the official plat of Winter Sun Condominiums.
 11. An Affidavit as to Identification of Plats and Descriptions of Real Property Re. Avalanches
Recorded: October 10, 1979
Instrument No.: 197578
 12. Terms, Provisions, Covenants, Conditions, and Restrictions, and Easements provided by Condominium Declaration but omitting any covenants or restrictions, if any, to the extent that such covenants, conditions or restrictions violate 42 USC 3604 (c) or any other ordinance, statute or regulation.
Recorded: January 13, 1981
Instrument No.: 210801
- Amendments, Supplements, or Modifications of said Covenants, Conditions, and Restrictions.
Recorded: January 19, 1981
Instrument No.: 211008
- Amendments, Supplements, or Modifications of said Covenants, Conditions, and Restrictions.
Recorded: January 11, 1983
Instrument No.: 234212

File Number: 17286850
Policy Number: OP-6-ID1000-5679772

ALTA Owner's Policy (6/17/06)

13. A Deed of Trust with a Fixed/Adjustable Rate Rider, a Condominium Rider, and a Second Home Rider attached to secure an indebtedness in the amount shown below and any other obligations secured thereby:

Amount: \$495,000.00

Trustor/Grantor: Mitchell Long and Margit Donhowe, husband and wife

Trustee: TitleOne Corporation

Beneficiary: Mortgage Electronic Registration Systems, Inc., acting solely as nominee for First Internet Bank of Indiana

Dated: April 10, 2017

Recorded: April 11, 2017

Instrument No.: 642714

File Number: 17286850
Policy Number: OP-6-ID1000-5679772

ALTA Owner's Policy (6/17/06)


SCHEDULE C
Legal Description

Condominium Unit 2 as shown on the Condominium Map for WINTER SUN CONDOMINIUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 210802, and as defined and described in that Condominium Declaration for WINTER SUN CONDOMINIUMS, recorded as Instrument No. 210801, records of Blaine County, Idaho.

Instrument # 642713

HAILEY, BLAINE, IDAHO
04-11-2017 1:24:22 PM No. of Pages: 2
Recorded for: TITLEONE - TWIN FALLS
JOLYNN DRAGE Fee: \$13.00
Ex-Officio Recorder Deputy: JB
Electronically Recorded by Simplifile

Sun Valley Title

 A TitleOne Company

Order Number: 17286850

Warranty Deed

For value received,

Peter T. Richmond, as Successor Trustee of the Mary S. Thornton Trust - Exempt Property Share created under the Will of Decedent, an undivided 19.0911% interest (being 38.1822% of Decedent's undivided community property one-half interest and Peter T. Richmond, as Successor Trustee of the Mary S. Thornton Trust - Property Share created under the Will of Decedent, an undivided 30.9089% interest (being 61.8178% of Decedent's undivided community property one-half interest)

the grantor, does hereby grant, bargain, sell, and convey unto

Mitchell Long and Margit Donhowe, husband and wife, as community property with right of survivorship

whose current address is 2463 Eastdale Dr Boise, ID 83712

the grantee, the following described premises, in Blaine County, Idaho, to wit:

Condominium Unit 2 as shown on the Condominium Map for WINTER SUN CONDOMINIUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 210802, and as defined and described in that Condominium Declaration for WINTER SUN CONDOMINIUMS, recorded as Instrument No. 210801, records of Blaine County, Idaho.

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

Dated: March 29, 2017

Mary S. Thornton Trust - Exempt Property Share created under the Will of Decedent

x 
By: Peter T. Richmond, Successor Trustee

Mary S. Thornton Trust - Property Share created under the Will of Decedent

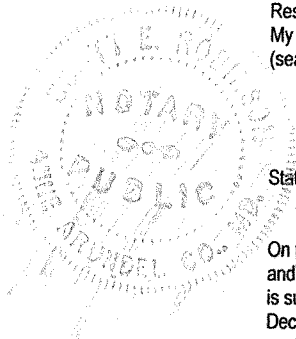
y 
By: Peter T. Richmond, Successor Trustee

State of Maryland, County of Anne Arundel, ss.

On this 4th day of April in the year of 2017, before me, the undersigned, a notary public in and for said state personally appeared Peter T. Richmond, known or identified to me to be the person whose name is subscribed to the within instrument, as trustee of Mary S. Thornton Trust - Exempt Property Share created under the Will of Decedent and acknowledged to me that he/she executed the same as trustee.

Scott E R

Notary Public
Residing In: Annapolis MD.
My Commission Expires: 7-3-17
(seal)

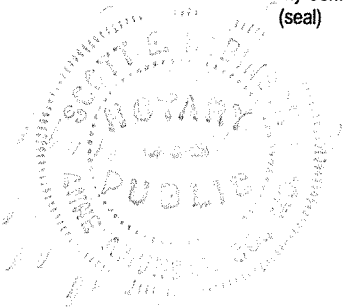


State of Maryland County of Anne Arundel, ss.

On this 4th day of April in the year of 2017, before me, the undersigned, a notary public in and for said state personally appeared Peter T. Richmond, known or identified to me to be the person whose name is subscribed to the within instrument, as trustee of Mary S. Thornton Trust - Property Share created under the Will of Decedent and acknowledged to me that he/she executed the same as trustee.

Scott E R

Notary Public
Residing In: Annapolis MD
My Commission Expires: 7-3-17
(seal)





Recording Requested by
and
When Recorded Mail To:

Lawson & Peebles, P.A.
P.O. Box 197
Ketchum, Idaho 83340

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP

This declaration is made on December 15, 1980, by WARD AND BADENDUCK BUILDERS, a general partnership, ("Declarant"), AND HAROLD E. NEIBLING & MELANIE NEIBLING, h/w, AND MONTE NAVARRE & JOYCE NAVARRE, h/w.

R E C I T A L S :

Declarant is the owner of real property located in Blaine County, Idaho, described in Exhibit "A" attached hereto and made a part hereof by this reference (the "real property"). Declarant has improved or intends to improve the real property by constructing improvements on it containing four (4) dwelling units and recreational and other facilities in accordance with plans and specifications on file with the City of Ketchum, Idaho. By this declaration, Declarant intends to establish a plan of condominium ownership and to provide for the annexation of additional real property to this declaration.

D E C L A R A T I O N :

Declarant declares that the real property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in Idaho Code Sections 55-1501, et. seq. for the subdivision, improvement, protection, maintenance, and sale of condominiums within the real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the real property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the real property, and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this declaration satisfy the requirements of Idaho Code Section 55-1505.

1. DEFINITIONS

1.1 The "articles" mean the Association's Articles of Incorporation and their amendments.

1.2 The "Association rules" mean the rules and regulations regulating the use and enjoyment of the common area adopted by the board from time to time.

1.3 The "Association" means the WINTER SUN CONDOMINIUM OWNERS ASSOCIATION, an Idaho nonprofit corporation, its successors and assigns.

1.4 The "board" means the board of directors of the Association.

1.5 The "bylaws" mean the Association's bylaws and their amendments.

1.6 The "common area" means the entire development except all units as defined in this declaration or as shown on the condominium plan. The percentage of ownership interest in the Common Area which is allocated to each Unit for purposes of tax assessment under Idaho Code §55-1514 and for purposes of liability determination as provided by Idaho Code §55-1515 is expressed as a percentage of the entire ownership interest in the Common Area in Exhibit "B".

1.7 A "condominium" means an estate in real property as defined in Idaho Code Section 55-1503 consisting of an undivided interest as a tenant-in-common in the common area, together with a fee interest in a unit shown and described on the condominium plan.

1.8 The "condominium plan" means the condominium plan recorded pursuant to Idaho Code Section 55-1504 respecting the development, and any amendments to the plan. A copy of the condominium plan is attached as Exhibit "C" and contains a legal description of each Unit in the development and the identifying number of each Unit.

1.9 "Limited common areas" mean those common areas and facilities designated in the declaration for use of a certain condominium owner or owners to the exclusion, limitation or restriction of others.

1.10 The "Declarant means: WARD & BADENDUCK BUILDERS, a general partnership, AND Harold E. Neibling & Melanie Neibling, and, Monte Navarre & Joyce Navarre, h/w, and its successors and assigns, if such successors and assigns acquire record title to any portion of the development for development purposes.

1.11 The "development" means the real property divided or to be divided into condominiums or owned by the Association, including all structures and improvements on it, and any additional real property annexed to this declaration under Section 16 pursuant to any record supplement to this declaration.

1.12 A "member" means every person or entity who holds a membership in the Association.

1.13 A "mortgage" means a mortgage or deed of trust encumbering a condominium or other portion of the development. A "mortgagee" shall include the beneficiary under a deed of trust. An "institutional" mortgagee, is a mortgagee that is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property, or any insurance company or any federal or state agency. A "first mortgage" or "first mortgagee" is one having priority as to all other mortgages or holders of mortgages encumbering the same condominium or other portions of the development.

1.14 An "owner" means each person or entity holding a record ownership interest in a condominium, including declarant, and contract purchasers under recorded contracts. "Owner" shall not include persons or entities who hold an interest in a condominium merely as security for the performance of an obligation.

1.15 A "unit" means the elements of a condominium that are not owned in common with the other owners of condominiums in the development, such units and their respective elements and boundaries being shown and particularly described in the condominium plan. In interpreting deeds and plans the existing physical boundaries of a unit or of a unit reconstructed in substantial accordance with the original plans shall be conclusively presumed to be its boundaries rather than the description expressed in the deed or plans, regardless of minor variance between boundaries shown on the plans or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference is made in this declaration, in the condominium plan, or in any deed or elsewhere to a unit, it shall be assumed that such reference is made to the unit as a whole, including each of its component elements, and to any and all exclusive easements appurtenant to such unit over common area, if any.

2. DESCRIPTION OF COMMON INTEREST, PROPERTY RIGHTS OF ENJOYMENT AND EASEMENTS

2.1 Ownership of Condominium; Easements. Ownership of each condominium within the development shall include a unit, limited common areas, and an undivided interest in the common area or portion thereof if additional real property is annexed to this declaration (which undivided interest shall be specified in the deed from declarant to each owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a condominium remains in effect as provided in this declaration), a membership in the Association, and any exclusive or non-exclusive easement or easements appurtenant to such condominium over the common area as described in this declaration or the deed to the condominium.

2.1.1 Every contract for the sale of a condominium and every other instrument affecting title to a condominium may describe that condominium by the number shown on the condominium plan with the appropriate reference to the condominium plan and to this declaration as each appears on the records of the County Recorder of Blaine County, Idaho, in the following fashion:

"Condominium Unit _____ as shown on the condominium plan for Winter Sun Condominiums appearing in the records of Blaine County, Idaho, as Instrument No. _____, and as defined and described in that declaration for Winter Sun Condominiums recorded in the records of Blaine County, Idaho, as Instrument No. _____."

The description of the condominium shall also include reference to the recording of any amendments to the condominium plan or declaration.

Such description will be construed to describe the unit, together with the appurtenant undivided interest in the common area, and to incorporate all the rights incident to ownership of a condominium and all the limitations on such ownership as described in this declaration.

2.2 Owners Non-Exclusive Easements of Enjoyment, Etc.
Every owner of a condominium shall have a non-exclusive easement of use and enjoyment in, to and throughout the common area and for ingress, egress and support over and through the common area; however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to units over the common area, if any. Each Owner shall have the exclusive right to use and enjoy the Limited Common Area designated herein for exclusive use by such Owner. Each such non-exclusive easement shall be appurtenant to and pass with the title to every condominium, subject to the following rights and restrictions:

2.2.1 The right of the Association to limit the number of guests, and to adopt and to enforce the Association rules.

2.2.2 The right of the Association to charge reasonable admission and other fees for the use of any unassigned parking and storage spaces and any recreational facility situated upon the common area.

2.2.3 The right of the Association to borrow money to improve, repair or maintain the common area.

2.2.4 The right of the Association to assign, rent, license or otherwise designate and control use of unassigned parking and storage spaces within the common area (other

than those portions subject to exclusive easements appurtenant to units, if any).

2.2.5 The right of the Association to suspend the right of an owner to use any recreational or other facility upon the common area as provided in Section 4.3.1.2 of this declaration.

2.2.6 The right of declarant or its designees to enter on the development to reconstruct the development and to make repairs and remedy construction defects if such entry shall not interfere with the use of any occupied unit unless authorized by the unit owner.

2.2.7 The right of the Association, or its agents, to enter any unit to perform its obligations under this declaration, including obligations with respect to construction, maintenance or repair for the benefit of the common area, or the owners in common, or to make necessary repairs that the unit owner has failed to perform. The right shall be immediate in case of an emergency originating in or threatening such unit, whether or not the owner is present.

2.2.8 The right of any owner, or his representatives, to enter the unit of any other owner to perform permissible installations, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, if requests for entry are made in advance and such entry is at a time convenient to the owner whose unit is being entered except that in case of emergency such right of entry shall be immediate.

2.3 Delegation of Use; Contract Purchasers; Tenants. Any owner may delegate his rights of use and enjoyment in the development, including any recreational facilities to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the bylaws and the Association rules, subject however, to this declaration, to the bylaws and to the Association rules. However, if an owner of a condominium has sold his condominium to a contract purchaser or rented it, the owner, members of his family, his guests and invitees shall not be entitled to use and enjoy the recreational facilities of the development while the owner's unit is occupied by such contract purchaser or tenant. Instead, the contract purchaser, while occupying such unit, shall be entitled to use and enjoy the recreational facilities of the development and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an owner during the period of occupancy. Each owner shall notify the secretary of the Association of the names of any contract purchasers or tenants of such owner's condominium. Each owner, contract purchaser or tenant also shall notify the secretary of the Association of the names

of all persons to whom such owner, contract purchaser, or tenant has delegated any rights of use and enjoyment in the development and the relationship that each such person bears to the owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of owners.

2.4 Minor Encroachment. If any portion of the common area encroaches on any unit or if any portion of a unit encroaches on the common area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains and all units and the common area are made subject to such easements. If any structure containing a unit is partially or totally destroyed and then rebuilt and any encroachment on the common area results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all units and the common area are made subject to such easements.

2.5 Easements Granted By Association. The Association shall have the power to grant and convey to any third party easements and rights-of-way in, on, over or under the common area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to a condominium expressly consents to such easement. However, no such easement can be granted if it would interfere with the use, occupancy or enjoyment by any owner of his unit, any exclusive easements over the common area appurtenant to a condominium or the recreational facilities of the development unless approved by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of members and their first mortgagees.

3. USE RESTRICTIONS

3.1 Residential Use. Units shall be used for residential purposes only. However, for a period of three (3) years from the date of recordation of this declaration, units owned by declarant may be used by declarant or its designees as models, sales offices and construction offices for the purpose of developing, improving and selling condominiums in the development. Nothing in this declaration shall prevent an owner from leasing or renting his condominium. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all provisions of this declaration, the articles, the bylaws, and the Association rules and any lease or rental agreement must specify that failure to abide by such provisions shall

be a default under the lease or rental agreement. Also, except for a mortgagee in possession of a condominium following a default in a first mortgage, a foreclosure proceeding or acceptance of a deed or other arrangement in lieu of foreclosure, no owner shall rent, lease or let his condominium for transient or hotel purposes.

3.2 Commercial Use. Except as otherwise provided in this declaration, including Section 3.1, no part of the development shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose.

3.3 Maintenance. Each owner of a condominium shall be responsible for maintaining his limited common area, his unit, including the equipment and fixtures in the unit and its interior walls, ceilings, windows and doors in a clean, sanitary, workable and attractive condition. However, each owner has complete discretion as to the choice of furniture, furnishings and interior decorating; but windows can be covered only by drapes or shades and cannot be painted or covered by foil, cardboard, or other similar materials. Each owner also shall be responsible for repair, replacement and cleaning of the windows and glass of his unit both exterior and interior. Unless otherwise provided in this declaration, each owner shall clean and maintain any exclusive easement appurtenant to his condominium.

3.4 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the development, and no oil wells, tanks, tunnels or mineral excavations or shafts shall be permitted on the surface of the development or within five hundred (500) feet below the surface of the development. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted on the development.

3.5 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the development. Nothing shall be done on or within the development that may be or may become an annoyance or nuisance to the residents of the development, or that in any way interferes with the quiet enjoyment of occupants of units. Unless otherwise permitted by the Association rules, no owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such owner's unit, limited common area and except within those portions of the common area subject to exclusive easements appurtenant to such owner's condominium, if any.

3.6 Parking Restrictions; Use of Garage. Unless otherwise permitted by the board, no automobile shall be parked or left within the development other than within a garage, carport, or assigned or appurtenant parking stall or space. No boat, trailer, recreational vehicle, camper, truck or commercial vehicle shall be parked or left within the development other than in a parking area designated by the board for the parking and storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association rules. Any garages and carports shall be used for parking automobiles only and shall not be converted for living or recreational activities. Any garage doors shall remain closed at all times except when being used to enter or exit.

3.7 Signs. No sign of any kind shall be displayed to the public view on or from any unit or within the common area without the approval of the board, except such signs as may be used by the declarant or its designees for a period of three (3) years from the date of recordation of any Supplement to this declaration pursuant to Section 16 hereof, whichever is later, for the purpose of developing, selling and improving condominiums within the development. However, one sign of customary and reasonable dimensions advertising a condominium for sale or for rent may be placed within each unit or within the common area immediately adjacent to it by the owner, the location and design of it to be subject to approval by the board.

3.8 Antennae, External Fixtures, Etc. No television or radio poles, antennae, flag poles, clotheslines, or other external fixtures other than those originally installed by declarants or approved by the board and any replacements shall be construed, erected or maintained on or within the common area or any structures on it. No wiring, insulation, air conditioning, or other machinery or equipment other than that originally installed by declarant or approved by the board, and their replacements shall be constructed, erected or maintained on or within the common area, including any structures on it. Each owner shall have the right to maintain television or radio antennae within completely enclosed portions of his unit. However, if cable television is or becomes available to such owner, his right to maintain television antennae within completely enclosed portions of his unit shall terminate immediately unless the board continues to authorize their maintenance.

3.9 Fences, Etc. No fences, awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the development except those that are installed in accordance with the original construction of the development, and their replacements or as are authorized and approved by the board.

3.10 Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any unit or elsewhere within the development except that domestic dogs, cats, fish and birds inside bird cages may be kept as household pets within any unit, if they are not kept, bred or raised for commercial purposes. The board can prohibit maintenance of any animal that constitutes a nuisance to any other owner in the sale and exclusive opinion of the board. Each person bringing or keeping a pet upon the development shall be absolutely liable to other owners, their family members, guests, invitees, tenants and contract purchasers, and their respective family members, guests, and invitees for any damage to persons or property caused by any pet brought upon or kept upon the development by such person or by members of his family, his guests or invitees.

3.11 Restricted Use of Recreation Vehicles, Etc. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living area while located on the development. However, trailers or temporary structures for use incidental to the initial construction of the development or the initial sales of condominiums may be maintained within the development but shall be promptly removed on completion of all initial construction and all initial sales.

3.12 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers. No owner shall permit or cause any trash or refuse to be kept on any portion of the development other than in the receptacles customarily used for it, which shall be located only in places specifically designed for such purpose except on the scheduled day for trash pickup.

3.13 Outside Drying and Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on balconies, patios, porches or other areas.

3.14 Structural Alterations. No structural alterations to the interior of or common area surrounding any unit shall be made and no plumbing or electrical work within any bearing or common walls shall be performed by any owner without the prior written consent of the board.

3.15 Exterior Alterations. No owner shall at his expense or otherwise make any alterations or modifications to the exterior of the buildings, fences, railings or walls situated within the development without the prior written consent of the board and any institutional first mortgagee whose interest may be affected.

3.16 Compliance With Laws, Etc. Nothing shall be done or kept in any unit or in the common area that might increase the rate of, or cause the cancellation of, insurance for the development, or any portion of the development, without the prior

written consent of the board. No owner shall permit anything to be done or kept in his unit that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body. No owner shall allow furniture, furnishings or other personalty belonging to such owner to remain within any portion of the common area except portions subject to exclusive easements over common area appurtenant to such owner's condominium and except as may otherwise be permitted by the board.

3.17 Indemnification. Each owner shall be liable to the remaining owners for any damage to the common area that may be sustained by reason of the negligence of that owner, members of his family, his contract purchasers, tenants, guests or invitees, but only to the extent that any such damage is not covered by insurance. Each owner, by acceptance of his deed, agrees for himself and for the members of his family, his contract purchasers, tenants, guests or invitees, to indemnify each and every other owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the unit of that particular owner and within any exclusive easements over the common area appurtenant to the owner's condominium, unless the injury or damage occurred by reason of the negligence of any other owner or person temporarily visiting in said unit or portion of the common area subject to an exclusive easement appurtenant to the condominium or is fully covered by insurance.

3.18 Owner's Obligation For Taxes. To the extent allowed by law, all condominiums, including their pro rata undivided interest in the common area and the membership of an owner in the Association, shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to first mortgages under local law shall relate only to the individual condominiums and not to the development as a whole. Each owner shall be obligated to pay any taxes or assessments assessed by the county assessor of the county in which the development is located against his condominium and against his personal property.

3.19 Future Construction. Nothing in this declaration shall limit the right of declarant, its successors and assigns, to complete construction of improvements to the common area and to condominiums owned by declarant or to alter them or to construct additional improvements as declarant deems advisable before completion and sale of the entire development. The rights of declarant in this declaration may be assigned by declarant to any successor to all or any part of any declarant's interest in the development, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor.

3.20 Enforcement. The failure of any owner to comply with any provision of this declaration or the articles or bylaws shall give rise to a cause of action in the Association and any aggrieved owner for the recovery of damages or for injunctive relief, or both.

4. THE ASSOCIATION

4.1 Formation. The Association is a nonprofit corporation formed under the laws of Idaho. On the close and recording of the first condominium sale to an owner, the Association shall be charged with the duties and invested with the powers set forth in the articles, the bylaws and this declaration, including, but not limited to, control and maintenance of the common area and ownership of any facilities on the common area.

4.2 Association Action; Board of Directors and Officers; Members' Approval. Except as to matters requiring the approval of members as set forth in this declaration, the articles, or the bylaws, the affairs of the Association shall be conducted by the board and such officers as the board may elect or appoint. Such election or appointment shall be in accordance with this declaration or the bylaws, and their amendments. Except as otherwise provided in this declaration, the articles or the bylaws, all matters requiring the approval of members shall be deemed approved if members holding a majority of the total voting rights assent to them by written consent as provided in the bylaws or if approved by a majority vote of a quorum of members at any regular or special meeting held in accordance with the bylaws.

4.3 Powers and Duties of Association.

4.3.1 Powers. The Association shall have all the powers of a nonprofit corporation organized under the General Nonprofit Corporation Law of Idaho subject only to such limitations on the exercise of such powers as are set forth in the articles, the bylaws and this declaration. It shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this declaration, the articles and the bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the following:

4.3.1.1 Assessments. The Association shall have the power to establish, fix and levy assessments against the owners and to enforce payment of such assessments, in accordance with the provisions of this declaration. However, the approval of members shall be required as to the amounts of all regular and special assessments except as otherwise provided in this declaration.

4.3.1.2 Right of Enforcement. The Association in its own name and on its own behalf of any owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this declaration or of the articles or bylaws, or of the Association rules or any resolutions of the board, and to enforce by mandatory injunction, or otherwise, all of these provisions. In addition, the Association can suspend the voting rights, can suspend use privileges of the common area or can assess monetary penalties against any owner or other person entitled to exercise such rights or privileges for any violation of this declaration or the articles, bylaws, Association rules, or board resolutions. However, any such suspension of use privileges cannot exceed a period of thirty (30) days for any one violation and any monetary penalty cannot exceed Fifty Dollars (\$50.00) for any one violation. Each suspended or fined owner or other person can appeal such action by filing written notice of his intention to appeal with the board. The action imposing the fine or suspension shall then become ineffective until the fine or suspension is unanimously approved by all board members at a regular or special meeting of the board at which all board members are present. The owner or other person to be fined or suspended can appear, be represented by counsel and be heard at the meeting. Except as provided in this section, the Association does not have the power or authority to cause a forfeiture or abridgement of an owner's right to the full use and enjoyment of such owner's condominium if the owner does not comply with provisions of this declaration or of the articles or bylaws or the Association rules, except when the loss or forfeiture is the result of a court judgment or arbitration decision or a foreclosure or sale under a power of sale based on failure of the owner to pay assessments levied by the Association.

4.3.1.3 Delegation of Powers; Professional Management. The Association acting by and through the board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"). Any agreement for professional management of the development shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year, although such agreement may be renewed from year to year by the board.

4.3.1.4 Association Rules. The board shall have the power to adopt, amend and repeal the Association rules as it deems reasonable. The Association rules shall govern the use of the common area by all owners or their families, guests, invitees or by any contract purchaser, or tenant, or their respective family members, guests or invitees. However, the Association rules shall not be inconsistent with or materially alter any provisions of this declaration, the articles or the

bylaws. A copy of the Association rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and a copy shall be posted in a conspicuous place within the development. In case of any conflict between any of the Association rules and any other provisions of this declaration, the articles, or bylaws, the conflicting Association rules shall be deemed to be superseded by the provisions of this declaration, the articles or bylaws.

4.3.2 Duties of the Association. In addition to the powers delegated to it by its articles or the bylaws, and without limiting their generality, the Association, acting by and through the board, or persons or entities described in Section 4.3.1.3, has the obligation to conduct all business affairs of common interest to all owners and to perform each of the following duties:

4.3.2.1 Operation and Maintenance of Common Area. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the common area, and all its facilities, improvements, and landscaping including any private driveways and private streets, and any other property acquired by the Association, including personal property, in a first-class condition and in a good state of repair. In this connection, the Association may enter into contracts for services or materials for the benefit of the Association or the common area, including contracts with declarant. The term of any such service contract shall not exceed one (1) year and shall be terminable by either party with or without cause and without payment of a termination fee upon thirty (30) days' written notice.

4.3.2.2 Taxes and Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the common area, personal property owned by the Association or against the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

4.3.2.3 Water and Other Utilities. To acquire, provide and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other necessary utility services for the common area and for condominiums when the condominiums are not separately billed. The term of any contract to supply any of the listed services shall not exceed one (1) year or, if the supplier is a regulated public utility, the shortest term not to exceed one (1) year for which the supplier will contract at the applicable regulated rate.

4.3.2.4 Insurance. To obtain, from reputable insurance companies, and maintain the insurance described in Section 8.

4.3.2.5 Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this declaration, that may be reasonably necessary to enforce any of the provisions of this declaration, the articles and bylaws, and the Association's rules and board resolutions.

4.3.2.6 Enforcement of Bonded Obligations. If the Association is the obligee under a bond or other arrangement ("bond") to secure performance of a commitment of the declarant or its successors or assigns to complete common area improvements, not completed at the time of recordation of the final subdivision plat for the latest phase of the development, the board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a notice of completion has not been filed within sixty (60) days after the completion date specified for that improvement in the planned construction statement appended to the bond. However, if the Association has given an extension in writing for the completion of any common area improvement, the board shall consider and vote on the action to enforce the obligations under the bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. If the board fails to consider and vote on the action to enforce the obligations under the bond, or if the board decides not to initiate action to enforce the obligations under the bond, then on the petition in writing to the board signed by members of the association representing not less than ten percent (10%) of the total voting power of the Association, the board shall call a special meeting of members for the purpose of voting to override the decision of the board not to initiate action or to compel the board to take action to enforce the obligations under the bond. The meeting shall be called by the board by fixing a date not less than fifteen (15) days nor more than thirty (30) days after receipt by the board of said petition and by giving written notice to all owners entitled to vote in the manner provided in this declaration or in the bylaws for notices of special meetings of members of the Association. At the meeting, the vote in person or by proxy of a majority of the owners entitled to vote (other than declarants) in favor of taking action to enforce the obligations under the bond shall be deemed to be the decision of the Association and the board shall then implement this decision by initiating and pursuing appropriate action in the name of the Association.

4.3.3 Limitations on Authority of Board. Except with the vote or written assent of members of the Association holding fifty-one percent (51%) of the voting rights of each class of members, the board shall not take any of the following actions:

4.3.3.1 Incur aggregate expenditures for capital improvements to the common area in any fiscal year in excess of five percent (5%) of the budgets gross expenses of the Association for that fiscal year; or

4.3.3.2 Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

4.3.3.3 Pay compensation to members of the board or to officers of the Association for services performed in the conduct of the Association's business. However, the board may cause a member of the board or an officer to be reimbursed for expenses incurred in carrying on the business of the Association.

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

4.5 Organizational Meeting of Members. An organizational meeting shall be held as soon as practicable after incorporation of the Association, and the directors elected then shall hold office until the first annual meeting. All offices of the board of directors shall be filled at the organizational meeting.

4.6 Regular Meetings of Members and Notice. The first annual meeting of members of the Association shall be held within forty-five (45) days after the closing of the sale of the condominium that represents the fifty-first (51st) percentile interest of condominiums approved for sale in the final subdivision plat for the first phase of the development, but in no case later than six (6) months after the closing and recording of the sale of the first condominium within the development. Thereafter, regular meetings of members of the Association shall be held at least once in each year at a time and place within the development as prescribed in the bylaws or as selected by the board. Special meetings may be called as provided for in the bylaws. Notice of all members' meetings, regular or special, shall be given by regular mail, personal delivery or telegram to all owners and to any mortgagee who has requested in writing that such notice be sent to it and shall be given not less than ten (10) days nor more than thirty (30) days before the time of the meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken.

Any mortgagee, through its designated representative, shall be entitled to attend any such meeting but except as provided in Section 14.9 shall not be entitled to vote at the meeting. The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the date the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of the total votes. Any meeting of members at which a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present in person or by proxy. As long as a majority of the voting power of the Association resides in the declarant, or as long as there are two outstanding classes of membership in the Association, the election of twenty percent (20%) of the directors (the "specially elected directors") shall be determined at a special election held immediately before the regular election of directors (except in the case of the election of a specially elected director following removal of his predecessor). At the duly constituted meeting of members, nominations for the specially elected director shall be made from the floor. When nominations have been closed, the special election shall take place. Declarants shall not have the right to participate in or vote in such special election (although declarant or declarant's representative may be present), and the candidates receiving the highest number of votes up to the number of specially elected directors to be elected shall be deemed to be the specially elected directors, and their term shall be the same as that of any other director. Unless members (excluding declarant) holding a majority of all voting rights (excluding any voting rights held by declarant) assent by vote or written consent, such specially elected directors cannot be removed. In case of the death, resignation, or removal of a specially elected director, his successor shall be elected at a special meeting of members, and the provisions set forth in this Section respecting the election of a specially elected director shall apply as to the election of a successor. Except as provided in this declaration, the provisions of this declaration and of the articles and bylaws applicable to directors, including their election and removal, shall apply to a specially elected director.

4.7 Financial Statements of the Association. The Board shall prepare, or cause to be prepared, a balance sheet and an operating statement for the Association as of the accounting dates set forth in this Section, and copies of each shall be distributed to each owner within sixty (60) days after the accounting dates. Except with respect to the balance sheet and

operating statements for the Association prepared with respect to the first accounting date and the pro forma budget described in Section 6.4.1.1, in any fiscal year in which the gross receipts of the Association exceed SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), the balance sheet and operating statement shall be audited by an independent public accountant. For those purposes the accounting dates for the preparation of the balance sheet and operating statement are as follows:

4.7.1 The first accounting date shall be the last day of the month closest in time to six (6) months from the date of closing of the first sale of a condominium within the development. The balance sheet shall be rendered as of that date, and the operating statement shall be rendered for the period of commencing with the date of closing of the first sale of a condominium within the development and ending as of the first accounting date. The operating statement for the first six (6) months accounting period shall include a schedule of assessments received or receivable, itemized by unit number and by the name of the person or entity assessed.

4.7.2 The second and subsequent accounting date shall be the last day of the Association's fiscal year (which fiscal year shall be a calendar year unless a different fiscal year is adopted). The balance sheet shall be rendered as of that date, and the operating statement shall be rendered for the fiscal year it covers, and both shall be distributed to the owners within sixty (60) days after the close of the fiscal year.

4.7.3 Copies of each such balance sheet, operating statement and pro forma operating statement for the Association shall be mailed to any mortgagee who has requested in writing that such copies be sent to it.

4.8 Inspection of Association Books and Records.

4.8.1 Any membership register, books of account and minutes of meetings of the members, the board and committees of the board of the Association, shall be made available for inspection and copying by any member of the Association, or his duly-appointed representative, or any mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the development as the board prescribes.

4.8.2 The board shall establish by resolution reasonable rules with respect to:

4.8.2.1 Notice to be given to the custodian of the records of the Association by the member, representative or mortgagee desiring to make an inspection.

4.8.2.2 Hours and days of the week when an inspection may be made.

4.8.2.3 Payment of the cost of reproducing copies of documents requested by a member or by a representative or mortgagee.

4.8.3 Every director of the Association shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

5. MEMBERSHIP AND VOTING RIGHTS

5.1 Membership.

5.1.1 Qualifications. Each owner of a condominium, including declarants, shall be a member of the Association. No owner shall hold more than one membership in the Association even though such owner may own, or own an interest in, more than one condominium. Ownership of a condominium or interest in it shall be the sole qualification for membership in the Association. Each owner shall remain a member of the Association until his ownership or ownership interest in all condominiums in the development ceases at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a condominium merely as security for performance of an obligation are not to be regarded as members.

5.1.2 Members Rights and Duties. Each member shall have the rights, duties and obligations set forth in this declaration, the articles, the bylaws and the Association's rules, as the same may from time to time be amended.

5.1.3 Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more condominiums shall be appurtenant to each such condominium, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such condominium or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a condominium or interest in it shall operate automatically to transfer the appurtenant membership rights in the Association to the new owner.

5.2 Voting.

5.2.1 Number of Votes. The Association shall have two (2) classes of voting membership:

Class A: Class A members are all owners, with the exception of declarant. Each Class A member shall be entitled to one (1) vote for each condominium in which such class member owns an interest. However, when more than one Class A member owns an interest in a condominium, the vote for such condominium shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one condominium.

Class B: The Class B members shall be the declarant who shall be entitled to three (3) votes for each condominium owned in any phase of the development including the first phase which has been annexed to this declaration and with respect to which assessments are then being levied by the Association. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

5.2.1.1 When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

5.2.1.2 On the third anniversary of the recordation of the most recent final subdivision plat for a phase of the development; or

As long as two classes of members in the Association exist, no action by the Association that must have the prior approval of the Association members shall be deemed approved by the members unless approved by the appropriate percentage of both classes of members, except as provided in Section 4.3.2.6 of this declaration.

5.2.2 Joint Owner Votes. The voting rights for each condominium may not be cast on a fractional basis. If the joint owners of a condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any owner exercises the voting rights of a particular condominium, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other owners of the same condominium. If more than one (1) person or entity exercises the voting rights for a particular condominium, their votes shall not be counted and shall be deemed void.

6. ASSESSMENTS

6.1 Agreement to Pay. The declarant, for each condominium owned by it in the development that is expressly made subject to assessment as set forth in this declaration, covenant and agree, and each purchaser of a condominium owned, to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as provided in this declaration.

6.2 Personal Obligations. Each assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an owner at the time such assessment, or installment became due and payable. If more than one person or entity was the owner of a condominium, the personal obligation to pay such assessment, or installment respecting such condominium shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments and other such sums, shall not pass to an owner's successors in interest unless expressly assumed by them. No owner may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the common area or by waiver of the use or enjoyment of, or by abandonment of, his condominium.

6.3 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the members of the association, the improvement, replacement repair, operation and maintenance of the common area and the performance of the duties of the Association as set forth in this declaration.

6.4 Assessments.

6.4.1 Regular Assessments.

6.4.1.1 Not more than sixty (60) days nor less than thirty (30) days before the beginning of each fiscal year of the Association, the board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the board shall written comments received and any other information available to it and, after making any adjustments that the board deems appropriate, without a vote of the members of the Association, shall establish the regular assessment for the forthcoming fiscal year; provided, however, that the board may not establish a regular assessment for any fiscal year of the Association which is more than one hundred twenty percent (120%) of the regular assessment of the prior fiscal year of the Association (except the first such fiscal year of the Association if it should be less than twelve (12) months) without the approval by vote or written consent of members holding fifty-one percent (51%) of the voting rights of each class of members.

6.4.1.3 Unless the Association or its assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in such other manner authorized by law or regulations of the Internal Revenue Service as will prevent such funds from being taxed as income of the Association.

6.4.2 Special Assessments. If the board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the common area, the board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the board, it shall become a special assessment. The board may, in its discretion, pro rate such special assessment over the remaining months of the fiscal year or levy the assessment immediately against each condominium. Unless exempt from federal or state income taxation, all proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service to avoid, if possible, its taxation as income of the Association.

6.4.3 Limitation Respecting Special Assessments. Any special assessment in excess of five percent (5%) of the budgeted gross expense of the Association for the fiscal year in which a special assessment is levied shall require approval by vote or written consent of fifty-one percent (51%) of the holders of voting rights of each class of members, except in case of a special assessment against an owner as a remedy utilized by the board to reimburse the Association for costs incurred in bringing the member or his condominium into compliance with the provisions of this declaration.

6.5. Uniform Rate of Assessment. Except as otherwise specifically provided in this declaration, including Sections 4.3.1.2, 6.4.3 and 9.6, regular and special assessments must be fixed at a uniform rate for all condominiums and regular and special assessments shall be determined by dividing the amount by the total number of condominiums then within the development and subject to assessment.

6.6 Assessment Period. The regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments shall be payable in equal monthly installments unless the board adopts some other basis for collection. However, the initial regular assessment period shall commence on the first day of the calendar month following the date on which the sale of the first condominium to a purchaser is closed and recorded (the "initiation date") and shall terminate on December 31 of the year in which the initial sale is closed and recorded. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the board adopts

some other basis for collection. The Association shall not change the pro rata interest or obligation of any condominium for purposes of levying assessments unless all owners and all institutional first mortgagees have given their prior written consent.

6.7 Notice and Assessment Installment Due Dates. A single ten (10) day prior written notice of each annual regular assessment and each special assessment shall be given to any owner of every condominium subject to assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be established by the board. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge of Fifteen Dollars (\$15.00) together with interest at the rate of twelve percent (12%) per annum calculated from the due date to and including the date full payment is received by the Association.

6.8 Estoppel Certificate. The board or manager, on not less than twenty (20) days prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular owner is in default as to his condominium under the provisions of this declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such condominium. Any such certificate may be relied on by any prospective purchaser or mortgagee of the condominium, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

7. COLLECTION OF ASSESSMENTS: LIENS

7.1 Right to Enforce. The right to collect and enforce assessments is vested in the board acting for and on behalf of the Association. The board or its authorized representative, including any manager, can enforce the obligations of the owners to pay assessments provided for in this declaration by commencement and maintenance of a suit at law or in equity, or the board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Section 6.2 shall be maintainable without foreclosing or waiving the lien rights.

7.2 Creation of Lien. If there is a delinquency in the payment of any assessment, or installment on a condominium, as described in Section 6.7, any amounts that are delinquent, together with the late charge described in that section, interest at the rate of twelve percent (12%) per annum, and all costs that

are incurred by the board or its authorized representative in the collection of the amounts, including reasonable attorney's fees, shall be a lien against such condominium upon the recordation in the office of the County Recorder in which the development is located of a notice of assessment as provided in Idaho Code Section 55-1508. The notice of assessment shall not be recorded unless and until the board or its authorized representative has delivered to the delinquent owner or owners, not less than fifteen (15) days before the recordation of the notice of assessment, a written notice of default and a demand for payment, and unless such delinquency has not been cured within said fifteen (15) day period. The lien shall expire and be void unless, within one (1) year after recordation of the notice of assessment, the board or its authorized representative records a notice of default as provided hereinafter or institutes judicial foreclosure proceedings with respect to such lien.

7.3 Notice of Default; Foreclosure. Not more than one (1) year nor less than fifteen (15) days after the recording of the notice of assessment, the board or its authorized representative can record a notice of default and can cause the condominium with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under a power of sale in a deed of trust, or in any other manner permitted by law, or through judicial foreclosure. However, as a condition precedent to the holding of any such sale appropriate publication shall be made. In connection with any sale, the board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in Idaho as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the board or its authorized representative shall cause to be recorded in the office of the county recorder of the county in which the development is located a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorney's fees by any delinquent owner. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the owner shall be required to pay to the Association reasonable rent for the condominium and the Association shall be entitled to the appointment of a receiver to collect the rent. On becoming delinquent in the payment of any assessments, or installments each delinquent owner shall be deemed to have absolutely assigned all rent, issues and profits of his condominium to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the owners, shall have the power to bid upon the condominium at foreclosure sale and to acquire, hold, lease, mortgage and convey the condominium.

7.4 Waiver of Exemptions. Each owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Section 7, the benefit of any homestead or exemption laws of Idaho in effect at the time any assessment, or installment, becomes delinquent or any lien is imposed. }

8. INSURANCE

8.1 Liability Insurance. The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the declarants and the owners and occupants of condominiums, and their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the ownership or use of the common area and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage, liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

8.2 Fire and Extended Coverage Insurance. The Association also shall obtain and maintain a master or blanket policy of fire insurance for the full insurable value of all of the improvements with the development. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all institutional first mortgagees. If more than one institutional first mortgagee has a loan of record against a condominium in the development, the policy and endorsements shall meet the maximum standards of the various institutional first mortgagees represented in the development. The policy shall contain an agreed amount endorsement or its equivalent, an increased cost of construction endorsement, vandalism, malicious mischief coverage, a special form endorsement and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide amounts of coverage as shall be determined by the board. The policy shall name as insured the Association, the owners and declarant, as long as declarant is the owner of any condominium, and all mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described hereinafter.

8.3 Individual Fire Insurance Limited. Except as provided in this Section, no owner shall separately insure his unit against loss by fire or other casualty covered by any insurance carrier under Section 8.2. If any owner violates this

provision, any diminution in insurance proceeds otherwise payable under policies described in Section 8.2 that results from the existence of such other insurance will be chargeable to the owner who acquired other insurance, and such owner will be liable to the Association to the extent of any such diminution. An owner can insure his personal property against loss. In addition, any improvements made by an owner within his unit may be separately insured by the owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other owners, the Association, declarant and institutional first mortgagee of such condominium.

8.4 Trustee. All insurance proceeds payable under Section 8.2 and 8.3, subject to the rights of mortgagees under Section 8.8, may be paid to a trustee, to be held and expended for the benefit of the owners, mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in the county in which the development is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the board shall have the duty to contract for such work as provided for in this declaration.

8.5 Other Insurance. The board may and, if required by any institutional first mortgagee, shall purchase and maintain demolition insurance in adequate amounts to cover demolition in case of total or partial destruction and a decision not to rebuild. The board also shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The board also shall purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150% of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation) sufficient to meet the requirements of any institutional first mortgagee. The board shall purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by any institutional first mortgagee.

8.6 Owner's Insurance. An owner may carry whatever personal liability and property damage liability insurance with respect to his condominium that he desires. However, any such policy shall include a waiver of subrogation clause acceptable to the board and to any institutional first mortgagee.

8.7 Adjustment of Losses. The board is appointed attorney-in-fact by each owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 8.1, 8.2 and 8.5. The board is granted full right and authority to compromise and settle any claim or enforce any claim

by legal action or otherwise and to execute releases in favor of any insurer.

8.8 Distribution to Mortgagees. Any mortgagee has the option to apply insurance proceeds payable on account of a condominium in reduction of the obligation secured by the mortgage of such mortgagee.

9. DESTRUCTION OF IMPROVEMENTS

9.1 Destruction; Proceeds Exceed 85% of Reconstruction Costs. If there is a total or partial destruction of the improvements in the development, and if the available proceeds of the insurance carried pursuant to Section 8 are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, members then holding at least seventy-five percent (75%) of the total voting power of each class of members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall not take place. If repair and reconstruction is to take place, the board shall be required to execute, acknowledge and record in the office of the County in which the development is located not later than one hundred twenty (120) days from the date of such destruction, a certificate declaring the intention of the members to rebuild.

9.2 Destruction; Proceeds Less than 85% of Reconstruction Costs. If the proceeds of insurance are less than eighty-five percent (85%) of the costs of repair and reconstruction, repair and reconstruction may nevertheless take place if, within ninety (90) days from the date of destruction, members then holding at least fifty-one percent (51%) of the total voting power of each class of members present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that such repair and reconstruction shall take place. If repair and reconstruction is to take place, the board shall execute, acknowledge and record in the office of the county recorder of the County in which the development is located not later than one hundred twenty (120) days from the date of such destruction a certificate declaring the intention of the members to rebuild.

9.3 Rebuilding Procedures. If the members determine to rebuild, pursuant to Sections 9.1 or 9.2, each owner shall be obligated to contribute his proportionate share of the cost of reconstruction or restoration over and above the available insurance proceeds. The proportionate share of each owner shall be equal to a fraction the numerator of which is one (1) and the denominator of which is the number of condominiums in the development. If any owner fails or refuses to pay his proportionate share, the board may levy a special assessment against the

condominium of such owner which may be enforced under the lien provisions contained in Section 7 or in any other manner provided in this declaration. If any owner disputes the amount of his proportionate liability under this Section, such owner may contest the amount of his liability by submitting to the board within ten (10) days after notice to the owner of his share of the liability written objections supported by cost estimates or other information that the owner deems to be material and may request a hearing before the board at which he may be represented by counsel. Following such hearing, the board shall give written notice of its decision to all owners, including any recommendation that adjustments be made with respect to the liability of any owners. If such adjustments are recommended, the notice shall schedule a special meeting of members for the purpose of acting upon the board's recommendation, including making further adjustments, if deemed by the members to be necessary or appropriate. All adjustments shall be affirmed or modified by a majority of the total voting power of each class of members. If no adjustments are recommended by the board, the decision of the board shall be final and binding on all owners, including any owner filing objections.

9.4 Rebuilding Contract. If the members determine to rebuild, the board or its authorized representative shall obtain bids from at least two reputable contractors and shall award the repair and reconstruction work to the lowest bidder. The board shall have the authority to enter into a written contract with the contractor for such repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms of the contract. It shall be the obligation of the board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

9.5 Rebuilding Not Authorized. If the members determine not to rebuild, then, subject to the rights of mortgagees under Section 8.8, any insurance proceeds then available for such rebuilding shall be distributed to the owner of each condominium in proportion to his respective percentage undivided interest in the common area. The board shall have the duty, within one hundred twenty (120) days from the date of such destruction, to execute, acknowledge and record in the office of the County Recorder of said County, a certificate declaring the intention of the members not to rebuild.

9.6 Minor Repair and Reconstruction. The board shall have the duty to repair and reconstruct improvements, without the consent of members and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Twenty Thousand Dollars (\$20,000.00). The board is expressly empowered to levy a special assessment for the cost of repairing

and reconstructing improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described in Section 9.3 (but without the consent or approval of members, despite any contrary provisions in this declaration).

9.7 Revival of Right to Partition. On recordation of a certificate described in Section 9.5, the right of any owner to partition through legal action as described in Section 11 shall revive immediately.

10. CONDEMNATION

10.1 Sale by Unanimous Consent. If an action for condemnation of all or a portion of the development is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the owners and after written notice to all mortgagees, the development, or a portion of it may be sold by the board acting as irrevocable attorney-in-fact of all of the owners for a price deemed fair and equitable by the board but in no event less than the aggregate unpaid balance of all mortgages encumbering condominiums in the development.

10.2 Distribution of Proceeds of Sale. On a sale occurring under Section 10.1, the proceeds shall be distributed to the owner and the mortgagees of each condominium as their respective interests may appear in proportion to each owner's respective percentage undivided interest in the common area.

10.3 Distribution of Condemnation Award. If the development, or a portion of it, is not sold but is instead taken, the judgment of condemnation shall by its terms apportion the award among the owners and their respective mortgagees.

10.4 Revival of Right to Partition. On sale or on taking that renders more than fifty percent (50%) of the units in the development uninhabitable, the right of any owner to partition through legal action shall revive immediately.

11. PARTITION

11.1 Suspension. The right of partition is suspended pursuant to Idaho law as to the development. Partition of the development can be had on a showing that the conditions for such partition as stated in this Section 9.7 or in Section 10.4 have been met. Nothing in this declaration shall prevent partition or division of interest between joint or common owners of any condominium.

11.2 Distribution of Proceeds. Proceeds or property resulting from a partition shall be distributed to and among the respective owners and their mortgagees as their interests appear in proportion to each owner's respective percentage undivided interest in the common area.

11.3 Power of Attorney. Each of the owners hereby grants the Association an irrevocable power of attorney to sell the development for the benefit of the owners when partition can be had. Exercise of said power is subject to the approval of members and their institutional first mortgagees.

12. NON-SEVERABILITY OF COMPONENT INTERESTS IN
A CONDOMINIUM

12.1 Prohibition Against Severance. An owner shall not be entitled to sever his unit in any condominium from his membership in the Association, and shall not be entitled to sever his unit and his membership from his undivided interest in the common area for any purpose. None of the component interests in a condominium can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be appurtenant to his unit over the common area from his condominium, and any attempt to do so shall be void. The suspension of such right of severability will not extend beyond the period set forth in Section 11 respecting the suspension of partition. It is intended hereby to restrict severability.

12.2 Conveyance. After the initial sales of the condominiums, any conveyance of a condominium by an owner shall be presumed to convey the entire condominium. However, nothing contained in this section shall preclude the owner of any condominium from creating a cotenancy or joint tenancy in the ownership of the condominium with any other person or persons.

13. TERM OF DECLARATION

This declaration shall run with the land and shall continue in full force and effect for a period of fifty (50) years from the date on which this declaration is executed. After that time, this declaration and all covenants, conditions, restrictions and other provisions shall be automatically extended for successive ten (10) year periods unless this declaration is revoked by an instrument executed by owners and their respective institutional first mortgagees of not less than three-fourths (3/4) of the condominiums in the development and recorded in the office of the county recorder of the county in which the development is located.

14. PROTECTION OF MORTGAGEES

14.1 Mortgage Permitted. Any owner may encumber his condominium with a mortgage.

14.2 Subordination. Any lien created or claimed under the provisions of this declaration is expressly made subject and subordinate to the rights of any mortgage that encumbers all or a

portion of the development, or any condominium, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such mortgage unless the mortgagee expressly subordinates his interest, in writing, to such lien.

14.3 Amendment. The prior written consent of seventy-five percent (75%) of the holders of all first mortgagees (based upon one vote for each mortgage held) shall be required to any material amendment to this declaration, to the articles or to the bylaws. As used in this Section 14.3, the term "any material amendment" is defined to mean amendments to provisions of this declaration, to the articles or to the bylaws governing the following subjects:

14.3.1 The purpose for which the development may be used;

14.3.2 Voting;

14.3.3 Assessments, collection of assessments, creating and subordination of assessment liens;

14.3.4 Reserves for repair and replacement of common area improvements;

14.3.5 Maintenance of common area and improvements thereon;

14.3.6 Casualty and liability insurance;

14.3.7 Rebuilding or reconstruction of common area and improvements thereon, in the event of damage or destruction;

14.3.8 Rights of use to and in the common area;

14.3.9 Annexation of additional property; and

14.3.10 Any provision, which by its terms, is specifically for the benefit of first mortgagees, or specifically confers rights on first mortgagees.

14.4 Restrictions on Certain Changes.

Unless seventy-five percent (75%) of first mortgagees of condominiums have given their prior written approval, neither the Association nor the owners shall be entitled:

14.4.1 by act or omission to seek to abandon or terminate the condominium project, except for abandonment provided by statute in case of substantial loss to the units and common area;

14.4.2 to change the method of determining the obligations, assessments, dues or other charges which may be levied against an owner, or to change the pro rata interest or obligations of any condominium for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the pro rata share of ownership of each owner in the common area;

14.4.3 to partition or subdivide any unit;

14.4.4 by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the common area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the common area by the Association or the owners shall not be deemed to be a transfer within the meaning of this clause.

14.4.5 to use hazard insurance proceeds for losses to units or common area improvements in the development or to any other Association property, for other than the repair, replacement or reconstruction of such improvements or property except as provided by statute in case of substantial loss to the units or common area of the development.

14.4.6 by act or omission to change, waive, or abandon the provisions of this declaration, or the enforcement thereof, pertaining to architectural design or control of the exterior appearance of structures in the development, the maintenance of the common area, walks or fences and driveways, or the upkeep of lawns and plantings in the development.

14.5 Right to Examine Books and Records. Institutional first mortgagees can examine the books and records of the Association or the condominium project and can require the submission of financial data concerning the Association or the condominium project, including annual audit reports and operating statements as furnished to the owners.

14.6 Distribution of Insurance and Condemnation Proceeds. No owner, or any other party, shall have priority over any right of institutional first mortgagees of condominiums pursuant to their mortgages in case of a distribution to owners of insurance proceeds or condemnation awards for losses to or a taking of units or common area. Any provision to the contrary in this declaration or in the bylaws or other documents relating to the development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected institutional first mortgagees naming the mortgagees, as their interests may appear.

14.7 Amenities. All amenities (such as parking, recreation and service areas) and common area shall be available for use by owners and all such amenities with respect to which regular or special assessments for maintenance or other uses may be levied shall constitute common area. All such amenities shall be owned in fee by the owners in undivided interests or by the Association free of encumbrances except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the owners or by the Association.

14.8 Notices to Mortgagees of Record. Upon any loss to any unit covered by a mortgage, if such loss exceeds One Thousand Dollars (\$1,000.00) or on any loss to the common area, if such loss exceeds Ten Thousand Dollars (\$10,000.00), or on any taking of the common area, notice in writing of such loss or taking shall be given to each mortgagee of record. If any owner of a unit is in default under any provision of these covenants, conditions and restrictions, or under any provision of the bylaws or the Association rules, which default is not cured within thirty (30) days after written notice to such owner, the Association shall give to the mortgagee of record of such owner written notice of such default and of the fact that said thirty (30) day period has expired.

14.9 Voting Rights on Default. In case of default by any owner in any payment due under the terms of any institutional first mortgage encumbering such owner's condominium, or the promissory note secured by the mortgage, the mortgagee or his representative, on giving written notice to such defaulting owner or owners, and placing of record a notice of default, is hereby granted a proxy and can exercise the voting rights of such defaulting owner attributable to such condominium at any regular or special meeting of the members held during such time as such default may continue.

14.10 Payments by Mortgagees. Mortgagees of condominiums may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the common area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for common area improvements or other insured property of the Association and, upon immediate reimbursement therefor from the Association. The provision shall constitute an agreement by the Association for the express benefit of all mortgagees and upon request of any mortgagee the Association shall execute and deliver to such mortgagee a separate written agreement embodying the provisions of this Section 14.10.

14.11 Effect of Breach. No breach of any provision of these covenants, conditions and restrictions shall invalidate the lien of any mortgage in good faith and for value, but all of

covenants, conditions and restrictions shall be binding on any owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

14.12 Foreclosure. If any condominium is encumbered by a mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the mortgage. On foreclosure of the mortgage, the lien for assessments, or installments, that has accrued up to the time of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser taking title to the condominium free of the lien for assessments, or installments, that has accrued up to the time of the foreclosure sale. On taking title to the condominium the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the condominium. The subsequently levied assessments or other charges may include previously unpaid assessments provided all owners, including the foreclosure-purchaser, and his successors and assigns are required to pay their proportionate share as provided in this section.

14.13 Non-Curable Breach. Any mortgagee who acquires title to a condominium by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall not be obligated to cure any breach of this declaration that is non-curable or of a type that is not practical or feasible to cure.

14.14 Loan to Facilitate. Any mortgage given to secure a loan to facilitate the resale of a condominium after acquisition by foreclosure or by a deed-in-lieu of foreclosure or by an assignment-in-lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Section 14.

14.15 Appearance at Meetings. Because of its financial interest in the development, any mortgagee may appear (but cannot vote except under the circumstances set forth in Section 14.9) at meetings of the members and the board to draw attention to violations of this declaration that have not been corrected or made the subject of remedial proceedings or assessments.

14.16 Right to Furnish Information. Any mortgagee can furnish information to the board concerning the status of any mortgage.

14.17 Inapplicability of Right of First Refusal to Mortgagee. No right of first refusal or similar restriction on the right of an owner to sell, transfer or otherwise convey the

owner's condominium shall be granted to the Association without the written consent of any mortgagee of the condominium. Any right of first refusal or option to purchase a unit that may be granted to the Association (or other person, firm or entity) shall not apply to any conveyance or transfer of title to such condominium, whether voluntary or involuntary, to a mortgagee which acquires title to or ownership of the unit pursuant to the remedies provided in its mortgage or by reason of foreclosure of the mortgage or deed or assignment in lieu of foreclosure.

14.18 Contracts with Declarant. Any agreement between the Association and declarant pursuant to which the declarant agrees to provide services shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days written notice and shall have a maximum contract term of one (1) year; provided that the board can renew any such contract on a year-to-year basis.

15. AMENDMENT

15.1 Amendment Before the Close of First Sale. Before the close of the first sale of a condominium in the development to a purchaser other than declarants, this declaration and any amendments to it may be amended in any respect or revoked by the execution by declarant and any mortgagee of record of an instrument amending or revoking the declaration. The amending or revoking instrument shall make appropriate reference to this declaration and its amendments and shall be acknowledged and recorded in the office of the county recorder of the county in which the development is located.

15.2 Amendment After Close of First Sale. After the close of the first sale of a condominium in the development to a purchaser other than declarant, this declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of members. However, if any provision of this declaration requires a greater or lesser percentage of the voting rights of any class of members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, mortgagee or other person, firm, agency or entity is required under this declaration with respect to any amendment or revocation of any provision of this declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this declaration and its amendments and shall be acknowledged and recorded in the office of the county recorder of the county in which the development is located.

15.3 Conflict with Section 14 or Other Provisions of this Declaration. To the extent any provisions of this Section 15 conflict with the provisions of Section 14 or any other provision of this declaration, except those contained in Section 15.4, the provisions of Section 14 or the other provisions shall control.

15.4 Reliance on Amendments. Any amendments made in accordance with the terms of this declaration shall be presumed valid by anyone relying on them in good faith.

15.5 Amendments to Conform with Mortgagee Requirements. It is the intent of declarant that this declaration and the articles and bylaws of the association, and the development in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure or subsidize any mortgage of a condominium in the development by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration and the Veterans' Administration. In furtherance of that intent, declarants expressly reserve the right and shall be entitled by unilateral amendment of the declaration so long as declarant owns more than twenty-five percent (25%) of the condominiums in the development to amend this declaration in order to incorporate any provisions or to enter into any agreement on behalf of and in the name of the Association that are, in the opinion of any of the cited entities or governmental agencies, required to conform the declaration, the articles, the bylaws or the development to the requirements of any of the entities or governmental agencies, including without limitation, the execution on behalf of and in the name of the Association of a regulatory agreement between the Association and the Federal Housing Commissioner and any other agreement sufficient to satisfy the requirements for mortgage purchase, guarantee or insurance by any of said entities or agencies. Declarant is hereby granted an irrevocable power of attorney to execute any such amendment or agreement by and in the name of the Association. Each owner of a condominium and each mortgagee of a condominium by acceptance of a deed or encumbrance of a condominium consents to the incorporation in this declaration of any such provisions and to the execution of any amendment or regulatory agreement and agrees to be bound by any such provisions as if they were incorporated in this declaration. The board and each owner shall take any action or shall adopt any resolutions required by declarant or any mortgagee to conform this declaration or the development to the requirements of any of said entities or agencies.

16. ANNEXATION OF ADDITIONAL PROPERTY

16.1 Procedure for Annexation. The real property described in Exhibit "C" or any portion thereof may be annexed to this declaration at the written election of the declarant (or by the successors in title to such real property) made at any time

and from time to time within three (3) years following recordation of the final subdivision map for the first phase of the development. Such election shall be made by the recording of a supplement to this declaration (the "Supplement"). The Supplement shall describe the real property to be annexed, shall state that it is being effected pursuant to the terms of this declaration for the purpose of annexing the property described in the supplement to the declaration. Any Supplement recorded in accordance with the terms hereof shall be conclusive in favor of all persons who relied on it in good faith. Upon filing the Supplement in accordance with the provisions of this declaration, the real property described in the Supplement shall be subject to the provisions of this declaration, and to the rights and powers of the Association pursuant to the terms of this declaration, the articles and the bylaws, and thereafter all of the owners of condominiums constituting a portion of said annexed real property shall automatically be members of the Association. Regular and special assessments with respect to said annexed real property shall commence at the time and to the extent described in Sections 6.5 and 6.6 hereof. Declarant in such Supplement shall expressly reserve for the benefit of all property which may from time to time be covered by this declaration, reciprocal easements of use, enjoyment, access, ingress, and egress. Such easements may be used by declarant, its successors, purchasers and all owners of condominiums, their guests, tenants and invitees for sidewalks, walkways, vehicular access and such other purposes reasonably necessary to the use and enjoyment of all condominiums in the development. The Supplement may contain such complementary additions, amendments and modifications to this declaration as may be necessary to reflect the different character, if any, of the real property being annexed as are not inconsistent with the general scheme of this declaration or which are required by any institutional first mortgagee to make condominiums in the development eligible for mortgage purchase, guarantee or insurance as described in Section 15.6.

17. GENERAL PROVISIONS

17.1 Headings. The headings used in this declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this declaration.

17.2 Severability. The provisions of this declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provisions or portions of it shall not invalidate any other provisions.

17.3 Cumulative Remedies. Each remedy provided for in this declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this declaration shall not, under any circumstances, be construed as a waiver thereof.

17.4 Violations as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any owner, any member of the board, the manager, or the Association.

17.5 No Racial Restriction. No owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his lot on the basis of race, sex, color or creed.

17.6 Access to Books. Any owner may, at any reasonable time and upon reasonable notice to the board or manager at his own expense, cause an audit or inspection to be made of the books and financial records of the Association.

17.7 Liberal Construction. The provisions of this declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

17.8 Notification of Sale of Condominium. Concurrently with the consummation of the sale of any condominium under circumstances whereby the transferee becomes an owner thereof, or within five (5) business days thereafter, the transferee shall notify the board in writing of such sale. Such notification shall set forth the name of the transferee and his mortgagee and transferor, the common address of the condominium purchased by the transferee, the transferee's and the mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his transferor if the board has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of a condominium over the age of twelve (12) years.

17.9 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

17.10 Exhibits. All exhibits referred to are attached to this declaration and incorporated by reference.

17.11 Easements Reserved and Granted. Any easements referred to in this declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this declaration in a deed to any condominium.

17.12 Binding Effect. This declaration shall inure to the benefit of and be binding on the successors and assigns of the declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of the owners.

17.13 Unsegregated Real Estate Taxes. Until such time as real property taxes have been segregated by the county assessor of the county in which the development is located, they shall be paid by the respective owners of condominiums. The proportionate share of the taxes for a particular condominium shall be determined by dividing the initial sales price or offered initial sales price of the condominium by the total initial sales prices and offered initial sales prices of all condominiums within the development (the term "offered initial sales price" means the price at which an unsold condominium is then being offered for sale by declarant). If, and to the extent, that taxes are not paid by any owner of a condominium and are allowed to become delinquent, they shall be collected from the delinquent owner by the Association.

Declarants have executed this instrument as of the 15 day of December, 1980.

WARD AND BADENDUCK BUILDERS,
a general partnership

By /s/
David K. Ward
General Partner

STATE OF IDAHO)
) ss.
COUNTY OF BLAINE)

On this 15 day of December, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID K. WARD known to me to be one of the partners in the partnership of WARD AND BADENDUCK BUILDERS and the partner or one of the partners who subscribed said partnership name to the foregoing instrument and he acknowledged to me that he executed the same in said partnership name.

WITNESS my hand and official seal.

/s/
Notary Public for Idaho
Residing at Hailey

/s/

Harold E. Neibling

/s/

Monty Navarre

/s/

Joyce Navarre

/s/

Melanie Neibling

STATE OF IDAHO)
) ss.
County of Blaine)

On this 16 day of January, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared Harold E. Neibling and Melanie Neibling, husband and wife, and Monte Navarre and Joyce Navarre, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they have executed the same.

/s/

Notary Public

EXHIBIT "A"

DESCRIPTION OF REAL PROPERTY

Lots 24 and 25, Block 3, Warm Springs Village Subdivision
4th Addition, Blaine County, Idaho, according to the official
plat thereof recorded in the records of Blaine County, Idaho.

EXHIBIT "B"

COMMON AREA OWNERSHIP INTEREST

Unit 1	25%
Unit 2	25%
Unit 3	25%
Unit 4	25%