



City of Ketchum

August 2, 2021

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to Approve the West Ketchum Residences Final Plat Application

Recommendation and Summary

Staff recommends the Ketchum City Council approve the Townhouse Subdivision Final Plat application, submitted by Sean Flynn PE of Galena Engineering on behalf of property owner West Ketchum Residences LLC, to subdivide Lot 5AA of Bavarian Village Subdivision into 10 townhouse sublots and associated common area for the West Ketchum Residences townhome development located at 150 Bird Drive within the City's General Residential High Density (GR-H) Zoning District.

Recommended Motion: "I move to approve the West Ketchum Residences Final Plat application subject to conditions of approval 1-9."

The reasons for the recommendation are as follows:

- The Ketchum City Council approved the Townhouse Subdivision Preliminary Plat with a Phased Development Agreement (Application File No. P19-141 and Contract #20501) to subdivide the property into 10 townhouse sublots and common area on August 17th, 2020. The final plat map substantially conforms to the approved preliminary plat map.
- All necessary elements and improvements specified in the Phased Development Agreement are complete. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).
- The request to subdivide meets all applicable standards for Townhouse Final Plats contained in Ketchum Municipal Code's Subdivision (Title 16) regulations.

Analysis

The West Ketchum Residences is a 10-unit townhome development that consists of 5, two-story duplex units accessed from a shared private driveway. The project received Design Review approval (Application File No. P19-140) from the Planning and Zoning Commission on February 10th, 2020. The Ketchum City Council approved the Townhouse Subdivision Preliminary Plat with a Phased Development Agreement (Application File No. P19-141 and Contract #20501) to subdivide the property into 10 townhouse sublots and common area on August 17th, 2020. The City has issued building permits for all 5 duplexes as well as a mechanical building to store and screen the development's snowmelt system.

The Phased Development Agreement (Contract #20501) includes a completion schedule for the construction of required improvements, assigns the property owner certain maintenance responsibilities for infrastructure

serving the development, and provides an installment plan for the payment of community housing in-lieu fees. The agreement specifies all necessary elements and improvements the developer is required to complete prior to issuance of a Certificate of Occupancy for any duplex as well as recordation of the final plat for the townhome development. The agreement required the developer to: (a) install all utilities, including water and sewer services, (b) secure a Right-of-Way Encroachment Permit for the driveway pavers and snowmelt system within the Bird Drive right-of-way, (c) complete the private driveway improvements, (d) improve the Bird Drive right-of-way to City standards, and (e) pay the \$249,274.06 community housing in-lieu fee in ten equal installments.

The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).

All necessary elements and improvements specified in the Phased Development Agreement are complete. Certificates of Occupancy may be issued for each duplex upon completion following final inspection by all City Departments. The final plat map may be recorded following City Council's review and approval. The duplex on townhouse sublots 1 and 2 (Building Permit B20-033) was issued a Certificate of Occupancy on July 15th, 2021. The remaining 4 duplexes are under construction and nearing completion.

Financial Impact

Recording the Final Plat signals to the Blaine County Assessor's Office that the townhome units have been subdivided, resulting in 10 separate legal descriptions and tax assessments, independently sellable. There is no financial requirement from the city for this action.

Attachments

Draft Findings of Fact, Conclusions of Law, and Decision
West Ketchum Residences Final Plat Application



City of Ketchum
Planning & Building

IN RE:)	
)	
West Ketchum Residences)	KETCHUM CITY COUNCIL
Townhouse Subdivision Final Plat)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: August 2 nd , 2021)	DECISION
)	
File Number: 21-046)	

Findings Regarding Application Filed

PROJECT: West Ketchum Residences Final Plat

FILE NUMBER: P21-046

ASSOCIATED APPROVALS: Design Review P19-140, Lot Line Shift P19-142, Townhouse Subdivision Preliminary Plat P19-141

ASSOCIATED AGREEMENTS: Phased Townhouse Subdivision Development Agreement Contract #20501 (recorded under Instrument #672296), FAR Exceedance Agreement Contract #20475 (recorded under Instrument #669581), Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #676999)

ASSOCIATED PERMITS: Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008

OWNER: West Ketchum Residences, LLC

REPRESENTATIVE: Sean Flynn, Galena Engineering

REQUEST: Townhouse Subdivision Final Plat for the West Ketchum Residences development

LOCATION: 150 Bird Drive (Bavarian Village Subdivision: Block 1: Lot 5AA)

NOTICE: No public hearing is required as the final plat substantially conforms to the preliminary plat.

ZONING: General Residential High Density (GR-H)

OVERLAY: None

Findings Regarding Associated Development Applications

The West Ketchum Residences is a 10-unit townhome development that consists of 5, two-story duplex units accessed from a shared private driveway. The project received Design Review approval (Application File No. P19-140) from the Planning and Zoning Commission on February 10th, 2020. The Ketchum City Council approved the Townhouse Subdivision Preliminary Plat with a Phased Development Agreement (Application File

No. P19-141 and Contract #20501) to subdivide the property into 10 townhouse sublots and common area on August 17th, 2020. The City has issued building permits for all 5 duplexes as well as a mechanical building to store and screen the development's snowmelt system.

FINDINGS REGARDING PHASED DEVELOPMENT AGREEMENT

The Phased Development Agreement (Contract #20501) includes a completion schedule for the construction of required improvements, assigns the property owner certain maintenance responsibilities for infrastructure serving the development, and provides an installment plan for the payment of community housing in-lieu fees. The agreement specifies all necessary elements and improvements the developer is required to complete prior to issuance of a Certificate of Occupancy for any duplex as well as recordation of the final plat for the townhome development. The agreement required the developer to: (a) install all utilities, including water and sewer services, (b) secure a Right-of-Way Encroachment Permit for the driveway pavers and snowmelt system within the Bird Drive right-of-way, (c) complete the private driveway improvements, (d) improve the Bird Drive right-of-way to City standards, and (e) pay the \$249,274.06 community housing in-lieu fee in ten equal installments.

FINDING REGARDING COMPLETION OF IMPROVEMENTS

The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).

All necessary elements and improvements specified in the Phased Development Agreement are complete. Certificates of Occupancy may be issued for each duplex upon completion following final inspection by all City Departments. The final plat map may be recorded following City Council's review and approval. The duplex on townhouse sublots 1 and 2 (Building Permit B20-033) was issued a Certificate of Occupancy on July 15th, 2021. The remaining 4 duplexes are under construction and nearing completion.

Findings Regarding City Department Comments

All project plans for the townhome development were reviewed and approved by City Departments through the project's Design Review, Townhouse Subdivision, and Building Permit applications. All required improvements specified in the Phased Development Agreement, including the installation of water and sewer services, the shared private driveway, and the Bird Drive right-of-way road ballast, have been inspected by City Departments and completed to their satisfaction. Prior to issuance of Certificates of Occupancy for the four duplexes currently under construction and nearing completion, City Departments will conduct final inspections to ensure compliance with all conditions and requirements of the project's associated approvals. The applicant is aware that all improvements, including landscaping, are required to be installed prior to issuing Certificates of Occupancy for the remaining four duplexes.

Findings Regarding Townhouse Subdivision Procedure (KMC §16.04.080)

All land subdivisions in the City of Ketchum are subject to the standards contained in Ketchum, Municipal Code, Title 16, Subdivision. Many 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 to and maintained by the City. The standards for certain improvements (KMC §16.04.040) are not applicable as this application proposes to subdivide an existing lot within a residential subdivision into 10 townhouse sublots and associated common area. As conditioned, the request to subdivide meets all applicable standards for Townhouse Final Plats contained in Ketchum Municipal Code's Subdivision (Title 16) and Zoning (Title 17) regulations. The Townhouse Subdivision does not change the proposed residential use or alter the proposed development as reviewed and

approved through Design Review Application File No. P19-140, Townhouse Subdivision Preliminary Plat Application File No. P19-141, Phased Townhouse Subdivision Development Agreement Contract #20501, FAR Exceedance Agreement Contract #20475, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.

Table 1: Findings Regarding Townhouse Final Plat Requirements

Townhouses Requirements				
Compliant			Standards and City Council Findings	
Yes	No	N/A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.D	<p>D. Final Plat Procedure:</p> <p>1. The final plat procedure contained in subsection 16.04.030G of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the townhouse has received either:</p> <ul style="list-style-type: none"> a. A certificate of occupancy issued by the city of Ketchum for all structures in the townhouse development and completion of all design review elements as approved by the planning and zoning administrator; or b. Signed council approval of a phased development project consistent with §16.04.110 herein. <p>2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code.</p>
			City Council Findings	<i>The Final Plat shall may be signed by the City Clerk in accordance with §16.04.110 as all necessary elements and improvements specified in Phased Townhouse Subdivision Development Agreement Contract #20501 have been completed to the satisfaction of all City Departments.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.E	<p>E. Required Findings: In addition to all Townhouse Developments complying with the applicable provisions of Title 17 and this Subdivision Chapter (§16.04), the Administrator shall find that</p> <ul style="list-style-type: none"> 1. All Townhouse Developments, including each individual subplot, shall not exceed the maximum building coverage requirements of the zoning district. 2. Garage: All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots; provided, that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents, and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.
			City Council Findings	<i>The townhouse development meets the dimensional standards and requirements of the General Residential High Density (GR-H) Zoning District. No detached garages are proposed with this townhome development. Each townhome has its own attached garage. The mechanical room to screen and store the development's snowmelt system is designated as common area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.080.F	<p>General Applicability: All other provisions of this chapter and all applicable ordinances, rules and regulations of the city and all other governmental entities having jurisdiction shall be complied with by townhouse subdivisions.</p>
			City Council Findings	<i>All other provisions of this chapter and all applicable ordinances, rules, and regulations of the City and other governmental entities having jurisdiction shall be complied with by the townhouse subdivision.</i>

Table 2: Findings Regarding Final Plat Requirements

Final Plat Requirements				
Compliant			Standards and City Council Findings	
YES	NO	N/A	Ketchum Municipal Code	City Standards and <i>City Council Findings</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K	<p>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:</p> <p><i>City Council Findings</i> The Final Plat mylar shall be prepared following Ketchum City Council review and approval of the Final Plat application and shall meet these standards.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	<p>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.</p> <p><i>City Council Findings</i> This standard has been met.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	<p>Location and description of monuments.</p> <p><i>City Council Findings</i> This standard has been met.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	<p>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.</p> <p><i>City Council Findings</i> This standard has been met.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	<p>Names and locations of all adjoining subdivisions.</p> <p><i>City Council Findings</i> The adjacent lots within Bavarian Village Subdivision, Smokey Lane Condominiums, Hourglass Townhomes, Autumn Woods Townhomes, and Summit Ridge Townhomes are indicated on the plat map.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	<p>Name and right of way width of each street and other public rights of way.</p> <p><i>City Council Findings</i> This standard has been met. The Bird Drive right-of-way is indicated on the plat.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.6	<p>Location, dimension and purpose of all easements, public or private.</p> <p><i>City Council Findings</i> This standard has been met.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.7	<p>The blocks numbered consecutively throughout each block.</p> <p><i>City Council Findings</i> This Townhouse Subdivision will subdivide existing Lot 5AA within Bavarian Village Subdivision into 10 townhouse sublots. No new blocks are created with the townhouse subdivision.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	<p>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</p>

				other descriptive language with regard to the precise nature of the use of the land so dedicated.
			City Council Findings	<i>N/A as no dedications have been required or proposed for this townhouse subdivision.</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.
			City Council Findings	<i>This standard has been met. The name of the proposed subdivision is West Ketchum Residences.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			City Council Findings	<i>This standard has been met.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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
			City Council Findings	<i>N/A. No public streets are existing or proposed within the townhouse subdivision. The shared driveway is private roadway.</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.
			City Council Findings	<i>As conditioned, this standard will be met prior to recordation of the Final Plat. The applicant shall include a provision in the owner's certificate referencing the county recorder's instrument number where the article of incorporation of the homeowners' association governing the subdivision are recorded.</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.
			City Council Findings	<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.
			City Council Findings	<i>This standard has been met. A title report and warranty deed were submitted with the Final Plat application and both are current.</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.
			City Council Findings	<i>As conditioned (#7), 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.
			City Council Findings	<i>As conditioned (#7), 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.
			City Council Findings	<i>As conditioned (#7), 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.
			City Council Findings	<i>As conditioned (#7), 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.
			City Council Findings	<i>N/A as no restrictions were imposed by the Ketchum City Council during review of the Preliminary Plat application.</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.
			City Council Findings	<i>This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.A	Required Improvements: The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat. Construction design plans shall be submitted and approved by the city engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the city.
			City Council Findings	<i>All necessary elements and improvements specified in the Phased Development Agreement are complete. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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.
			City Council Findings	<i>City Departments, including Planning, Building, Fire, Streets, City Engineer, and Utilities, reviewed approved all required improvements through Design Review Application File No. P19-140, Townhouse Subdivision Preliminary Plat Application File No. P19-141, Phased Townhouse Subdivision Development Agreement Contract #20501, FAR Exceedance Agreement Contract #20475, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.</i>
<input checked="" 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.

			City Council Findings	<i>No performance bond is needed as all improvements are complete. All necessary elements and improvements specified in the Phased Development Agreement are complete. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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.
			City Council Findings	<i>All necessary elements and improvements specified in the Phased Development Agreement are complete. The project's utilities, private driveway, and right-of-way improvements have been installed and completed to the satisfaction of all City Departments. The Right-of-Way Encroachment Agreement 20565 (recorded under Instrument #67699) was approved by City Council on December 11th, 2020. The City has received payment for the total \$249,274.06 in-lieu fee for the community housing contribution specified in FAR Exceedance Agreement #20475 (recorded under Instrument #669581).</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.E	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: <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.
			City Council Findings	<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	Lot Requirements: <ol style="list-style-type: none"> 1. Lot size, width, depth, shape and orientation and minimum building setback lines shall be in compliance with the zoning district in which the property is located and compatible with the location of the subdivision and the type of development, and preserve solar access to adjacent properties and buildings. 2. Whenever a proposed subdivision contains lot(s), in whole or in part, within the floodplain, or which contains land with a slope in excess of twenty five percent (25%), based upon natural contours, or creates corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, watercourses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "lot, buildable" in section 16.04.020 of this chapter.

			<p>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> <ol style="list-style-type: none"> a. For lot line shifts of parcels that are entirely within slopes of twenty five percent (25%) or greater to create a reasonable building envelope, and mountain overlay design review standards and all other city requirements are met. b. For small, isolated pockets of twenty five percent (25%) or greater that are found to be in compliance with the purposes and standards of the mountain overlay district and this section. <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>City Council Findings</p> <p><i>Standard #1 has been as the townhomes and townhouse sublots comply with all dimensional standards required in the GR-L Zone. Standards #2-5 are not applicable. Standard #6 has been met as the development site has 201 feet of street frontage along Bird Drive.</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> <ol style="list-style-type: none"> 1. No block shall be longer than one thousand two hundred feet (1,200'), nor less than four hundred feet (400') between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots. 2. Blocks shall be laid out in such a manner as to comply with the lot requirements. 3. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, watercourses and topographical features. 4. 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>City Council Findings</p> <p><i>This Townhouse Subdivision application does not create a new block. This requirement is not applicable.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>16.04.040.H</p> <p>Street Improvement Requirements:</p> <ol style="list-style-type: none"> 1. The arrangement, character, extent, width, grade and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land; 2. All streets shall be constructed to meet or exceed the criteria and standards set forth in chapter 12.04 of this code, and all other applicable ordinances, resolutions or regulations of the city or any other governmental entity having jurisdiction, now existing or adopted, amended or codified; 3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad or limited access highway right of way, the council may require a frontage street, planting strip, or similar design features;

			<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>
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				<p>20. Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the Administrator and shall be consistent with the type and design of existing street signs elsewhere in the City;</p> <p>21. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, such construction or improvement shall be a required improvement by the subdivider. Such construction or improvement shall be in accordance with adopted standard specifications;</p> <p>22. Sidewalks, curbs and gutters 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>
			City Council Findings	<i>This Townhouse Subdivision does not create new street, public road, or bridge. The townhomes are accessed from shared private driveway. The subdivision is not located within the Avalanche Zone. These standards are not applicable.</i>
<input 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>
			City Council Findings	<i>This proposal does not create a new alley. This standard is not applicable as the proposed townhome units are located within a residential neighborhood and alleys are not required to be provided.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p>Required Easements: Easements, as set forth in this subsection, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.</p> <p>1. A public utility easement at least ten feet (10') in width shall be required within the street right-of-way boundaries of all private streets. A public utility easement at least five feet (5') in width shall be required within property boundaries adjacent to Warm Springs Road and within any other property boundary as determined by the City Engineer to be necessary for the provision of adequate public utilities.</p> <p>2. Where a subdivision contains or borders on a watercourse, drainageway, channel or stream, an easement shall be required of sufficient width to contain such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the Council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement,</p>

			<p>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>City Council Findings</p> <p><i>All required and existing easements have been provided and shown on the plat map.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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>City Council Findings</p> <p><i>The development is connected to the municipal sewer system. The development's sewer services have been completed to the satisfaction of City Departments. The total water and sewer system is private from point of connection with the main on Bird Drive. Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private water main and the sewer lines serving sublots 1-10 and common area irrigation, in accordance with the Planned Townhouse Subdivision Agreement, recorded under Instrument Number 672296, records of Blaine County, Idaho.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16.04.040.L</p> <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</p>

				<p>Utilities Commission, Idaho Department of Reclamation, and all requirements of the City.</p> <p><i>The townhome unit is connected to the municipal water system. The development is connected to the municipal water system. The development's water services have been completed to the satisfaction of City Departments. The total water and sewer system is private from point of connection with the main on Bird Drive. Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private water main and the sewer lines serving sublots 1-10 and common area irrigation, in accordance with the Planned Townhouse Subdivision Agreement, recorded under Instrument Number 672296, records of Blaine County, Idaho.</i></p>
			City Council Findings	
<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>
			City Council Findings	<i>This standard is not applicable as the subplot is within a residential neighborhood and the subject property does not adjoin incompatible uses or features.</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. e. Location of all street and utility improvements including driveways to building envelopes. f. Any other information which may reasonably be required by the Administrator, commission or Council to adequately review the affect of the proposed improvements. 3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways. 4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision. 5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion. 6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply: <ol style="list-style-type: none"> a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.

				<p>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).</p> <p>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</p> <p>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.</p> <p>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>
			City Council Findings	<i>The project's grading improvements were reviewed and approved by City Departments through Design Review Application File No. P19-140, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.</i>
<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>
			City Council Findings	<i>The project's drainage improvements were reviewed and approved by City Departments through Design Review Application File No. P19-140, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p>Utilities: In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			City Council Findings	<i>All utilities required to serve the townhome development, including natural gas, telephone, cable, and electricity have been installed.</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>
			City Council Findings	<i>No off-site improvements are required with this townhouse subdivision.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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>

			City Council Findings	<i>N/A. The property is not located within the Avalanche Zone or Mountain Overlay.</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.
			City Council Findings	<i>N/A. No existing natural features that would have enhanced the attractiveness of the townhome subdivision were present on Lot 5AA. The project's new landscaping will beautify the townhome development.</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 Townhouse Subdivision Final Plat application for the development and use of the project site.
2. The Council has authority to hear the applicant’s Townhouse Subdivision application pursuant to Chapter 16.04 of Ketchum Code Title 16.
3. The Townhouse Subdivision Preliminary Plat application is governed under Sections 16.04.010, 16.04.020, 16.04.030, 16.04.080, and 16.04.110 of Ketchum Municipal Code Chapter 16.04.
3. The proposed Townhouse Subdivision for the West Ketchum Residences developments meets the standards for Townhouse Final Plats under Title 16 of Ketchum Municipal Code subject to conditions of approval.

DECISION

THEREFORE, the Ketchum City Council **approves** this Townhouse Subdivision Final Plat application this Monday, August 2nd, 2021 subject to the following conditions:

CONDITIONS OF APPROVAL

1. The Covenants, Conditions, and Restrictions (CC&R’s) shall be simultaneously recorded with the Final Plat, and the City will not now, nor in the future, determine the validity of the CC&R’s.
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,
5. 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.

6. The applicant shall provide a copy of the recorded Final Plat and the associated condominium owners’ documents to the Planning and Building Department for the official file on the application.
7. 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.
8. The project shall comply with all governing ordinances, requirements, and regulations of the Fire Department (2012 International Fire Code and local Fire Protection Ordinance No.1125), Building Department (2012 International Building Code, the 2012 International Residential Code, and Title 15 of Ketchum Municipal Code), Utilities Department, Street Department (Title 12 of Ketchum Municipal Code), and the City Engineer.
9. The West Ketchum Residences townhome development, including the final plat, is subject to Design Review Application File No. P19-140, Townhouse Subdivision Preliminary Plat Application File No. P19-141, Phased Townhouse Subdivision Development Agreement Contract #20501, FAR Exceedance Agreement Contract #20475, Right-of-Way Encroachment Agreement 20565, and Building Permits B20-033, B20-35, B20-066, B20-116, B20-121, and B21-008.

Findings of Fact **adopted** this 2nd day of August 2021

Neil Bradshaw, Mayor

Tara Fenwick, City Clerk



City of Ketchum
Planning & Building

CERTIFIED COMPLETE
7-9-21
Final Plat

OFFICIAL USE ONLY	
Application Number:	P21-046
Date Received:	7-6-21
By:	mf
Fee Paid:	750 ⁰⁰
Approved Date:	
By:	

Subdivision Application

Submit completed application and payment to the Planning and Building Department, PO Box 2315, Ketchum, ID 83340 or hand deliver to Ketchum City Hall, 480 East Ave. N., Ketchum. If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: West Ketchum Residences			
Owner of Record: West Ketchum Residences, LLC c/o Robert Parker, VP Companies			
Address of Owner: PO Box 284, Sun Valley, ID 83353			
Representative of Owner: Sean Flynn / Galena Engineering			
Legal Description: Lot 5AA, Block 1, Bavarian Village Subdivision			
Street Address: 156 Wick Strasse Drive			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 10 townhouse sublots			
Total Land Area: 47,338 sf			
Current Zoning District: GR-H			
Proposed Zoning District: GR-H			
Overlay District: N/A			
TYPE OF SUBDIVISION			
Condominium <input type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input checked="" type="checkbox"/>
Adjacent land in same ownership in acres or square feet: N/A			
Easements to be dedicated on the final plat: Utility Easements			
Briefly describe the improvements to be installed prior to final plat approval: Water, sewer, and driveway improvements; each unit will be constructed and obtain c/o prior to final plat approval.			
ADDITIONAL INFORMATION			
All lighting must be in compliance with the City of Ketchum's Dark Sky Ordinance One (1) copy of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations One (1) copy of current title report and owner's recorded deed to the subject property One (1) copy of the preliminary plat All files should be submitted in an electronic format.			

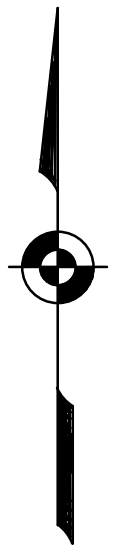
Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Subdivision Application in which the City of Ketchum is the prevailing party to pay reasonable attorney's fees and costs, including fees and costs of appeal for the City of Ketchum. Applicant agrees to observe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

Sean Flynn w/ Galena Engineering 07/09/21
Applicant Signature Date

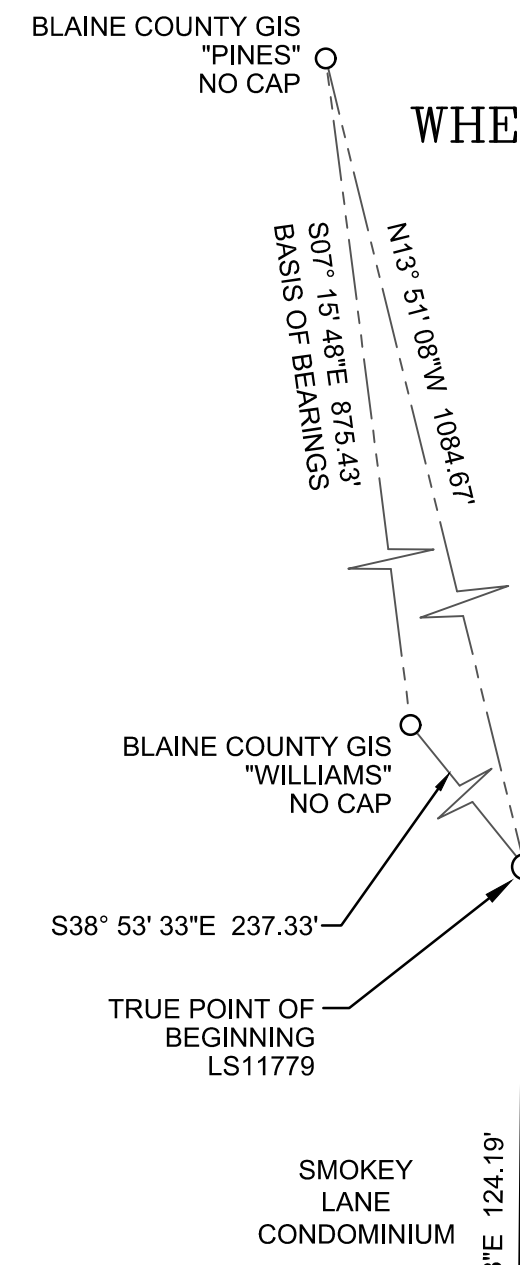
A PLAT SHOWING WEST KETCHUM RESIDENCES

WHEREIN LOT 5AA, BLOCK 1, BAVARIAN VILLAGE SUBDIVISION IS REPLATTD INTO TOWNHOMES AS SHOWN
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

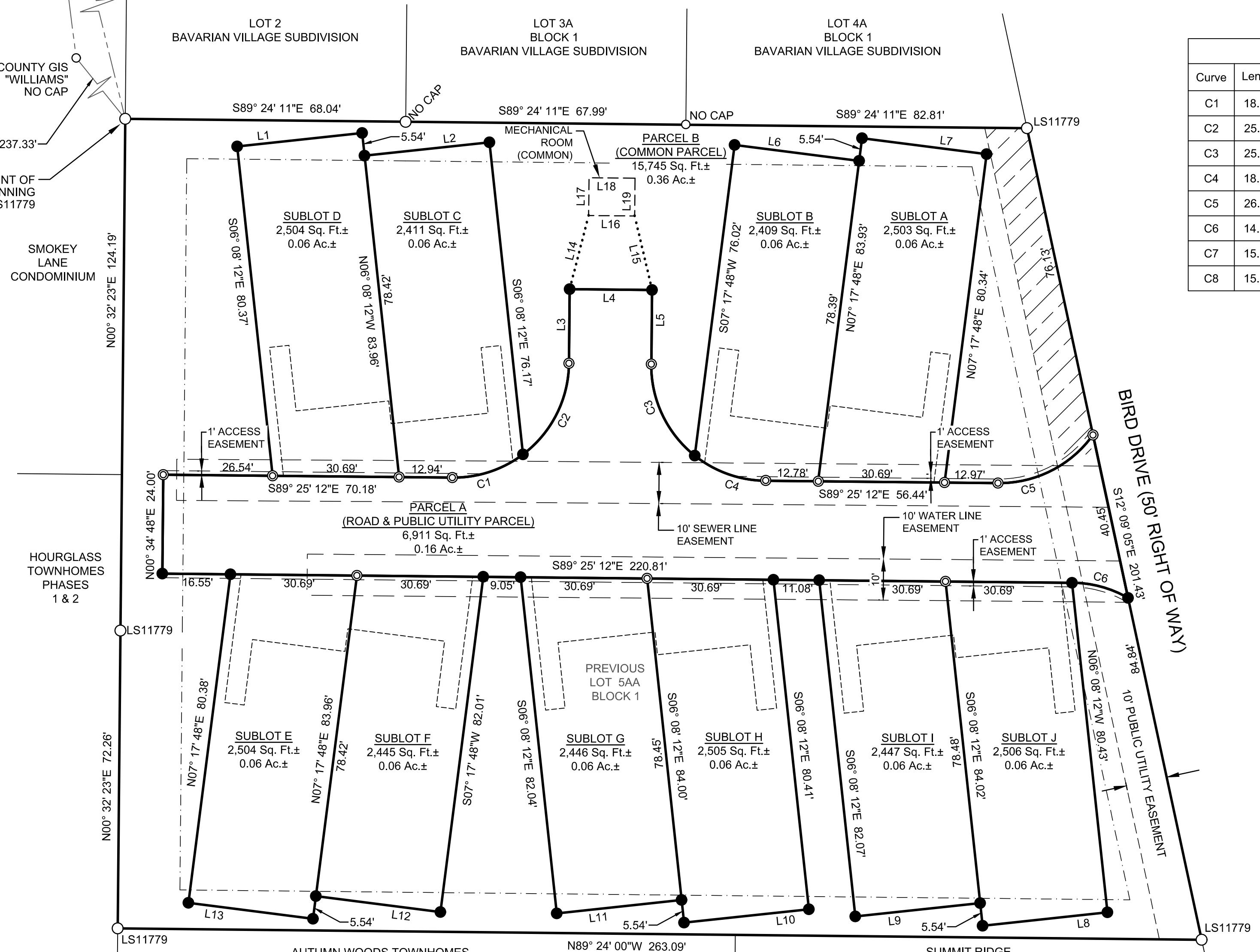
JULY 2021



SCALE: 1" = 20'



Line Table		
Line #	Length	Direction
L1	30.48	N83° 51' 48"E
L2	30.48	N83° 51' 48"E
L3	18.00	N00° 34' 48"E
L4	20.00	S89° 25' 12"E
L5	18.00	S00° 34' 48"W
L6	30.48	N82° 42' 12"W
L7	30.48	S82° 42' 12"E
L8	30.48	N83° 51' 48"E
L9	30.48	S83° 51' 48"W
L10	30.48	N83° 51' 48"E
L11	30.48	S83° 51' 48"W
L12	30.48	S82° 42' 12"W
L13	30.48	N82° 42' 12"E
L14	18.46	N14° 25' 12"E
L15	18.46	N13° 15' 36"W
L16	11.17	S89° 25' 12"E
L17	9.17	S00° 34' 48"W
L18	11.17	N89° 25' 12"W
L19	9.17	N00° 34' 48"E

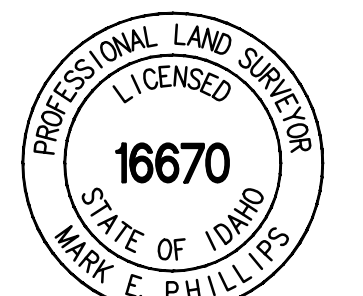


Curve Table						
Curve	Length	Radius	Delta	Tangent	Chord	Chord Direction
C1	18.35'	28.00'	37° 32' 57"	9.52'	18.02'	N71° 48' 20"E
C2	25.63'	28.00'	52° 27' 03"	13.79'	24.75'	N26° 48' 20"E
C3	25.44'	28.00'	52° 03' 15"	13.67'	24.57'	S25° 26' 49"E
C4	18.54'	28.00'	37° 56' 45"	9.63'	18.21'	S70° 26' 49"E
C5	26.85'	28.00'	54° 56' 31"	14.56'	25.83'	N63° 06' 33"E
C6	14.24'	28.00'	29° 08' 17"	7.28'	14.09'	N74° 51' 03"W
C7	15.61'	28.00'	31° 56' 36"	8.01'	15.41'	N73° 26' 54"W
C8	15.39'	28.00'	31° 30' 07"	7.90'	15.20'	S74° 49' 45"W

LEGEND

- Property Line
- Adjoiner's Lot Line
- Easements per Instrument Numbers 660648, 660804, 661177, & 661178 (See Note 3)
- Proposed Paver & Hydronic Heating Maintenance Easement (See Note 5 and Detail on Page 2)
- Easement, type & width as shown
- Building Setback
- GIS Tie Line
- Found 1/2" Rebar
- Found 5/8" Rebar
- Set 5/8" Rebar, PLS 16670
- Set 3/4" Brass Tag and Nail, PLS 16670

SEE NOTES ON PAGE 2



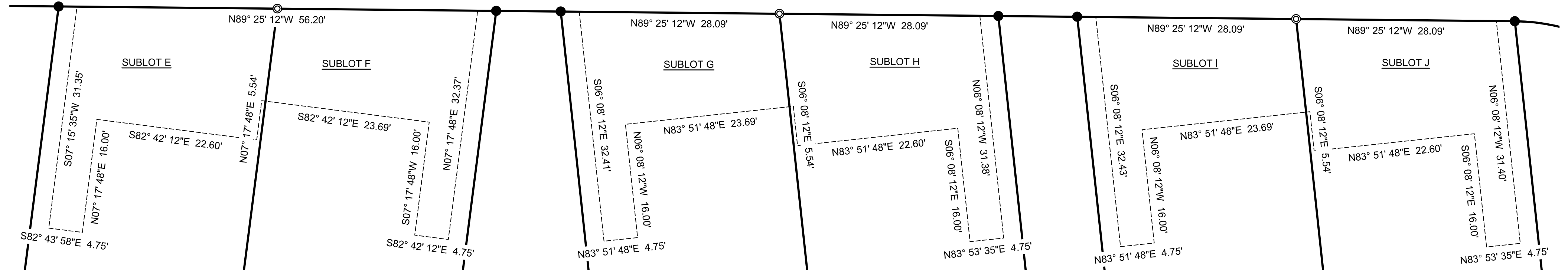
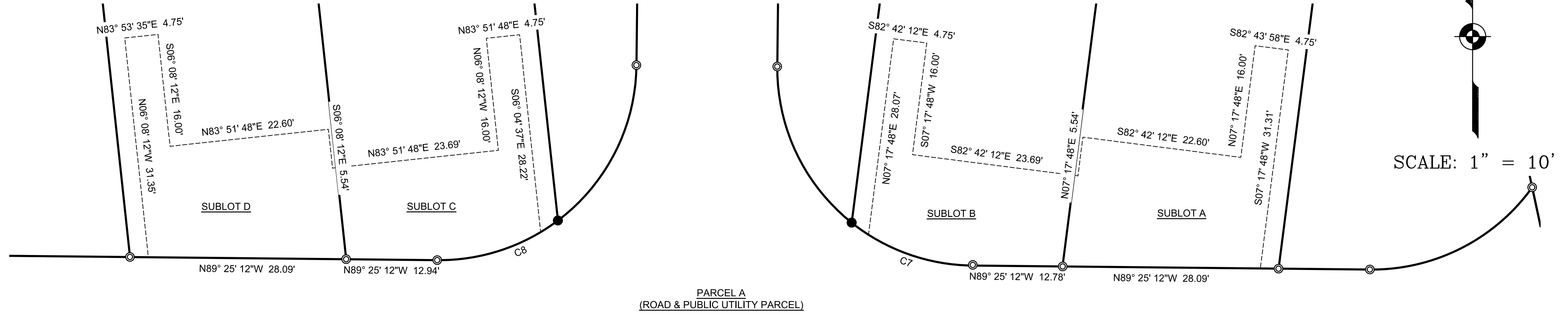
MARK E. PHILLIPS, P.L.S. 16670

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

Date _____ South Central Public Health District

WEST KETCHUM RESIDENCES
GALENA ENGINEERING, INC.
HAILEY, IDAHO
SHEET 1 OF 3
Job No. 7818

A PLAT SHOWING WEST KETCHUM RESIDENCES



SURVEY NARRATIVE & NOTES

1. The purpose of this survey is to replat Lot 5AA, Block 1, Bavarian Village Subdivision, into Townhome Sublots as shown hereon. The boundary shown is based on found monuments and the recorded plat of Lot 5AA, Block 1, Bavarian Village Subdivision, Instrument Number 669537, records of Blaine County, Idaho. All found monuments have been accepted. Additional Documents used in the course of this survey include; Bavarian Village Subdivision: Lots 3A, 4A, 5A, 6A, 7A & 8A, Instrument Number 631181, and Bavarian Village Subdivision, Instrument Number 139821, both records of Blaine County, Idaho.
2. An ALTA Commitment for Title Insurance for Lots 5A, 6A, 7A, & 8A, Bavarian Village Subdivision, has been issued by Stewart Title Guaranty Company, File Number 1921742, with a Commitment Date of August 1, 2019. Certain information contained in said title policy may not appear on this map or may affect items shown hereon. It is the responsibility of the owner or agent to review said title policy. All plottable encumbrances and easements listed in the title report are shown hereon. Review of specific documents is required, if further information is desired.
3. The 10' Public Utility Easement extending from the Northeast Corner of the subject property, along Bird Drive, to the Southeast Corner of the subject property as shown hereon will encompass Utility Easements per Instrument Numbers 660648, 660804, 661177, & 661178, records of Blaine County, Idaho.
4. Should repairs be required on any part of the public sewer main, the City of Ketchum will not be responsible for repair or replacement of pavers, landscaping, or heating system.
5. A Paver & Hydronic Heating Maintenance Easement shall be created as shown hereon on all Sublots, being the paver areas for garage accesses and front entry walkways. The H.O.A. will maintain this system. See detail on this page.
6. A Landscape Easement shall be created hereon between all Sublot lines and the exterior footprints of each structure on said Sublots.
7. The West Ketchum Residences Declaration of Covenants, Conditions and Restrictions and Party Wall Agreement are recorded under Instrument Number _____, records of Blaine County, Idaho.
8. The Private Access Parcel (Parcel A) is designated as a fire lane. A clear zone of 20' shall be maintained at all times.
9. Parcel A is reserved for Common Access, Public Utilities, and Snow Storage to benefit and be maintained by Townhome Sublots within this subdivision. This area is unbuildable except for ingress/egress or utilities. Costs for utilities, snow removal, onsite street maintenance, and maintenance of Parcel A shall be shared on a pro rata basis between the Sublots.
10. Garage space shall not be converted to living space or uses other than parking of vehicles and household storage.
11. All Townhome Sublot owners shall have mutual reciprocal easements for existing and future water, cable tv, sewage, telephone, natural gas and electrical lines over, under, and across each Sublot for the repair, maintenance, and replacement thereof.
12. The owner/subdivider is West Ketchum Residences, LLC c/o Robert Parker, PO Box 284, Sun Valley, ID 83353. The surveyor/representative is Mark Phillips, Galena Engineering Inc., 317 N River Street, Hailey, ID 83333.
13. The Current Zoning is GR-H. Refer to the City of Ketchum Zoning Code for more information about this zone.
14. Refer to the Engineering Base Drawing, prepared by Galena Engineering, Inc., for existing conditions and proposed improvements.
15. A 1' access easement exists as shown here on adjacent to Parcel A to benefit all Sublot owners and the H.O.A.
16. The total water and sewer system is private from point of connection with the main on Bird Drive. Owner and all successors in interest are responsible for the installation, maintenance, repair, and other costs associated with the private water lines and the sewer lines serving Sublots A-J and the common area irrigation, in accordance with the Planned Townhouse Subdivision Agreement, recorded under Instrument Number 672296, records of Blaine County, Idaho.



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

Instrument # 668534

HAILEY, BLAINE, IDAHO
04-21-2020 2:00:11 PM No. of Pages: 2
Recorded for: BLAINE COUNTY TITLE
JOLYNN DRAGE Fee: \$15.00
Ex-Officio Recorder Deputy: JB
Electronically Recorded by Simplifile



WARRANTY DEED

FOR VALUE RECEIVED

Mc&W, LLC, an Idaho Limited Liability Company,

the Grantor, hereby grants, bargains, sells, conveys and warrants unto

West Ketchum Residences, LLC, an Idaho Limited Liability Company

the Grantee, whose current address is: P.O. Box 284 Ketchum, ID 83340

the following described premises, to-wit:

Lots 5A, 6A, 7A, 8A, Block 1 of BAVARIAN VILLAGE SUBDIVISION: LOTS 3A, 4A, 5A, 6A, 7A & 8A, as shown on the official plat thereof recorded as Instrument No. 631181, 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 to and those made, suffered or done by the Grantee; and subject to all existing patent reservations; restrictions in railroad deeds of record; easements and rights of way established and of record; protective covenants of record; zoning ordinances and applicable building codes, use restrictions, ordinances, laws and regulations of any governmental unit; 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 this 2 day of April, 2020.

Mc&W, LLC, an Idaho Limited Liability Company

W.W. McDowell

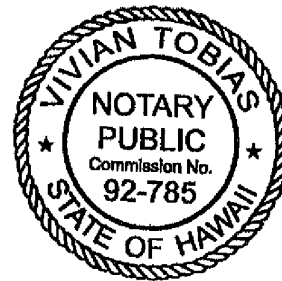
Willard W. McDowell, Member

State of Hawaii
County of Hawaii

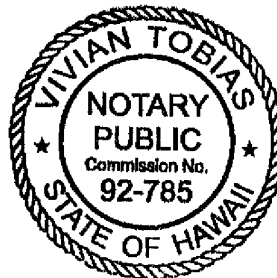
This record was acknowledged before me on 2 day of April, 2020, by Willard W. McDowell, Member of Mc&W, LLC.

Vivian Tobias
Notary Public Vivian Tobias
My Commission Expires: 11/19/20

(STAMP)



NOTARY CERTIFICATION	
Doc. Date: <u>4/2/20</u>	# Pages: <u>2</u>
Name: <u>Vivian Tobias</u>	Third Circuit
Doc. Description: <u>Warranty Deed Blaine County, Idaho</u>	
Signature: <u>Vivian Tobias</u>	
Date: <u>4/2/20</u>	



ALTA COMMITMENT FOR TITLE INSURANCE

ISSUED BY
STEWART TITLE GUARANTY COMPANY

NOTICE

IMPORTANT - READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Countersigned by:

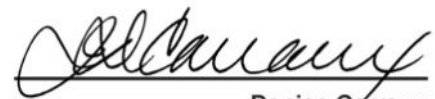

Authorized Countersignature

Blaine County Title, Inc.
360 Sun Valley Road
P.O. Box 3176
Ketchum, ID 83340
(208) 726-0700





Matt Morris
President and CEO



Denise Carraux
Secretary

For purposes of this form the "Stewart Title" logo featured above is the represented logo for the underwriter, Stewart Title Guaranty Company.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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File No. 1921742

ALTA Commitment For Title Insurance 8-1-16 (4-2-18)

Page 1 of 3



COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I - Requirements;
- (f) Schedule B, Part II - Exceptions; and
- (g) a countersignature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I - Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
 - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

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File No. 1921742

ALTA Commitment For Title Insurance 8-1-16 (4-2-18)

Page 2 of 3



- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <<http://www.alta.org/arbitration>>.

STEWART TITLE GUARANTY COMPANY

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.

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File No. 1921742

ALTA Commitment For Title Insurance 8-1-16 (4-2-18)

Page 3 of 3



ALTA COMMITMENT FOR TITLE INSURANCE SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Transaction Identification Data for reference only:

Issuing Agent: Blaine County Title, Inc.
Issuing Office: 360 Sun Valley Road, P.O. Box 3176, Ketchum, ID 83340
Issuing Office's ALTA® Registry ID: N/A
Loan ID Number: N/A
Commitment Number: 1921742
Issuing Office File Number: 1921742
Property Address: 156 Wick Strasse, Ketchum, ID 83340
154 Bird Dr., Ketchum, ID 83340
152 Bird Dr., Ketchum, ID 83340
150 Bird Dr., Ketchum, ID 83340
Revision Number:

1. **Commitment Date:** August 01, 2019 at 8:00 A.M.

2. Policy to be issued:		Proposed Policy Amount
(a) ALTA Owner's Policy	Standard	\$1,900,000.00
Proposed Insured:	VP Companies, Inc., an Idaho Corporation	
(b) ALTA Loan Policy	Standard	
Proposed Insured:		

3. **The estate or interest in the Land described or referred to in this Commitment is:**

Fee Simple

4. **The Title is, at the Commitment Date, vested in:**

Esther Hamilton, Trustee of the Testamentary Trust of Glenn Harlow Hamilton, Deceased (Lot 5A) and Thomas P Ziegler, Trustee of the Thomas P. Ziegler Trust (Lot 6A) and BV, LLC, an Idaho Limited Liability Company (Lot 7A and 8A)

5. **The Land is described as follows:**

Lots 5A, 6A, 7A, 8A, Block 1 of BAVARIAN VILLAGE SUBDIVISION: LOTS 3A, 4A, 5A, 6A, 7A & 8A, as shown on the official plat thereof recorded as Instrument No. 631181, records of Blaine County, Idaho.

STATEMENT OF CHARGES

These charges are due and payable
before a policy can be issued
Owner's Policy: \$4,580.00
Underwriter remittance
\$549.60

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File No. 1921742

ID ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18)

Page 1 of 1



ALTA COMMITMENT FOR TITLE INSURANCE SCHEDULE B PART I

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Requirements

File No.: 1921742

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. The Company must be furnished with a copy of the Agreement, Indenture or Declaration of Trust of the **Testamentary Trust of Glenn Harlow Hamilton**, together with copies of any amendments, modifications, or revocations. In the event there have been no amendments, modifications, or revocations, the Company will require satisfactory evidence to that effect. At the time the Company is furnished these items, the Company may make additional requirements or exceptions.
6. The Company must be furnished with a copy of the Agreement, Indenture or Declaration of Trust of the **Thomas P. Ziegler Trust**, together with copies of any amendments, modifications, or revocations. In the event there have been no amendments, modifications, or revocations, the Company will require satisfactory evidence to that effect. At the time the Company is furnished these items, the Company may make additional requirements or exceptions.
7. The Company requires for its review satisfactory copy of the Operating Agreement and the regulations of the limited liability company, any amendment thereof and satisfactory evidence of authority of the officers, managers, or members to execute the documents for **BV, LLC**.
8. Delivery to the Company of the Affidavit as to Debts and Liens. Upon acceptance and review of said Affidavit, title will be subject to such further matters as appear necessary and appropriate following such review.
9. Pursuant to the State of Idaho Insurance Regulations, a cancellation fee is to be charged on all cancelled orders. Unless otherwise advised, orders will be considered cancelled six months after the effective date on the Commitment. The amount of the fee assessed shall be in accordance with our rate filing with the Idaho Department of Insurance.

If you should decide to change lenders within six months, this commitment can be transferred to avoid a cancellation charge.

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File No. 1921742

ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18)

Page 1 of 1



ALTA COMMITMENT FOR TITLE INSURANCE

SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Exceptions

File No.: 1921742

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

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.
2. Taxes or 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 of such proceedings, whether or not shown by the records of such agency or by public record.
3. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
4. Easements, liens, or encumbrances, or claims thereof, which are not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortages in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
6. (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims, or title to water.
7. Any lien or right to a lien for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
8. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. Stewart makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interest that are not listed.
9. General taxes for the year 2019 and subsequent years, which are a lien due not yet payable.

Note: General taxes for the year 2018, a lien in the amount of \$2,698.50, which are paid in full. (Parcel No. RPK0420000005A)

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File No. 1921742

ID ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18)

Page 1 of 3



ALTA COMMITMENT FOR TITLE INSURANCE

SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Exceptions

Note: General taxes for the year 2018, a lien in the amount of \$2,698.50, which are paid in full. (Parcel No. RPK042000006A)

Note: General taxes for the year 2018, a lien in the amount of \$2,698.50, which are paid in full. (Parcel No. RPK042000007A)

Note: General taxes for the year 2018, a lien in the amount of \$2,698.50, which are paid in full. (Parcel No. RPK042000008A)

10. Water and sewer charges of the City of Ketchum.
11. Ketchum rubbish charges billed by Clear Creek Disposal.
12. Levies and Assessments of BV Subdivision Homeowners Association, Inc.
13. Easements, if any, for public utilities pipelines or facilities installed in any portion of the vacated street or alley, lying within the land, together with the right of ingress and egress to repair, maintain, replace and remove the same.
14. Notes, Easements and Restrictions as shown on the plat of Bavarian Village Subdivision, recorded August 2, 1971 as [Instrument No. 139821](#), records of Blaine County, Idaho.
15. Terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens (provisions, if any, based on race, color, religion, or national origin are omitted) provided in the Declaration Covenants, Conditions and Restrictions of Bavarian Village Subdivision recorded May 20, 2019 as [Instrument No. 660172](#), records of Blaine County, Idaho.
16. Easement, including the terms and provisions thereof in favor of Idaho Power Company, recorded June 7, 2019 as [Instrument No. 660648](#), records of Blaine County, Idaho.
17. Easement, including the terms and provisions thereof, in favor of Idaho Power Company, recorded June 14, 2019 as [Instrument No. 660803](#), records of Blaine County, Idaho.
18. Easement, including the terms and provisions thereof, in favor of Idaho Power Company, recorded June 14, 2019 as [Instrument No. 660804](#), records of Blaine County, Idaho.
19. Easement, including the terms and provisions thereof, in favor of Intermountain Gas Company, recorded June 27, 2019 as [Instrument No. 661177](#), records of Blaine County, Idaho.
20. Easement, including the terms and provisions thereof, in favor of Intermountain Gas Company, recorded June 27, 2019 as [Instrument No. 661178](#), records of Blaine County, Idaho.
21. Easement, including the terms and provisions thereof, in favor of Idaho Power Company, recorded June 28, 2019 as [Instrument No. 661188](#), records of Blaine County, Idaho.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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ALTA COMMITMENT FOR TITLE INSURANCE

SCHEDULE B PART II

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Exceptions

22. Notices of liens if any, in favor of the State Tax Commission, the Department of Labor and Department of Health and Welfare of the State of Idaho filed in the office of the Secretary of State pursuant to Chapter 19, Title 45, Idaho Code. (The Idaho State Tax Commission electronically files liens with the office of the Secretary of State and not with the Blaine County Recorder. Until final review at closing, title may be subject to such further matters as appear necessary and appropriate following such review.)

Item 1 will be removed upon final review at closing, title may be subject to such further matters as appear necessary and appropriate following such review.

Items 2-5 and 7 may be removed upon issuance of any ALTA Extended Coverage Policy.

Copies of all recorded documents outlined in this section are available upon request.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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Page 3 of 3



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR WEST KETCHUM RESIDENCES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this _____ day of _____, 2020, by West Ketchum Residences, LLC, an Idaho limited liability company (“Declarant”).

RECITALS

THIS DECLARATION IS MADE in contemplation and furtherance of the following:

A. Declarant is the owner of certain real property in the City of Ketchum, Blaine County, Idaho, known as WEST KETCHUM RESIDENCES, according to the official plat thereof, recorded in the records of Blaine County, Idaho.

B. Consistent with all applicable ordinances of the City of Ketchum, and the Covenants, Conditions and Restrictions herein provided for, Declarant intends to develop and construct ten (10) Townhome Sublots, Townhome Units, and related Common Areas on the property contained within West Ketchum Residences, in such phases and at such times as Declarant determines.

DECLARATION

Declarant hereby declares that all of the property within West Ketchum Residences, including all Townhome Sublots, Townhome Units, and Common Areas now or hereafter situated therein, and all improvements constructed and installed thereon, shall be held, conveyed, encumbered, leased, and used subject to the covenants, conditions, restrictions and equitable servitudes hereinafter set forth, all of which shall run with title to said real property and be binding upon, and benefit, all parties presently owning, or hereafter acquiring any right, title or interest therein, or to any part thereof.

**ARTICLE I
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the following meaning:

Section 1.1 “Articles” shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time.

Section 1.2 "Assessments" shall mean all annual and special assessments described in Article VI.

Section 1.3 "Association" shall mean and refer to West Ketchum Residences Owners Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 1.4 "Board of Directors" shall mean and refer to the Board of Directors of the Association, as provided for and governed by the Articles and Bylaws.

Section 1.5 "Bylaws" shall mean and refer to the Bylaws duly adopted for the Association, as the same may be amended from time to time.

Section 1.6 "Common Area" shall mean all property so designated on the official subdivision plat for the townhome subdivision under the purview of this Declaration, and all other real property hereafter owned or leased by the Association for such common purposes, or in which the Association acquires a license or an easement.

Section 1.7 "Design Review Committee" shall mean the committee which may, at the discretion of the Board, be created pursuant to Article VII hereof, and may be hereinafter referred to as the "DRC."

Section 1.8 "Improvement" shall mean and refer to all Townhome Units, other structures and landscaping proposed for, or constructed or installed on, any Sublot or Common Area, and all subsequent additions and exterior alterations thereto.

Section 1.9 "Member" shall mean a member of the Association, who shall be an Owner of a Sublot and shall qualify for membership in the Association in the manner set forth in the Articles, Bylaws and Article V hereof. There shall be only one (1) membership in the Association for each Sublot.

Section 1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Sublot; provided, however, that the term "Owner" shall not include those having only a security interest in an Sublot through a lien, encumbrance, deed of trust, mortgage, or other similar security instrument.

Section 1.11 "Party Wall" shall mean and refer to any structural bearing wall, including the footings on which it is situated, or any portion of said wall, which separates, and is shared by, two Townhome Units within the Subdivision, and which wall is used in common by, and is incorporated into, said two Townhome Units.

Section 1.12 "Plat" shall mean and refer to the official recorded final plat of West Ketchum Residences.

Section 1.13 "Subdivision" or "Townhome Subdivision" shall mean and refer to West Ketchum Residences.

Section 1.14 "Sublots," "Townhome Sublots" or "Townhouse Sublots" shall interchangeably mean and refer to Sublots shown on the official plat the Subdivision, expressly including all ten (10) sublots shown on the Plat of West Ketchum Residences.

Section 1.15 "Townhome" or "Townhome Unit" shall interchangeably mean and refer to a single-family townhome or townhouse residential unit, as defined in the subdivision ordinance and zoning ordinance of the City of Ketchum, which is constructed and maintained on a Sublot, and is subject to this Declaration.

ARTICLE II PROJECT DEVELOPMENT

Section 2.1 Declarant Construction Activities. The covenants, conditions and restrictions contained herein shall not apply to normal construction activities during the completion of Common Area improvements, or to the construction of Townhomes and related Improvements by the Declarant, its assignees and successors, employees or contractors, upon any Sublot or Common Area, provided that such Townhomes and other Improvements have, prior to the commencement of construction, received the approval of the City of Ketchum. Further, no such construction activity shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary construction structures, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence; conforms to usual construction practices in the area; and complies with all provisions of the Ketchum City Code regulating construction activities.

Section 2.2 Project Development. Declarant, or its successor or assigns, shall construct, or cause to be constructed a Townhome on each Sublot, and all Common Area Improvements, pursuant to plans and specifications approved by the City of Ketchum, Idaho. Such construction may be completed in such phases and at such times as Declarant, its assignees or successors, determines.

ARTICLE III GENERAL RESTRICTIONS AND PROVISIONS

Section 3.1 Residential Purposes. Each Sublot shall be restricted exclusively to a single-family Townhome residence, landscaping, accessory uses and Improvements. No modular home, manufactured home, trailer, mobile home, camper, motorhome, recreational vehicle, tent, shack, carport, garage or other similar vehicle, structure or improvement shall be used as a residence, either temporarily or permanently, on any Sublot. Each Townhome shall include garaged parking for two (2) automobiles. All Sublots, and the Townhomes, landscaping and Improvements thereon, shall be kept and maintained in good condition and repair at all times.

Section 3.2 DRC Approval. All Townhomes and other Improvements and landscape constructed, erected or installed on any Sublot or Common Area, and all subsequent modifications, removals, extensions and expansions thereof, and all exterior alterations, attachments, accessories and appurtenances thereto, shall be consistent with the provisions of this Declaration, and shall not be undertaken, commenced, constructed or installed without the prior written approval of the DRC, unless expressly exempted from such approval by the terms of this Declaration.

Section 3.3 Party Walls. To the extent that any two Townhomes are connected by, or share, a common bearing wall ("Party Wall"), the following provisions shall govern the use, maintenance, repair and restoration thereof:

- A. Each Townhome sharing a Party Wall shall be encumbered by an easement hereby granted and created over, under and across said Townhome, and the Sublot on which it is situated, for the purpose of providing such access as may be reasonably necessary to permit the Association and the Owner of the other Townhome sharing said Party Wall, and their respective agents and contractors, to maintain the integrity of the Party Wall, and to repair and restore it as necessary.
- B. Should any Party Wall be damaged or destroyed by the negligence or other act or omission of the Owner of one of the Townhomes sharing the same, or said Owner's agents, employees or guests, said Owner shall be liable, at its sole cost and expense, for all necessary repairs or restoration of said Party Wall, and related damage to any Townhome; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome sharing said Party wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Party Wall and related damages. All repairs or restorations to be completed pursuant to this subparagraph shall be promptly completed to the

reasonable satisfaction of the Association and its Design Review Committee.

- C. Should any Party Wall be damaged or destroyed by any cause other than the negligence, act or omission of the Owner of either Townhome sharing said Party wall, or said Owner's agents, employees or guests, the Owners of the two Townhomes sharing said Party Wall shall jointly be liable for all necessary repairs or restoration of said Party Wall, and related Townhome damage; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome sharing said Party Wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Party Wall and related damages. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the Association and its Design Review Committee.
- D. The Owners shall maintain customary and usual casualty and liability insurance. Such policies may be joint or separate as may be available from reputable insurance carriers. If and to the extent the premiums for such contents insurance can be separately determined, each Owner shall pay the separate premium for his or her contents coverage. If the premiums cannot be separately determined, the Owners shall share the insurance expense equally. Casualty and liability insurance premiums shall be shared equally.
- E. Should any party fail or refuse to complete the Party Wall repairs or restorations imposed upon it by this section, the Association, after giving written notice to said party of its intention to do so, may undertake said repairs or restorations, and be entitled to reimbursement for all costs incurred in connection therewith from said party. Such reimbursement shall be made within thirty (30) days after the Association has completed the work and presented said party with a statement and demand for payment setting forth all costs incurred.
- F. In the event of a dispute or controversy between the Owners of Townhomes sharing a Party Wall, as to any matter within or arising out of the provisions of this Section 3.3, or the respective use, maintenance, repair, or replacement of said Party Wall, such dispute or controversy shall be submitted to binding arbitration under the Uniform Arbitration Act, as enacted in the State of Idaho, Idaho Code § 7-901 et seq.

Section 3.4 Construction Site. Anything contained herein to the contrary notwithstanding, it shall be permissible for the Declarant, during any period of construction of a Townhome on any Sublot, to maintain upon said Sublot such facilities as may be reasonably required, convenient or incidental to construction or sales activities, including, without limitation, construction equipment, materials storage area, temporary construction shed or trailer, or Townhome sales office.

Section 3.5 Routine Exterior Townhome Maintenance. In accordance with, and subject to the provisions of Section 5.7 and Article VII, the Association shall keep the exterior of the Townhome, and the landscaping and improvements on the Sublot on which the Townhome is situated, in good condition and repair. Without limiting the foregoing, Association shall, as necessary, repair, replace, repaint and otherwise keep in excellent condition all landscaping and exterior Townhome surfaces, including siding and trim; roofing element and materials; patios and decks; and exterior windows. It is the intent of this provision that each Townhome and Sublot be at all times maintained at a level which is consistent with the condition of other Townhomes within the Subdivision. Notwithstanding the foregoing, in the event that the need for maintenance or repair of a Townhome is caused through or by the negligent or willful act or omission of a Townhome Unit Owner or Occupant, then the expenses incurred by the Association for such maintenance or repair shall be a personal obligation of such Townhome Unit Owner; and, if the Townhome Unit Owner fails to repay the expenses incurred by the Association within fifteen (15) days after notice to the Townhome Unit Owner of the amount owed, then the failure to so repay shall be a default by the Townhome Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Townhome Unit, enforceable by the Association in accordance with this Declaration.

Section 3.6 Animals and Pets. No animals of any kind shall be raised, bred or kept in or on any Townhome or Sublot, except dogs, cats, or similar household pets which are not kept, bred or maintained for any commercial purpose, do not endanger the health of other residents, are not allowed off the Sublot of the pet's owner except when leashed or under someone's direct control, and do not, in the sole determination of the Association, unreasonably disturb the occupants of any other Townhome, or otherwise constitute a nuisance.

Section 3.7 Signs and Business Activities. No advertising signs, billboards, commercial equipment, materials or supplies shall be erected, placed or permitted to remain on any Sublot or Common Area; provided, however, that this provision shall not prohibit the Declarant from erecting and maintaining temporary "for sale" signage while the Declarant still has Sublots and Townhomes for sale, nor shall it preclude the erection and maintenance of any directional or monument signs within the signage easements shown on the Plat

or referenced in the Plat notes. All non-Declarant owned Townhomes are prohibited from placing any signage on the Property.

Section 3.8 Service Facilities. Storage of all garbage cans, recycling bins, lawn or landscape maintenance equipment and similar items shall be enclosed within garages to conceal them from the view of neighboring Sublots and streets.

Section 3.9 Nuisances. No nuisances, as determined by the Association or as defined in the ordinances of the City of Ketchum, shall be allowed to occur or exist on any Sublot. Without limiting the foregoing, no rubbish, waste or debris shall be stored or accumulated on any Sublot, nor shall any noise, odor or conduct be permitted to emanate from or occur on any Sublot which is unreasonably offensive or detrimental to any other Sublots, or its occupants; including but not limited to barking, loud music and power tools.

Section 3.10 Hazardous Activities. No activities shall be conducted, and no improvements shall be constructed, on any Townhome, Sublot or Common Area which are illegal or might be unsafe or hazardous to any person or property. Without limiting the foregoing, no fireworks or firearms shall be discharged upon any Townhome, Sublot or Common Area and no open fires shall be permitted; provided, however, that fires are allowed within individual outdoor gas fire pits.

Section 3.11 Vehicle and Equipment Parking & Storage. Unless contained within a permitted and conforming to the provision of this Declaration garage, structure or screened area, no unsightly vehicles or equipment or equipment shall be stored, parked or otherwise permitted to remain on any Sublot for any period exceeding 24 hours, including, without limitation, trailers, campers, motorhomes, boats, jet skis, all-terrain vehicles, golf carts, snowmobiles, tractors, inoperable vehicles or equipment.

Section 3.12 Utilities. All utility service lines shall be underground, and shall conform to applicable code requirements. Approval of the DRC prior to installation shall not be required. Television satellite dishes are not considered Utilities and require approval from DRC.

Section 3.13 Subdivision. Except as expressly provided for in Section 5.7 of this Declaration, platted Sublots and Common Area shall not be further subdivided, and no portion of any Sublot may be sold separately from the rest of that Sublot.

Section 3.14 Drainage. There shall be no interference with established drainage patterns or platted drainage easements over any Sublot unless adequate provision is made for alternative drainage and is approved by the beneficiary of such easement and by the DRC. No structure, fence, planting, fill

or other materials shall be placed or permitted to remain which may obstruct or retard the flow of water through established drainage channels.

Section 3.15. Plat. All development proposed for a Sublot and/or Common Area shall be in compliance with the official, recorded Plat for the Subdivision, including all Plat notes.

Section 3.16 Snow Storage Easements. Every Owner, by accepting a deed to the Sublot, is deemed to grant unto the Association an easement over all portions of said Sublot not improved with a building, structure or driveway, exclusively for the purpose of permitting the temporary deposit thereon of snow removed from Common Areas and Sublots by the Association or its contractors and employees.

Section 3.17 Landscape Preservation. Without approval of the Board of Directors, no trees shall be removed or replaced within any Sublot or Common Areas; provided, however, that should any Owner petition the Board of Directors for the removal of any trees or shrubs in the Common Area which unreasonably impair significant view corridors from the petitioner's Unit, the Board shall consider the petition and cause removal of the subject trees and shrubs if necessary.

ARTICLE IV COMMON AREA

Section 4.1 Conveyance to the Association. For this subdivision, the Declarant, its successors or assigns, at their sole cost and expense, shall landscape, improve, or make appropriate provision for such landscaping improvement of, the Common Area situated therein in a manner consistent with the Plat and development plans therefore which have been approved by the City of Ketchum, and shall thereafter deed the same to the Association, and the Association shall accept title to the same, at no cost to it, subject only to encumbrances of record. Common Area improvements, and its conveyance to the Association, may be completed by the Declarant in phases, consistent with development of the Townhomes.

Section 4.2 Enjoyment of Common Area. Subject to the exclusive rights and obligations of the Association to manage it, as set forth in Article V, each Owner shall have a non-exclusive right to use and enjoy, in common with all other Owners, any Common Area owned by the Association, and such right shall be appurtenant to and pass with the title to each Sublot.

ARTICLE V THE ASSOCIATION

Section 5.1 Establishment. The Association shall be incorporated under the laws of the State of Idaho as a non-profit membership corporation as West Ketchum Residences Owners Association, Inc. All references herein to the Association shall be to said corporation.

Section 5.2 Articles and Bylaws. Declarant shall adopt initial Articles of Incorporation for the Association, and will propose initial Bylaws for adoption by the Board of Directors of the Association to provide for the administration and governance of the Association, and for other purposes not inconsistent with this Declaration. In the event of conflict between this Declaration and Articles and Bylaws of the Association, the provisions of this Declaration shall prevail.

Section 5.3 Board of Directors. The Association shall be managed by a Board of Directors all of whom shall be Members of the Association. Their number, and the manner by which they are to be elected and function, shall be set forth in the Bylaws of the Association.

Section 5.4 Membership. Every Owner shall be entitled and required to be a Member of the Association. If title to a Sublot is held by more than one person or entity, the membership related to that Sublot shall be shared by all such persons or entities in the same proportionate interest and by the same type of tenancy in which title to the Sublot is held. An Owner shall be entitled to one membership for each Sublot owned by that Owner. No person or entity other than an Owner may be a member of the Association.

Section 5.5 Voting Rights. The Association shall have two (2) classes of membership, as follows:

- A. Class A Members shall be all Owners except the Declarant, and each Class A Member shall be entitled to one (1) vote for each Sublot owned. When more than one person holds an interest in any Sublot, all such persons shall be Members, but the vote appurtenant to the Sublot owned by them shall be exercised as the joint Owners may decide among themselves, but in no event shall more than one (1) vote be cast with respect to any Sublot.
- B. Class B Member shall be limited to the Declarant and its assignees, if any designated as provided for herein, who shall be entitled to five (5) votes for each Sublot owned by them from the date each such Sublot was initially created by recordation of the Subdivision until sold to another Owner, after which the membership appurtenant to that Sublot shall become a Class A membership in the name of the Buyer.

- C. Unless otherwise provided herein, or in the Articles of Incorporation or Bylaws of the Association, decisions of the Association to be made by a vote of the Members shall be determined by a simple majority of the votes cast by Members voting, in person or by proxy, at a duly constituted meeting of the Members at which a quorum of Members representing at least fifty percent (50%) of the total authorized votes of all Members is present.

Section 5.6 Cumulative Voting. In any election of the members of the Board of Directors, each Member entitled to vote at such election shall have the right to cumulative voting for each director to be elected, and to thereby give one candidate, or divide among any number of the candidates, the number of votes equal to the total number of votes to which that Member is entitled to vote for all Directors to be elected. The candidates receiving the highest number of votes, up to the number of Directors to be elected, shall be deemed elected.

Section 5.7 Management of the Sublots and Common Area. The Association shall be responsible for exclusive management of the Common Area owned by it, consistent with the rights of the Owners to use and enjoy said Common Area set forth in Article IV and may assert exclusive management of the exterior of Improvements on Sublots. Without limitation, the Association's management of Common Area and of the exterior of Improvements on Sublots shall include the following rights and obligations:

- A. The Common Area, and all Improvements situated thereon, shall be kept by the Association in good condition and repair, reasonably free from debris and obstructions.
- B. The Paver and Hydronic Heating System as identified on the Plat as the Paver and Hydronic Heating Maintenance Easement shall be kept by the Association in good condition, operation and repair.
- C. Once the initial landscaping for the Common Area and each Sublot, including an appropriate irrigation system, has been completed by the Declarant, the Association shall, without further approval from the DRC, maintain, repair or replace, as necessary, plantings, landscape elements and the irrigation systems, unless such work changes the essential character or scope of the landscaping, and includes additional impacts on any other Sublots, including impacts on view corridors, in which case such work shall first be required to receive DRC approval prior to commencement. All landscaping shall at all times be properly maintained and irrigated.
- D. The Association shall be responsible for the removal of accumulated snow, in a timely manner as necessary following snowfall events, from all access roads, driveways, parking areas,

Townhome accesses, sidewalks and improved pathways within the Subdivision, including Common Areas and Sublots.

- E. Unless otherwise agreed to in writing by the Board of Directors of the Association, all landscaping in the Common Area and on Sublots, including the planting, watering, replacement and maintenance of lawns, shrubs, trees, flowers and other vegetation and landscaping features and facilities, shall be within the sole responsibility and jurisdiction of the Association, the costs and expense of which shall be included by the Association in the calculation of its annual and/or special assessments.
- F. Unless otherwise agreed to in writing by the Board of Directors or otherwise provided in this Declaration, the Association may from time to time assert exclusive control over and responsibility for the exterior maintenance and repair of Improvements within Sublots, including painting, the cost and expense of which shall be included by the Association in the calculation of its annual and/or special assessments.
- G. The Association shall keep the Common Area and its Improvements fully insured as provided for in Article VIII.
- H. The Association shall pay, when due, and not permit to become delinquent, all real property taxes and assessments levied against the Common Area for the period commencing on the date title to the Common Area is conveyed to the Association, and continuing thereafter for so long as it remains in the ownership of the Association.
- I. The Association may, from time to time, further modify, improve or equip the Common Area for the benefit of the Owners, and make such assessments or borrow such funds therefore as it deems necessary or appropriate, subject to the provisions and limitations set forth herein.
- J. The Association shall have the right to charge or assess reasonable user fees or assessments which may become necessary to defray costs incurred or to be incurred by the Association for improvement, operation or maintenance of any Common Area owned or hereafter acquired by the Association.
- K. The Association shall have the right to dedicate or transfer all or any part of the Common Area, or any interest therein, to any person, entity, public agency, authority or utility for such purposes and subject to such conditions as the Board of Directors of the

Association may deem appropriate. Notwithstanding the foregoing, no conveyance of any portion of the Common Area in excess of 3,000 square feet shall be authorized or completed by the Association without the prior affirmative vote of not less than two-thirds of the total authorized votes of all Members, nor shall the Association be entitled to re-subdivide any portion of the Common Area for the purpose of establishing any additional Sublots or development parcels without the prior written consent of all members.

Section 5.8 Service Contracts and Personnel. To properly manage its business affairs the Association may enter into service contracts and/or employ personnel as it deems necessary and appropriate. Without limitation, the Association may retain necessary general management services, legal and accounting services, Common Area maintenance and repair services, and professional services as necessary for the DRC to adequately review plans and specifications presented to it for approval, and to assure that all development complies with approved plans, including architectural and engineering reviews and compliance monitoring. The Association may also contract with others to furnish required services for the Common Area, including utilities, snow removal, trash collection, landscaping, public liability insurance and casualty insurance.

Section 5.9 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may also take judicial action against any Owner to enforce compliance with the provisions of this Declaration, the Design Criteria, and any rule, regulation, assessment or fee duly promulgated or levied by it.

Section 5.10 Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right and privilege.

Section 5.11 Transfer of Membership. The membership in the Association of each Owner, including Declarant, shall be appurtenant to the Sublot giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Sublot, and then only to the transferee of title to the Sublot. Any attempt to make a prohibited transfer shall be void and any transfer of title to a Sublot shall operate automatically to transfer the membership in the Association to the new Owner thereof.

Section 5.12 Books and Records. The Board shall cause to be kept complete, detailed and accurate books and records of the receipts and

expenditures of the Association, in a form which complies with generally accepted accounting principles. The Board or a majority of the Owners may at any time require an audit prepared by an independent, certified public accountant, which shall be paid for by the Association.

Section 5.13 Inspection of Association Documents, Books and Records. Upon request, the Association shall make available to the Owners, mortgagees, prospective purchasers and their prospective mortgagees, and the agents or attorneys of any of them, current copies of this Declaration, the Articles, Bylaws and other rules, books, records and financial statements of the Association, including the most recent annual financial statement, if one has been prepared. The term "available," as used herein, shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances to be determined by the Board of Directors. The Association may require the requesting party to pay a reasonable charge for the reproduction of any document, book or records desired.

Section 5.14 Banking. The Association shall designate an FDIC insured commercial bank with offices in Blaine County, Idaho, as the depository for all funds collected by the Association, and for the transaction of the Association's banking activities.

ARTICLE VI ASSESSMENTS

Section 6.1 Agreement to Pay Assessments. Declarant, for each Sublot owned by the Declarant, hereby covenants, and each subsequent Owner of any Sublot, by the acceptance of a deed therefore, whether or not it be so expressed in said deed, shall be deemed to covenant and agree with each other and with the Association, to be bound by the provisions of this Declaration and to pay to the Association the assessments herein provided for. In the case of joint or co-ownerships, this liability shall be joint and several. Such assessments shall be levied against Sublots and collected from time to time in the manner provided for in this Article VI.

Section 6.2 Annual Assessments. Annual assessments against all Sublots are hereby authorized which shall be based upon advance annual estimates of cash requirements by the Association to provide for the payment of all estimated expenses to be incurred in the ensuing twelve-month period in the conduct of the management; taxes; insurance; legal and accounting services; Common Area landscaping installation, irrigation and maintenance; Common Area utilities; repair and replacement of Common Area Improvements and equipment; a reasonable contingency reserve, surplus and/or sinking fund for Common Area capital improvements, replacements and repairs; and any costs incurred by the DRC which are not otherwise defrayed by its design review fee schedule ("Annual Assessments").

Section 6.3 Special Assessments. In addition to the annual assessments authorized hereinabove, the Association may levy at any time a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the unanticipated cost of any construction, reconstruction, repair or replacement of Common Area improvements; other similarly unanticipated or emergency expenses duly incurred or to be incurred by the Association for purposes provided in this Declaration; and all other duly incurred expenses of the Association which were not or could not be adequately provided for by the annual assessment ("Special Assessments").

Section 6.4 Apportionment of Assessments. Annual and Special Assessments shall be levied and assessed among the Owners of Sublots, according to the total number of square feet of each Sublot as shown on any Plat which is encumbered by and subject to, this Declaration. Each Owner shall be assessed for each of its Sublots a fraction of the total assessments, the numerator of which fraction shall be the total square footage of said Owner's Sublot(s), and the denominator of which shall be the total square footage of all Sublots in the Subdivision subject to, and within the purview of, this Declaration.

Section 6.5 Individual Assessments. In addition to Annual and Special Assessments, should any reimbursement owed to the Association solely by an Owner pursuant to Sections 3.3 or 3.5 hereof not be paid in the manner and terms set forth in said sections, the Association is hereby authorized to levy and assess against the Sublot for which reimbursement is owed, and Owner thereof, as assessment for the amount owed ("Individual Assessment").

Section 6.6 Notice of Periodic Assessments and Time for Payment. The Board of Directors of the Association shall establish an Annual Assessment for each calendar year, the exact date to be determined by its Board of Directors, and shall further establish Special Assessments and Individual Assessments whenever circumstances in the opinion of the Board of Directors require it. Such assessments shall be payable in the manner and on the dates determined by the Board. The Board shall provide each Owner with notice specifying the amount of the assessment and the date or dates of payment of the same. No payment shall be due and payable less than thirty (30) days after said written notice has been given, and each delinquent assessment shall bear interest at the rate of Fifteen Percent (15%) per annum until paid, commencing thirty (30) days after the date it becomes due and payable. Failure of the Association to give notice of the assessment shall not affect the liability of the Owner for such assessment, but the date when payment shall become due and payable in such a case shall be deferred to a date 30 days after such notice has been given.

Section 6.7 Lien of Assessment. All sums duly assessed against any Sublot shall be secured by lien on said Sublot in favor of the Association upon

recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on said Sublot, with exception of: (a) valid tax and assessment liens imposed by governmental entities; (b) the lien of prior mortgages deeds of trust or other security instruments perfected and recorded in Blaine County, Idaho; and (c) valid prior labor and materialman's liens duly perfected and recorded in Blaine County, Idaho.

To create a lien for sums assessed pursuant to this Declaration, the Association shall prepare a written notice of said assessments, setting forth the amount thereof, the date due, the unpaid balance, the name of the record Owner of the Sublot and the legal description of said Sublot. Such notice shall be signed by an officer of the Association and may be recorded until there is at least a sixty (60) day delinquency in the payment of the assessment to which it relates. The priority date of the lien shall be the date of its recordation, and it may be foreclosed and enforced in the manner permitted for consensual liens by the laws of the State of Idaho. In addition to all other sums which may be due and owing for which a lien is recorded, the Owner shall be obligated to pay all costs and expenses incurred by the Association in preparing, filing, foreclosing said lien, or otherwise collecting the assessment to which it is related, including all attorney's fees. All such costs and expenses shall be deemed to be secured by the lien being foreclosed.

Section 6.8 Personal Obligation of Owner. The amount of any assessment against any Sublot shall be the personal obligation of the Owner thereof to the Association. A suit to recover a money judgment for such obligation may be maintained by the Association without foreclosure or waiver of the lien securing the same, and no Owner may avoid or diminish such personal obligation by waiving use and enjoyment of any of the Common Area, or by the sale or abandonment of the Sublot. In any action or effort to collect assessments, the Association shall be entitled to recover costs and attorney fees reasonable incurred in pursuing or prosecuting the same, in addition to all delinquent assessments and accrued interest thereon.

Section 6.9 Personal Liability of Purchasers. Subject to the provisions of Section 6.8, the purchaser of a Sublot shall be jointly and severally liable with the seller for all unpaid assessments appurtenant thereto including any such assessments due and owing prior to said purchaser's acquisition of said Sublot, together with accrued interest thereon and, should legal action or other collection effort be instituted by the Association to collect the same, all costs and attorney fees reasonably incurred in the pursuit or prosecution of said efforts or actions.

ARTICLE VII DESIGN REVIEW

Section 7.1 Design Review and Approval. Except as expressly exempted therefrom by the provisions of this Declaration, no Townhome, Townhome expansion, exterior alteration, or other Improvement shall be constructed, installed or completed until the plans and specifications therefore have been submitted to, and approved in writing by, the Design Review Committee (hereinafter "DRC"). All plans and specifications shall be evaluated by the DRC as to (1) compliance with this Declaration and provisions of any Design Criteria which may hereafter be adopted by the DRC; (2) harmony and compatibility with the external design of other Townhomes; and (3) suitability of the location of any proposed Improvements in relation to surrounding structures, topography, view corridors and existing drainage patterns. Approval by the DRC does not obviate the necessity of receiving all applicable permits and approvals from the City of Ketchum for any such proposed expansion, exterior alteration or Improvement.

Section 7.2 Maintenance, Repairs and Alterations Without DRC Approval. All exterior maintenance, repairs and alterations must be approved by the DRC. Notwithstanding the foregoing the approval of the DRC will not be required for remodeling or renovating the interior of any Townhome, as long as such remodeling or renovation is imperceptible from the exterior, and in no way alters the configuration and architectural features of the exterior, including the size and shape of windows.

Section 7.3 Design Review Committee. The initial Design Review Committee shall consist of three (3) members, appointed by the Association's Board of Directors. Members of the DRC may, but need not be, Owners (including members of the Board), provided that, to the extent reasonably available, at least one (1) member shall be an architect licensed to practice in the State of Idaho, with experience in the design of single family townhome or condominiums in the Ketchum/Sun Valley area. Notwithstanding the foregoing, for a period of four (4) years from the date upon which the Declaration is recorded in the records of Blaine County, all members of the DRC shall be appointed by, and serve at the pleasure of, the Declarant. Thereafter, members shall be appointed, and serve at the pleasure of, the Board of Directors of the Association. A majority of the DRC shall constitute a quorum for the transaction of business at any duly called meeting thereof, and the action of a majority present at any such meeting at which a quorum is present shall constitute the action of the DRC.

Section 7.4 Powers and Duties of the DRC. The DRC shall have the following power and duties:

- A. To require submission to the DRC of complete sets of plans and specifications for any proposed Townhome expansion, replacement, exterior alteration, or for any other proposed Improvement on any Sublot or Common Area. The DRC may also

require submission of samples of materials proposed for any such project and may require such additional information as is reasonably necessary to evaluate the proposed work.

- B. To approve or disapprove any such submitted plans or specifications. All decisions of the DRC shall be submitted in writing to the applicant, and signed by all members of the DRC participating in such decision. In the event that the DRC fails to approve or disapprove any plans or specifications requested within forty-five (45) days after receiving a complete application therefore, together with all required plans or specifications and other information reasonably requested by the DRC, approval of the DRC shall conclusively be deemed to have been given.
- C. To obtain the service of architects, engineers or other professional consultants which the DRC deems necessary or appropriate to assist in the review process for any proposed Improvements.
- D. To require a fee to be set and, as necessary from time to time amended, by the DRC, in an amount reasonably calculated to defray the costs incurred in reviewing proposed development plans, including the costs incurred for the services of any professional consultants retained by the DRC to assist it in the review process and in monitoring compliance of all development with DRC approved plans and specifications.
- E. To establish the amount, and require the deposit, of a refundable fee to assure that all approved Improvements are completed in compliance with DRC approvals, and secure the repair of any Common Area infrastructure which may be damaged during the construction of any such approved Improvements.
- F. To complete the processing of all design review applications consistent with the terms and conditions set forth in this Declaration.
- G. To adopt, by majority vote, design criteria or guidelines governing the DRC design review and approval process.

Section 7.5 Development by Declarant. The provisions of this Article shall not apply to Declarant's initial construction of a Townhome on any Sublot, nor to any improvement or landscaping of the Common Area, nor to the subsequent repair, replacement or maintenance of said Common Area improvements or landscaping by the Declarant or the Association.

Section 7.6 Non-Liability for Actions. Neither the Declarant, the Board of Directors, nor the DRC, nor their respective members, successors or assigns, shall be liable in damages to anyone submitting plans to the DRC for approval, or to any Owner affected by reason of mistake in judgment, negligence of nonfeasance arising out of, or in connection with, the approval or disapproval, or failure to approve, any plans or specifications submitted to the DRC. Every Owner or other person who submits plans to the DRC for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Board of Directors, the DRC, or the Declarant to recover any such damages.

Section 7.7 Appeals. Any Owner may appeal a final decision of the DRC to the Board of Directors. Any such appeal must be filed in writing with the Board not more than thirty (30) days after the date of the DRC decision, and must set out with particularity the nature of the objections to the decision and the desired relief. Upon its receipt of a duly filed appeal, the Board shall consider the matter at a meeting to be held not more than forty-five (45) days thereafter. Written notice of the meeting shall be provided to the DRC and the interested Owners, granting each an opportunity to appear and be heard. At the conclusion of the appeal hearing, including any necessary continuations thereof, the Board shall adopt and provide to the interested Owners its decision to affirm the DRC decision, to affirm it with additional conditions, overturn it, or remand the matter to the DRC with specific instructions for additional consideration. If the matter is remanded, the subsequent decision of the DRC shall also be subject to appeal in the manner set forth in this section.

ARTICLE VIII INSURANCE

Section 8.1 General Requirements. Commencing not later than the time of conveyance by the Declarant of a Sublot, improved with a Townhome, to a person other than the Declarant, the Association shall obtain, and thereafter maintain, a policy or policies of insurance, as set forth in this Article VIII, and the Board shall thereafter, no less frequently than every two (2) years, review and determine the adequacy of the Association's insurance coverage. All insurance shall be obtained from companies licensed to do business in the State of Idaho, and all insurance policies shall provide that coverage cannot be cancelled or substantially modified, including cancellation for non-payment of premiums, without at least thirty (30) days prior written notice to any and all insureds names therein.

Section 8.2 Association Insurance.

A. *Fire and Casualty Insurance.* The Association shall obtain insurance for all Improvements situated on any Sublot and on Association-

owned Common Areas in such amounts, to the extent available, as shall provide for full replacement thereof in the event of damage or destruction from any casualty against which such insurance applies. Such insurance shall include fire and extended coverage, including coverage for such other risks and hazards against which the Association shall deem appropriate. Said insurance coverage shall be "blanket coverage" for all Improvements, and the Association may elect such "deductible" provisions as, in the Association's opinion, are consistent with good business practices. Such fire and casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the respective Townhome Owners, and shall specify the interest of each Owner (Owner's name, Townhome number or address), and shall provide a standard loss-payable clause providing for payment of insurance proceeds to the Association as trustee for said Owners, and their respective mortgagees and deed of trust beneficiaries. Any such insurance proceeds obtained by the Association shall be used exclusively in accordance with this Declaration. The Association shall furnish to each Owner a true copy of all casualty insurance policies covering its Townhome, upon request, and a certificate of insurance identifying the insured interest of the Owner. No such policies of fire and casualty insurance shall preclude any other policies of fire or casualty insurance owned and maintained by any Townhome Owner, or provides that Association policies be brought into contribution with any such insurance owned and maintain by an Owner.

- B. *General Liability Insurance.* The Association shall maintain general public liability insurance insuring the Board of Directors, the Association, and Owners covering all Common Area, Sublots and Townhomes. Said insurance shall cover liability of the insureds for property damage, bodily injury and death of persons arising out of the operation, maintenance and use of the Common Area, Sublots and Townhomes, including coverage for such risks as are customarily covered with respect to multi-family residential projects of similar construction, location and use. Said insurance shall contain a combined single policy limit for property damage, personal injury and wrongful death from a single occurrence in such amount as may be deemed appropriate by the Board of Directors, but in no event less than \$2,000,000.
- C. *Workmen's Compensation Insurance.* The Association shall maintain workmen's compensation insurance to the extent necessary to comply with the applicable laws of the State of Idaho for its employees, if any.

D. *Directors and Officers Liability Insurance.* The Association shall maintain liability insurance for all members of the Board, in an amount to be determined by the Board of Directors.

E. *Other Insurance.* The Association shall obtain and maintain such other insurance coverage as the Board, in its sole discretion, should deem necessary or appropriate to protect insurable interests of the Association and its members.

Section 8.3 Sublot Owners' Insurance. It should be noted by each Owner, that the Association is not required by this Declaration to provide any insurance covering Improvements within a Townhome, improvements to a Townhouse Unit beyond those included in the original construction of the Unit, personal property of any type belonging to the Owner or any other person or entity which may be located on the Common Area or Sublot, or within any Townhome. Any such insurance coverage shall be the sole responsibility of each Owner, at its sole cost and expense. Further, nothing herein contained shall preclude any Owner from obtaining any other or further insurance coverage, including fire, casualty and liability insurance, covering the Owner, the Owner's Sublot and/or Townhome.

Section 8.4 Required Provisions. All insurance policies carried pursuant to the requirements of this Article VIII must provide that:

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

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

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

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

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

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

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest.

Section 8.5 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

Section 8.6 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Eligible First Mortgagee at reasonable times.

ARTICLE IX FIRE OR CASUALTY DAMAGE

Section 9.1 Damage Assessment. Upon the occurrence of any damage to, or destruction of, any Townhome or other Sublot or Common Area Improvements resulting from any cause which is covered by the Association's fire and casualty insurance coverage, the Board of Directors shall promptly, and in all events within thirty (30) days after the occurrence of such damage or destruction, make the following determinations with respect thereto, employing such professional advice as the Board deems advisable, and make them available in writing to all Owners:

- A. The extent and nature of the damage, together with an inventory of the Townhomes and/or Improvements directly affected thereby.
- B. A reasonable estimate of the cost to repair the damage, which estimate shall, if practicable, be based upon estimates obtained from experienced contractors in Blaine County, Idaho.
- C. The estimated amount of proceeds, if any, available from the Association's fire and casualty insurance policies covering the loss or damage, and the amount of any other insurance proceeds which may be available to defer the costs of repair from any supplemental fire and casualty insurance maintained by the Owners of the affected Townhomes or Improvements.
- D. The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds.

Section 9.2 Notice of Damage. The Board of Directors shall promptly, and in all events within thirty (30) days after the date of such insured damage or destruction, file a proof of loss statement with its fire and casualty insurance company(ies) if the loss is covered by insurance, and abide by all terms and conditions of said policy(ies), unless the Board reasonably determines it would not be in the best interest of the Association and the affected Owner or Owners to file a proof of loss. If the damage affects a material portion of any Townhome, the Board shall also send a notice to each mortgagee or deed of trust beneficiary of that Townhome.

Section 9.3 Decision to Repair. Subject to the following terms and conditions, the Board shall, without undue delay, proceed to repair or replace Townhomes or other Improvements damaged or destroyed by fire or casualties covered by the Association's insurance policies:

- A. The Board shall, as soon as possible after the damage has occurred, undertake any emergency work that it deems reasonably necessary to avoid further damage to any Townhome or Improvements within the Subdivision.
- B. The Board, not less than thirty (30) days after damages insured by the Association's fire and casualty policy have occurred with respect to any Townhome or other Sublot Improvements, promptly commence the repair thereof, applying, to the extent available and necessary, all insurance proceeds available from the Association's insurance policies and/or those policies of insurance, if any maintained by the Owner of said Townhome or Improvements. The Board shall have the authority to employ architects and engineers, advertise for bids, select contracts, and take such other action as is reasonably necessary to undertake and complete the repairs. Contracts for the repair work shall be commenced only when the Board, by means of insurance proceeds and the availability of sufficient Special Assessments, has provided for all costs to be incurred.
- C. The cost of repairing or replacing any Townhome or Improvement from insurance policies owned by the Association and/or the Owner of said Townhome or Improvement so damaged by fire or casualty, in excess of available insurance proceeds, shall be a common expense of the Association, and be subject to Special Assessments in the manner set forth in Article VI. In the event the insurance proceeds received from the Association's fire and casualty insurance policy(ies) exceed the cost of the repairs and replacements, the excess shall be distributed to the Owners in proportion to their respective obligations to pay Annual and Special Assessments.

D. The nature and extend of said repairs or replacements shall be limited to restoring any damaged or destroyed Townhome or Improvement to substantially the same size and configuration as existed prior to the damage or destruction, in accordance with the original plans and specifications; provided, however, that modifications from those plans and specifications may, upon the request of the affected Owner, be approved by the Board of Directors subject to the following:

- (i) Any modification must be approved by the DRC; and
- (ii) Owner, at its sole cost and expense, agrees to be responsible for any additional costs incurred as a result of said modification.

Section 9.4 Decision Not to Repair. Notwithstanding the foregoing provisions of this Article IX, the Owner of any Townhome damaged or destroyed by fire or other casualty covered by the Association's insurance, may elect not to have the Townhome repaired or restored by presenting to the Board of Directors, within thirty (30) days after the damage or destruction has occurred, written notice of such election duly signed by the Owners of not less than eighty percent (80%) of all Sublots, including the Sublot containing any Townhome which is attached by a Party Wall shared with the damaged or destroyed Townhome. In the event the damaged Townhome is not repaired or restored, any insurance proceeds which the Association receives or is entitled to receive for such damage from the policies of fire and casualty insurance, less any expenses reasonable incurred by the Association in assessing or investigating the extent of the damage or in preparing for its repair, shall be distributed, as co-payees, to the Owner of said Townhome and all mortgagees, deed of trust beneficiaries, and other lien holders filed of record against said Townhome.

ARTICLE X REVOCATION OR AMENDMENT

Section 10.1 Method of Revocation or Amendment. This Declaration may be amended or revoked, in part or in whole, by an instrument duly approved and adopted by not less than two-thirds of the Owners entitled to vote. The amendment or revocation shall be effective as of the date a copy of the instrument adopted, together with a certification of the vote or other action of the Owners by a duly authorized officer of the Association, is recorded in the official records of Blaine County, Idaho. Any such revocation or amendment duly adopted and recorded shall be binding upon every Owner and Sublot, whether the burdens of this Declaration are increased or decreased by any such amendment or revocation, and whether or not the Owner consents thereto. Notwithstanding the foregoing, the consent of the Declarant and any assignees of Declarant established pursuant to Section 12.3 shall be required for any

proposed amendment to Sections 2.1, 3.4, 3.7, 5.5, 7.5 and 12.3 if, and to the extent that, at the time of any such proposed amendment the Declarant and/or such assignees own one or more Townhome Sublots which are subject to this Declaration.

ARTICLE XI MISCELLANEOUS

Section 11.1 Compliance. Each Owner shall comply with the provisions of this Declaration, Design Criteria, Articles of Incorporation and Bylaws of the Association, and all rules and regulations duly enacted by the Association. Failure to comply shall be grounds for an action to recover sums due for damage or injunctive relief, or both, maintainable by the Association or any Owner.

Section 11.2 Mailing Address. Each Owner shall provide the Association with such Owner's mailing address and/or email address, which address shall be used for the mailing or other service of any and all notices, assessments or communications from the Association. Any notice referred to in this section shall be deemed given by the Association when it has been deposited in the United States mail, postage prepaid, or when the email has been sent, addressed to the Owner at the given address.

Section 11.3 Transfer of Rights. Any right or interest reserved hereby to the Declarant may be transferred or assigned by the Declarant to any person or entity.

Section 11.4 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 11.5 Severability. In any of the provisions of this Declaration, or any clause, paragraph, sentence, phrase or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, phrase or word in any other circumstance shall not be affected thereby.

Section 11.6 Prevailing Law. The provisions of this Declaration shall be construed and enforced pursuant to the laws of the State of Idaho.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the day and year first written above.

WEST KETCHUM RESIDENCES, LLC
an Idaho Limited Liability Company

By: _____
Its: _____

STATE OF _____)
County of _____)

)ss.

On this _____ day of _____, 2020 before me, a Notary Public, in and for said County and State, personally appeared _____, known or identified to me to be the _____ of West Ketchum Residences, LLC, the limited liability company that executed the foregoing instrument and acknowledged to me that such entity 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
Residing at: _____
My commission expires: _____

STG Privacy Notice Stewart Title Companies

WHAT DO THE STEWART TITLE COMPANIES DO WITH YOUR PERSONAL INFORMATION?

Federal and applicable state law and regulations give consumers the right to limit some but not all sharing. Federal and applicable state law regulations also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand how we use your personal information. This privacy notice is distributed on behalf of the Stewart Title Guaranty Company and its title affiliates (the Stewart Title Companies), pursuant to Title V of the Gramm-Leach-Bliley Act (GLBA).

The types of personal information we collect and share depend on the product or service that you have sought through us. This information can include social security numbers and driver's license number.

All financial companies, such as the Stewart Title Companies, need to share customers' personal information to run their everyday business—to process transactions and maintain customer accounts. In the section below, we list the reasons that we can share customers' personal information; the reasons that we choose to share; and whether you can limit this sharing.

Reasons we can share your personal information.	Do we share	Can you limit this sharing?
For our everyday business purposes — to process your transactions and maintain your account. This may include running the business and managing customer accounts, such as processing transactions, mailing, and auditing services, and responding to court orders and legal investigations.	Yes	No
For our marketing purposes — to offer our products and services to you.	Yes	No
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences. Affiliates are companies related by common ownership or control. They can be financial and non-financial companies. <i>Our affiliates may include companies with a Stewart name; financial companies, such as Stewart Title Company</i>	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness.	No	We don't share
For our affiliates to market to you — For your convenience, Stewart has developed a means for you to opt out from its affiliates marketing even though such mechanism is not legally required.	Yes	Yes, send your first and last name, the email address used in your transaction, your Stewart file number and the Stewart office location that is handling your transaction by email to optout@stewart.com or fax to 1-800-335-9591.
For non-affiliates to market to you. Non-affiliates are companies not related by common ownership or control. They can be financial and non-financial companies.	No	We don't share

We may disclose your personal information to our affiliates or to non-affiliates as permitted by law. If you request a transaction with a non-affiliate, such as a third party insurance company, we will disclose your personal information to that non-affiliate. [We do not control their subsequent use of information, and suggest you refer to their privacy notices.]

SHARING PRACTICES

How often do the Stewart Title Companies notify me about their practices?	We must notify you about our sharing practices when you request a transaction.
How do the Stewart Title Companies protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer, file, and building safeguards.
How do the Stewart Title Companies collect my personal information?	We collect your personal information, for example, when you <ul style="list-style-type: none"> ▪ request insurance-related services ▪ provide such information to us We also collect your personal information from others, such as the real estate agent or lender involved in your transaction, credit reporting agencies, affiliates or other companies.
What sharing can I limit?	Although federal and state law give you the right to limit sharing (e.g., opt out) in certain instances, we do not share your personal information in those instances.

Contact us: *If you have any questions about this privacy notice, please contact us at: Stewart Title Guaranty Company, 1360 Post Oak Blvd., Ste. 100, Privacy Officer, Houston, Texas 77056*