

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

IN RE:	)	FILE NO. <b>P19-062</b>
	)	
PEG KETCHUM HOTEL, LLC	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW, AND RECOMMENDATION</b>
Applicant for	)	<b>TO CITY COUNCIL DECISION</b>
251 S. Main Street	)	
Floodplain Development /	)	
Waterways Design Review	)	
	)	

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THIS MATTER, having come regularly before the Planning and Zoning Commission on remand from the City Council for hearing on the 28<sup>th</sup> day of September, 2020, continued on October 27, 2020, November 10, 2020, December 15, 2020 and on December 22, 2020 pursuant to the Applicant PEG Ketchum Hotel, LLC's above-entitled application to:

Floodplain Development Permit and Waterways Design Review

251 S. Main Street (Lots 3, 21, FR 22 Blk 82 N 10' x 110' of alley S 20' x 230' of alley, Ketchum Townsite), 260 E. River Street (Lot 2, Block 82, 10' x 110' of alley, Ketchum Townsite), and 280 E. River Street (Lot 1, Block 82, Ketchum Townsite)

The Commission having reviewed the entire record and provided notice and held a public hearing does hereby make and set forth these Findings of Fact, Conclusions of Law, and Order of Decision as follows:

**I.  
RECORD OF PROCEEDINGS**

The above-entitled matter has been heard by the Planning and Zoning Commission in conjunction with the accompanying PEG Ketchum Hotel, LLC PUD Project Master Plan together with the other following accompanying Applicant Applications:

- Planned Unit Development Conditional Use Permit File No. P19-063
- Lot Line Adjustment File No. P19-064
- Waiver File No. P20-069

- Design Review File No. P20-019
- Permit Conditions Acceptance Agreement

The Planning and Zoning Commission has approved together with these Findings of Fact, Conclusions of Law, and Recommendation to the City Council Decision that certain Master Joint Hearings Compiled Record of Proceedings On Remand for Files Nos. P19-062, P19-063, P19-064, P20-069 and P20-019 and the Permit Conditions Acceptance Agreement (the “Master Joint Hearings Record of Proceedings”) which is herein included by reference as if set forth at length.

#### **PUBLIC NOTICES FOR HEARINGS ON REMAND:**

Legal notice of the hearing before the City Planning & Zoning Commission was published in the City’s newspaper of record and notice was mailed to adjoining landowners within 300’ was in compliance with the 15-day and 10-day notice requirements. Notice to neighbors and political subdivisions and publication in the *Idaho Mountain Express* occurred on September 9, 2020 with on-site posting on the subject premises on September 9, 2020, mailed to property owners and government subdivisions on September 9, 2020 and posted on the City’s website on September 10, 2020.

## **II. FINDINGS OF FACT**

1. The original Findings of Fact Conclusions of Law and Decision were approved by the Planning and Zoning Commission (“Commission”) on August 12, 2019 (the “Original Findings”); and
2. Based upon a finding of a noticing error, on April 6, 2020 the Ketchum City Council moved to vacate the PEG Ketchum Hotel decisions and findings and remand subject Original Findings for this permit for additional process as necessary. Accordingly, reconfirmation of the past record is required as inadequate notice occurred with the Original Findings; and
3. The Commission, subject to notice, held a hearing and received testimony and evidence in regards to the Floodplain Development Permit and Waterways Design Review.
4. The subject property, in particular the parcel addressed 251 S. Main Street, contains 100-year floodplain, floodway, and is adjacent to Trail Creek and therefore contains a regulated riparian zone. As such, the property is within the Floodplain Management Overlay with Floodplain, Floodway, and Waterways Design Review subdistricts. The southerly property boundary is the mean high-water mark on the north side of Trail Creek.

5. Pursuant to Zoning Code Title 17, Section 17.88.050(D)1, the administrator shall have the authority to consider and approve, approve with conditions, or deny applications for floodplain development permits and for waterways design review, but in accordance with 17.88.050(D)2 has the discretion to forward the application to the Planning and Zoning Commission for review during a noticed public meeting.
6. The subject parcels have previously been developed. No existing development encroaches into the riparian zone, floodplain, or floodway. Existing development consists of two vacant structures and an asphalt parking area. The asphalt parking area abuts a 10' wide sewer easement and the 25' riparian zone is adjacent to the southside of the 10' sewer easement. The 25' riparian zone is delineated on the plat associated with the hotel project (application P19-064) as a proposed riparian and scenic easement consistent with KMC §17.88.040.D.2. The riparian zone is currently in a natural state and the north side of the bank, which is the southern boundary line of the subject property, does not contain man-made bank armoring or riprap. The 10' sewer easement combined with the 25' riparian easement provide a buffer ranging from 35' or more from the existing development and new development proposed on site (see civil sheet 3.0 in the applicant's submittal package dated July 29, 2019).
7. The applicant proposes to demolish and clear the existing development, including the asphalt surface parking area, from the site and to construct a new 100-room hotel, approximately 139,295 gross square feet in size. The hotel and all other site improvements are proposed to be located outside of the 1% annual chance floodplain, floodway, and riparian zone. Because of the sewer easement, the hotel will be located 35' or more from the mean high-water mark of Trail Creek. As indicated on the preliminary civil plans and preliminary landscape plan included in the applicant's submittal package dated July 29, 2019, all construction activity and all permanent site improvements will be located outside of the riparian zone, floodplain, and floodway.
8. As indicated in civil sheet 2.0, Storm Water Pollution Prevention Plan, measures will be taken to protect the adjacent waterway and riparian area. These measures include installation of a silt fence and inlet protection around the existing catch basin, development of a Storm Water Pollution Prevention Plan and Best Management Practices document for erosion control.
9. The applicant is put on notice that city review and approval of this application does not guarantee that flooding will not occur as the subject property is located partially within in the Special Flood Hazard Area (100-year floodplain). Purchasing flood insurance is recommended; standard property owner's insurance policies do not cover losses due to flooding.

**Floodplain Development Requirements**  
**Chapter 17.88, Floodplain Management Overlay Zoning District (FP)**

Compliant			Standards and Staff Comments	
Yes	No	N/A	Regulation	City Standards and <i>Staff Comments</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.040.D.3	<p>Prior to issuance of any building permit for a structure located partially or wholly within the one percent (1%) annual chance floodplain, a preconstruction elevation certificate shall be completed by a registered professional engineer, architect or surveyor and submitted to the City of Ketchum building inspector. The elevation certificate form shall be made available from the City. The certificate shall again be completed by the owner and/or his/her agents and submitted to the City upon completion of the foundation and construction of the lowest floor, and again prior to issuance of a certificate of occupancy or a final inspection by the building inspector to evidence the as built elevation of the lowest floor including basement.</p> <p><i>Staff Comments</i>            Civil sheet C3.0 best represents the location of the proposed building with respect to the one percent (1%) annual chance floodplain. As indicated on the plan, the building footprint is located entirely outside of the 1% annual chance floodplain. Therefore, Elevation Certificates are not required.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.040.D.5	<p>Prior to issuance of any floodplain development permit, the property owner or his or her authorized agent shall acknowledge by executed written affidavit that said property is located within the one percent (1%) annual chance floodplain as defined herein and that a violation of the terms of this article shall cause the City to seek legal remedies.</p> <p><i>Staff Comments</i>            The applicant is aware of this requirement and as a condition of approval, the affidavit shall be submitted prior to the Commission Chair signing the Findings of Fact and Conclusions of Law for this permit.</p>
<b>17.88.050: PROVISIONS FOR FLOOD HAZARD REDUCTION</b>				
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)1	<p>Preservation or restoration of the inherent natural characteristics of the river and creeks and floodplain areas. Development does not alter river channel.</p> <p><i>Staff Comments</i>            The southern boundary of the property coincides with the mean high water mark of the north side of Trail Creek. Regulatory floodplain, including floodway, exists on the subject property along the southern boundary of the property and the 25'-wide riparian and scenic easement (riparian zone) is offset, landward, from the mean high water mark on the north side of Trail Creek. The riparian zone largely provides a buffer between the limit of the 1% annual chance floodplain and the remainder of the site, with the riparian buffer and floodplain boundary aligning and slightly overlapping only near the southeast corner of the site. An additional 10' wide sewer easement exists on the landward side of the riparian zone, which provides further distance between the developable portion of the property and the floodplain and Trail Creek.</p> <p>Civil sheet C 1.0 indicates existing development on the subject property with respect to the sewer easement, riparian zone, and the floodplain and floodway boundaries. Currently, two vacant buildings and an asphalt parking surface are located on the subject property. The asphalt parking surface extends directly to the north side of the 10' sewer easement. Therefore, the extent of existing development on the site is offset approximately 10' from the riparian zone and existing development is located entirely outside of the regulatory floodplain. The floodplain and riparian zone are characterized as being in an undisturbed, naturalized state.</p> <p>Civil sheet 2.0, Storm Water Pollution Prevention Plan, includes the following details: During demolition and clearance of the existing development a silt fence will be installed along the south, west, and east property. Along the southern property boundary the silt</p>

			<p><i>fence will be installed along the northern side of the 10' easement, therefore providing at least a 10' buffer from the riparian zone and an even larger buffer (ranging from 10' to 20'+) from the regulatory floodplain. Drain inlet protection will also be installed around the existing catch basin that retains the site's drainage. No encroachment into the floodplain or riparian zone will occur during demolition and clearance.</i></p> <p><i>The proposed new construction with respect to the floodplain and riparian zone is best indicated in Civil sheet 3.0, which includes the footprint of the proposed hotel building. The entirety of the hotel will be located outside of the riparian zone, which in turn means no portion of the hotel will be located within the regulatory floodplain. Additionally, the Landscape plan 1.0 indicates that all proposed landscaping for the project will occur outside of the riparian zone.</i></p> <p><i>Drainage improvements will be located outside of the riparian zone, and the portions of the site that are currently covered with asphalt will largely be replaced with landscaping (per the preliminary Landscape Plan), thereby reducing the impervious surface on the subject property.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>17.88.050(E)2</b> <b>Preservation or enhancement of riparian vegetation and wildlife habitat, if any, along the stream bank and within the required minimum twenty-five (25) foot setback or riparian zone. No construction activities, encroachment or other disturbance into the twenty five foot (25') riparian zone shall be allowed at any time without written City approval per the terms of this ordinance.</b></p> <p><i>Staff Comments</i>  <i>As described in 17.88.060(E)1, no construction activity related to building the hotel is proposed to occur within the riparian zone. However, the applicant's supplemental materials included in the document titled "Ketchum Tribute, October 16, 2020, Planning Commission Supplemental Info" and included in the Master Record of Proceedings as SR-34 indicate a single stone pathway and staircase leading through the riparian area to the bank of the creek on the sheet titled "Trail Creek Improvements". Consistent with 17.88.050(E)3, the Administrator may approve such pathway. presented Exhibit D.</i></p> <p><i>While the riparian zone is mostly in a natural state, the applicant also proposes to remove existing dead brush and branches that have been dumped into the riparian zone in order to restore the riparian zone's health. The applicant also indicates they are open to discussing an additional staircase leading from River Street, along the western property line as indicated in the diagram, to the riparian zone. Both of these items are discussed on the sheet titled "Trail Creek Improvement". This additional access, if traversing the riparian zone, would be subject to permitting if the applicant decides to pursue it – either as a new permit or an amendment to this permit.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><b>17.88.050(E)3</b> <b>No development, other than development by the City of Ketchum or development required for emergency access, shall occur within the twenty five foot (25') riparian zone with the exception of approved stream stabilization work. The Administrator may approve access to property where no other primary access is available. Private pathways and staircases shall not lead into or through the riparian zone unless deemed necessary by the Administrator.</b></p> <p><i>Staff Comments</i>  <i>Consistent with the plans submitted as part of this application, no development is proposed in the riparian zone other than as discussed in criteria 17.88.050(E)2, above. The creek viewing pathway indicated on the "Trail Creek Improvement" sheet is approved.</i></p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)4	<b>A landscape plan and time frame shall be provided to restore any vegetation within the twenty five foot (25') riparian zone that is degraded, not natural or which does not promote bank stability.</b>
			<i>Staff Comments</i>	<i>As described in 17.88.060(E)1, the riparian zone will be protected during demolition of the existing structures and for the duration of construction of the hotel. A restoration plan is not necessary at this time as the only changes to the riparian zone are minor and covered by this permit and the riparian zone is largely in a natural state. However, should the riparian zone inadvertently be disturbed during the course of the project's development, restoration shall be required, with a restoration plan submitted as part of an amendment to this permit.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)5	<b>New or replacement planting and vegetation shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle.</b>
			<i>Staff Comments</i>	<i>No new or replacement plantings are required or are proposed.</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)6	<b>Landscaping and driveway plans to accommodate the function of the floodplain to allow for sheet flooding. Floodwater carrying capacity is not diminished by the proposal. Surface drainage is controlled and shall not adversely impact adjacent properties including driveways drained away from paved roadways. Culvert(s) under driveways may be required. Landscaping berms shall be designed to not dam or otherwise obstruct floodwaters or divert same onto roads or other public pathways.</b>
			<i>Staff Comments</i>	<i>Floodwater carrying capacity is not diminished by the proposal, which will improve site drainage (reduction of pervious surface) and direct all of its drainage to a on-site drywells/catch basins; site drainage shall not drain to Trail Creek. No landscaping berms are proposed and all proposed landscaping and vehicular accesses will be located outside of the floodplain.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)7	<b>Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not adverse.</b>
			<i>Staff Comments</i>	<i>Adverse impacts on aquatic life, recreation, and water quality are not anticipated. The existing riparian zone will remain intact.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)8	<b>Building setback in excess of the minimum required along waterways is encouraged. An additional ten foot (10') building setback is encouraged to provide for yards, decks and patios outside the twenty five foot (25') riparian zone.</b>
			<i>Staff Comments</i>	<i>The required 25' riparian setback is being respected. Further, a 10' wide sewer easement exists beyond the riparian zone and will provide an additional buffer from the waterway.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)9	<b>The top of the lowest floor of a building located in the one percent (1%) annual chance floodplain shall be a minimum of twenty four inches (24") above the base flood elevation of the subject property. (See section 17.88.060, figures 1 and 2 of this chapter.)</b>
			<i>Staff Comments</i>	<i>This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)10	<b>The backfill used around the foundation in the floodplain shall provide a reasonable transition to existing grade but shall not be used to fill the parcel to any greater extent. Compensatory storage shall be required for any fill placed within the floodplain. An LOMA-F shall be obtained prior to placement of any additional fill in the floodplain.</b>
			<i>Staff Comments</i>	<i>No fill is proposed in the floodplain; the proposed new development will be located entirely outside of the 1% annual chance floodplain. The standard for backfill around</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and <i>Staff Comments</i>
				<i>the foundation applies only to buildings that are located partially or entirely within the 1% annual chance floodplain.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)11	All new buildings shall be constructed on foundations that are approved by a licensed professional engineer.
			<i>Staff Comments</i>	<i>This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)12	Driveways shall comply with effective street standards; access for emergency vehicles has been adequately provided for.
			<i>Staff Comments</i>	<i>The vehicular access to the hotel (ramp to a parking garage) and lower-level fire access will receive final approval from the Fire Marshal, City Engineer, and Streets Department Director prior to issuance of a building permit.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)13	Landscaping or revegetation shall conceal cuts and fills required for driveways and other elements of the development.
			<i>Staff Comments</i>	<i>A preliminary landscaping plan has been submitted. All area of the site disturbed during construction are proposed to be finished with landscaping.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)14	(Stream alteration) The proposal is shown to be a permanent solution and creates a stable situation.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)15	(Stream alteration) No increase to the one percent (1%) annual chance floodplain upstream or downstream has been certified, with supporting calculations, by a registered Idaho hydraulic engineer.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)16	(Stream alteration) The recreational use of the stream including access along any and all public pedestrian/fisher's easements and the aesthetic beauty shall not be obstructed or interfered with by the proposed work.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.88.050(E)17	Where development is proposed that impacts any wetland, first priority shall be to move development from the wetland area. Mitigation strategies shall be proposed at time of application that replace the impacted wetland area with a comparable amount and/or quality of new wetland area or riparian habitat improvement.
			<i>Staff Comments</i>	<i>James Joyner, Senior Regulatory Project Manager with the U.S. Army Corps of Engineers, Walla Wall District, provided comment that wetlands exist along the southern property boundary, which is Trail Creek. However, staff discussed the location of the proposed development, which will occur only in areas of the site that have already been developed and will be located 35'+ from Trail Creek, with Mr. Joyner. As such, no change to the proposed project is necessary.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)18	(Stream alteration) Fish habitat shall be maintained or improved as a result of the work proposed.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)19	(Stream alteration) The proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.050(E)20	(Stream alteration) The work proposed is for the protection of the public health, safety and/or welfare such as public schools, sewage treatment plant, water and sewer distribution lines and bridges providing particularly limited or sole access to areas of habitation.
			<i>Staff Comments</i>	<i>N/A, stream alteration is not proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060.A.1	A. General Standards: In all areas of special flood hazard, the following standards are required: 1. Anchoring:

Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and <i>Staff Comments</i>
				<p>a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.</p> <p>b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors (reference the Federal Emergency Management Agency's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).</p>
			<i>Staff Comments</i>	<i>N/A. This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060.A.2	<p><b>2. Construction Materials And Methods:</b></p> <p>a. All structural and nonstructural building materials utilized at or below the base flood elevation must be flood resistant. Flood damage resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. If flood damage resistant materials are not used for building elements, those elements must be elevated above the base flood elevation. This requirement applies regardless of the expected or historical flood duration.</p> <p>b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.</p> <p>c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.</p>
			<i>Staff Comments</i>	<i>N/A. This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060.A.3	<p><b>3. Utilities:</b></p> <p>a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;</p> <p>b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and</p> <p>c. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.</p>
			<i>Staff Comments</i>	<i>This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060.B.3.a	<p><b>3. Nonresidential Construction:</b></p> <p>a. New construction and substantial improvement of any commercial, industrial, nonresidential portion of a mixed use or other nonresidential structure in any A1-30, AE and AH zone shall either have the top of the floor structure of the lowest floor, including basement, elevated to twenty four inches (24") above the base flood elevation or, together with attendant utility and sanitary facilities, shall:</p> <ol style="list-style-type: none"> <li>(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;</li> <li>(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;</li> <li>(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this article based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 17.88.050D3c(2) of this chapter;</li> </ol>



Compliant			Standards and Staff Comments	
Yes	No	N/A	Guideline	City Standards and <i>Staff Comments</i>
				<p>(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection B2c of this section; and</p> <p>(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building constructed to the base flood level will be rated as 1 foot below that level).</p>
			<i>Staff Comments</i>	<i>N/A. This standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.88.060.B.2.b	<p>b. All new construction and substantial improvement of nonresidential structures within AO zones shall:</p> <p>(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least twenty four inches (24") higher than the depth number specified in feet on the FIRM; or</p> <p>(2) Together with the attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in subsection B3a of this section.</p>
			<i>Staff Comments</i>	<i>N/A. The subject property is in the AE zone, not the AO zone. Further, this standard applies to buildings that are located partially or entirely within the 1% annual chance floodplain. This proposed new development will be located entirely outside of the 1% annual chance floodplain.</i>

## CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use ordinance, Title 17.
3. The Commission has the authority to hear the applicant's Floodplain Development and Waterways Design Review application pursuant to Chapter 17.88 of Ketchum Municipal Code Title 17.
4. The City of Ketchum Planning Department provided adequate notice of the time, place and summary of the applicant's proposal to be heard by the Commission for review of this application.
5. The project **does** meet the standards of approval under Chapter 17.88 of Zoning Code Title 17.

## ORDER OF DECISION RECOMMENDATION TO THE CITY COUNCIL

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

**Order No. 1:** These Findings of Fact, Conclusions of Law and Decision amend and reform and supersede the original Findings of Fact, Conclusions of Law and Decision of the City Council in this matter entered on February 3, 2020.

**Order No. 2:** This Waterways Design Review and Floodplain Development Permit is approved subject to the following terms and conditions:

- 2.1 Condition No. 1: The term of floodplain development permit and waterways design review shall be twelve (12) months from the date that findings of fact, conclusions of law and decision are signed by the Administrator or upon appeal, the date the approval is granted by the Planning and Zoning Commission, subject to changes in zoning regulations. Application must be made for a building permit (if required) with the Ketchum Building Department during the twelve (12) month term. Once a building permit (if required) has been issued, the approval shall be valid for the duration of the building permit. Unless an extension is granted as set forth in KMC 17.88.050.G, failure to file a complete building permit application (if required) for a project in accordance with these provisions shall cause said approval to be null and void;
- 2.2 Condition No. 2: This Waterways Design Review and Floodplain Development Permit approval is based on the plans, as referenced above, and information presented and approved at the meeting on the date noted herein. Any building or site discrepancies which do not conform to the approved plans will be subject to removal;
- 2.3 Condition No. 3: Pursuant to Chapter 17.88.040.C, no chemicals or soil sterilants are allowed within 100 feet of the mean high-water mark. No pesticides, herbicides, or fertilizers are allowed within 25 feet of the mean high-water mark unless approved by the City Arborist. All applications of herbicides and/or pesticides within one hundred feet (100') of the mean high-water mark, but not within twenty-five feet (25') of the mean high water mark, must be done by a licensed applicator and applied at the minimum application rates. Application times for herbicides and/or pesticides will be limited to two (2) times a year; once in the spring and once in the fall unless otherwise approved by the city arborist. The application of dormant oil sprays and insecticidal soap within the riparian zone may be used throughout the growing season as needed;
- 2.4 Condition No. 4: Prior to commencement of any construction activity on the subject parcel, the silt fence and inlet protection shall be installed as indicated in civil sheet 2.0;

- 2.5 Condition No. 5: No maintenance, including the mowing, trimming, and removal of vegetation, and no construction activities, encroachment, or disturbance within the riparian zone shall take place without approval through an amendment to this permit, during the time period the permit is in effect, or through approval of a subsequent permit;
- 2.6 Condition No. 6: It shall be unlawful to dump, deposit or otherwise cause any trash, landscape debris or other material to be placed in any stream, channel, ditch, pond or basin that regularly or periodically carries or stores water.

**Order No. 3:** Not a Final Action. These Findings of Fact, Conclusions of Law and Order of Decision are not a final action of the City Council on this Lot Line Adjustment Application preliminary plat until the following conditions subsequent have occurred:

- 3.1 There is a final action by the City upon the Design Review of the PUD CUP; and
- 3.2 The City Council has taken final action upon the Permit Acceptance Agreement.

**Adopted** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**Ketchum Planning and Zoning Commission**

By: \_\_\_\_\_  
Neil Morrow, Chair

**Notice to Applicant**

The subject Lot Line Adjustment Application for preliminary plat concerns a site-specific land use request and therefore this notice is provided to the applicant pursuant to I.C. § 67-6535 (3) of the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code.

*W:\Work\K\Ketchum, City of 24892\Gateway Hotel .015\AGENCY RECORD\FCO On Remand Drafts\2020-12-17 19-062 FCO on remand - lh bms.docx*