

From: [Participate](#)
To: [Heather Nicolai](#)
Subject: FW: 9/26/2023 Hearing on Bigwood Restaurant--Your File No.P23-065
Date: Monday, September 25, 2023 10:24:16 AM
Attachments: emailsignaturelogonotext_c4fe8a58-60ec-4e55-8f78-be04efb3833d.png
2023-09-25 Letter to Ketchum Dept of Planning and Building.pdf

LISA ENOURATO | CITY OF KETCHUM

Public Affairs & Administrative Services Manager

P.O. Box 2315 | 191 Fifth St. W. | Ketchum, ID 83340

o: 208.726.7803 | f: 208.726.7812

lenourato@ketchumidaho.org | www.ketchumidaho.org

From: Robert B. Burns <RBurns@parsonsbehle.com>
Sent: Monday, September 25, 2023 9:35 AM
To: Participate <participate@ketchumidaho.org>
Cc: mullman@charteroak-equity.com; Brian Barsotti <barsotti1@mindspring.com>
Subject: 9/26/2023 Hearing on Bigwood Restaurant--Your File No.P23-065

See attached correspondence regarding referenced matter.



A Professional
Law Corporation

Robert B. Burns

Attorney at Law

Parsons Behle & Latimer

800 West Main Street, Suite 1300 • Boise, Idaho 83702

Main +1 208.562.4900 • Direct +1 208.562.4894 • Fax +1 208.562.4901

parsonsbehle.com • RBurns@parsonsbehle.com • [vCard](#)

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September 25, 2023

VIA EMAIL (PARTICIPATE@KETCHUMIDAHO.ORG)

Ketchum Department of Planning and Building
PO Box 2315
Ketchum, Idaho 83340

Re: Bigwood Restaurant (Your File No. P23-065)

Dear Chairman Morrow and Commissioners:

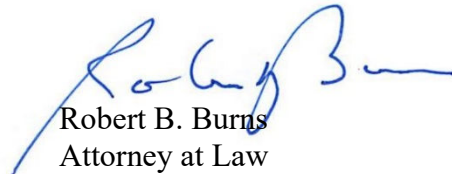
I write on behalf of Bigwood Property Owner's Association, Inc. (the "POA") regarding the above-referenced matter being heard September 26, 2023.

The POA does not object to approval of the referenced applications with respect to amending the applicable development agreement and planned unit development to allow for the operation of a year-round restaurant and bar within the Bigwood PUD. Please note, however, any such operation would violate the terms of the enclosed Amendment No. Eight to Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Bigwood P.U.D Subdivision, which amendment limits the uses of the property on which the restaurant and bar are located (i.e., Large Block 12) to those uses in effect as of the recordation on May 29, 2009 of the enclosed amendment.

Accordingly, although the POA does not object to the approval of the referenced applications, notice should be taken that the POA reserves all right to enforce the terms of the referenced declaration and enclosed amendment.

Very truly yours,

PARSONS BEHLE & LATIMER



Robert B. Burns
Attorney at Law

Enclosure:

cc: Mark Ullman (via email; w/ encl.)
Brian Barsotti (via email; w/ encl.)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Tracy Dunlap, Esq.
Hogue & Dunlap, L.L.P.
419 South Main Street
P.O. Box 460
Hailey, Idaho 83333

Instrument # 567791

HAILEY, BLAINE, IDAHO

5-29-2009 04:28:32 No. of Pages: 5

Recorded for: BIGWOOD PROPERTY OWNERS ASSOC

JOLYNN DRAGE Fee: 15.00

Ex-Officio Recorder Deputy

Index to: AMENDED COVENANTS & RESTRICTIONS

(Space Above For Recorder's Use)

**AMENDMENT NO. EIGHT TO AMENDED AND RESTATED
MASTER DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR THE
BIGWOOD P.U.D. SUBDIVISION
(BLAINE COUNTY, IDAHO)**

THIS AMENDMENT NO. EIGHT ("Eighth Amendment"), supplementing and amending the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for the Bigwood P.U.D. Subdivision, recorded on December 18, 1986, as Instrument No. 280213, and re-recorded December 30, 1986, as Instrument No. 280561, records of Blaine County, Idaho, as previously amended by Amendment No. One, recorded February 3, 1987, as Instrument No. 281630, records of Blaine County, Idaho; Amendment No. Two, recorded April 29, 1988, as Instrument No. 294199, records of Blaine County, Idaho; Amendment No. Three, recorded February 15, 1989, as Instrument No. 303040, records of Blaine County, Idaho; Amendment No. Four, recorded August 25, 1989, as Instrument No. 309071, records of Blaine County, Idaho; Amendment No. Five, recorded February 28, 1992, as Instrument No. 338436, records of Blaine County, Idaho; Amendment No. Six, recorded February 5, 1997, as Instrument No. 398924, records of Blaine County, Idaho; and Amendment No. Seven, recorded December 9, 2005, as Instrument No. 529827, records of Blaine County, Idaho (as so amended, the "Master Declaration"), is made pursuant to Section 10.02.B of the Master Declaration this 29 day of May, 2009, by the vote or written consent of at least seventy-five percent (75%) of the Owners, as such term is defined in Article I of the Master Declaration.

AMENDMENT

1. Unless otherwise defined in this Eighth Amendment, all capitalized terms used in Section 2, below, shall have the meaning ascribed thereto in the Master Declaration, provided that the term "Donation Agreement" shall mean that certain Agreement Donating Property to City of Ketchum, dated January 5, 2009, by and between the City of Ketchum and

AMENDMENT NO. EIGHT TO AMENDED AND RESTATED MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BIGWOOD P.U.D SUBDIVISION
(BLAINE COUNTY, IDAHO) - 1

Client:1178717.5

Bigwood Golf Course, LLC, which agreement is maintained in the files and records of the City of Ketchum and incorporated herein by this reference, and the terms "Block 11 Parcel" and "Block 18 Parcel" shall have the meaning ascribed to such terms in the Donation Agreement.

2. Sections 5.01, 5.02, and 5.03 of the Master Declaration are hereby amended and supplemented to provide, in their entirety, as follows:

SECTION 5.01 Recreational Areas. The permitted uses and restrictions for Recreational Areas, and the restrictions governing the construction and alteration of Improvements thereon, shall be fixed by and limited to those recreational and related uses in effect as of the recording in the official records of Blaine County, Idaho, of the Eighth Amendment or as may otherwise be expressly provided in the Master Declaration and any Supplemental Declaration recorded with respect to such areas prior to April 8, 2009. All of such permitted uses and restrictions shall be compatible with the use of such areas for cross-country skiing, tennis, golf, swimming, cycling, or other recreational uses, including incidental commercial uses such as but not limited to "pro shops," athletic equipment, rental offices and the like.

SECTION 5.02 Open Space Areas. The permitted uses and restrictions for Open Space Areas, and the restrictions governing the construction and alteration of Improvements thereon, shall be fixed and limited to those uses in effect as of the recording in the official records of Blaine County, Idaho, of the Eighth Amendment or as may otherwise be expressly provided in the Master Declaration and any Supplemental Declarations recorded with respect to such areas prior to April 8, 2009.


SECTION 5.03 Golf Course Areas. The Annexation Agreement contains certain restrictions on the Golf Course Areas and provides the City of Ketchum with a conditional reversionary interest (i.e., a right to acquire title) to the Golf Course Areas. The Golf Course Areas and Unit No. 2 of the Bigwood Recreation Center Condominium will not constitute a part of the Association's Property. Grantor shall retain all right, title and interest in and to the Golf Course Areas, including but not limited to the right to sell, convey, alienate, transfer, lease and encumber the Golf Course Areas. Currently the Golf Course Areas are the subject of several lease and management agreements which pertain to operation of the golf course and maintenance of the Golf Course Areas. The permitted uses and restrictions for Golf Course Areas, and the restrictions governing the construction and alteration of Improvements thereon, shall be fixed by and limited to those golf

course and related uses in effect as of the recording in the official records of Blaine County, Idaho, of the Eighth Amendment or as may otherwise be expressly provided in the Master Declaration and any Supplemental Declarations recorded with respect to such areas prior to April 8, 2009; provided, however, nothing contained in the Master Declaration or any Supplemental Declaration shall restrict the public rights, or limit the reversionary rights of the City of Ketchum, to the Golf Course Areas as set forth in the Annexation Agreement dated August 15, 1985, and recorded as Instrument No. 266738 in the official records of Blaine County, Idaho, or the deed to the Golf Course Areas dated August 16, 1985, and recorded as Instrument No. 266744 in the official records of Blaine County, Idaho, nor shall the limitations set forth in this Section 5.03 restrict the use of all or any portion of (i) the part of Block 11 identified as the "Block 11 Parcel" in the Donation Agreement that is in fact donated to the City of Ketchum in accordance with the terms of the Donation Agreement, or (ii) the part of Block 18 identified as the "Block 18 Parcel" in the Donation Agreement, whether or not condemned by the City of Ketchum.

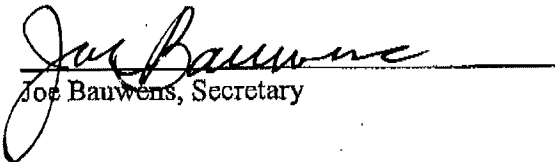
CERTIFICATION

The undersigned president and secretary of Bigwood Property Owner's Association, Inc. hereby certify that the foregoing Eighth Amendment has been approved by the vote or written consent of at least seventy-five percent (75%) of the Owners, as such term is defined in Article I of the Master Declaration.

**BIGWOOD PROPERTY OWNER'S
ASSOCIATION, INC.**

By 
Frank Ward, President

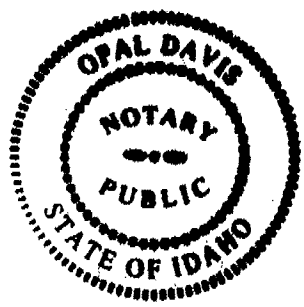
ATTEST:


Joe Bauwens, Secretary

STATE OF Idaho)
) ss.
County of Blaine)

On this 29th day of May, 2009, before me Opal Davis, personally appeared FRANK WARD known or identified to me (or proved to me on the oath of _____) to be the president of BIGWOOD PROPERTY OWNER'S ASSOCIATION, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.



Opal Davis
NOTARY PUBLIC FOR IDAHO
Residing at RT1, Box 1210, Fairfield ID
My Commission Expires 6/20/13

STATE OF Idaho)
County of Blaine) ss.

On this 29th day of May, 2009, before me Opal Davis, personally appeared JOE BAUWENS, known or identified to me (or proved to me on the oath of _____) to be the secretary of BIGWOOD PROPERTY OWNER'S ASSOCIATION, INC., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.



Opal Davis
NOTARY PUBLIC FOR IDAHO
Residing at RT1, Box 1210, Fairfield ID
My Commission Expires 6/20/09