



City of Ketchum  
Planning & Building

**STAFF REPORT**  
**KETCHUM PLANNING AND ZONING COMMISSION**  
**SPECIAL MEETING OF OCTOBER 26, 2021**

**PROJECT:** 760 N Washington Mixed-Use

**FILE NUMBER:** P21-077 and P21-044

**APPLICATION TYPE:** Final Design Review and Condominium Subdivision – Preliminary Plat

**APPLICANT:** Design Review - Daniel Hollis, HR Architects, LLC (Architect)  
Condominium Preliminary Plat – Sam Stahlnecker, Galena Engineering (Engineer)

**PROPERTY OWNER:** SV Ventures, LLC

**REQUEST:** Final Design Review and Preliminary Plat application for the development of a new, 11,319 square foot, three-story mixed-use building

**LOCATION:** 760 N Washington Avenue - Ketchum Townsite: Block 13: Lot 6

**ZONING:** Community Core – Subdistrict 2 – Mixed Use (CC-2)

**REVIEWER:** Morgan R. Landers, AICP – Senior Planner

**NOTICE:** A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on October 6, 2021. The public hearing notice was published in the Idaho Mountain Express and on the city’s website the on October 6, 2021. A notice was posted on the project site on October 19, 2021.

**I. EXECUTIVE SUMMARY:**



Figure 1: Conceptual Rendering 760 N Washington Mixed-Use

The Applicant is proposing an 11,319 square foot three-story mixed-use development (the “project”), located at 760 N Washington Avenue (the “subject property”). The subject property is a mid-block interior lot zoned Community Core -Subdistrict 2 - Mixed Use (CC-2) with a one-story cabin on site. The existing building was built in 1940. The building is not on the Historic Buildings/Site List being reviewed by the Historic Preservation Commission and has not otherwise been identified as one which gives historical or cultural importance to the neighborhood or community.

Adjacent to the property is a two-story office building to the north and a vacant parking lot to the south. To the west, the block between 7th St and 8th St consists of one and two-story single-family residences. As proposed, the project proposes to demolish the existing structure and build a three-story mixed-use building with ground floor commercial, two residential dwelling units on the second floor, and one residential dwelling unit on the third floor. Two of the dwelling units are less than 2,000 square feet, the remaining unit is more

than 2,000 square feet. A total of seven parking spaces are required for the project, six standard parking spaces and one ADA parking space. The project proposes a total of six off-street parking spaces. The project meets the parking requirements by receiving on street parking credit for two spaces (KMC §17.125.050.D). See below for further detail on parking compliance for the project.

The project will construct improvements to the right-of-way per the City of Ketchum improvement standards including, asphalt, curb and gutter, and sidewalks. All improvements to the right-of-way will be reviewed and approved by the City Engineer and Streets Department prior to issuance of a building permit.

The City of Ketchum Planning and Zoning Commission (the "Commission") conducted a Preapplication Design Review on August 10, 2021, of the project and unanimously moved the project through to Final Design. The discussion during the Preapplication Design Review was brief and focused on the perceived size of the roof overhang. Section III of this staff report provides an overview of comments provided by the Commission and changes proposed by the applicant to address comments. Staff believes the project to be in conformance with all requirements of the zoning code, all standards related to Design Review, and all subdivision requirements for condominium preliminary plats.

## **II. BACKGROUND:**

The City of Ketchum received the application for Design Review of the project on September 23, 2021. The application was deemed complete on September 29, 2021, after one review for completeness. Following receipt of the complete application, staff routed the application materials to all city departments for review. Department comments were provided to the applicant on October 8, 2021. All department comments have been addressed satisfactorily by the applicant and no conditions of approval to address department comments are recommended.

## **III. CONFORMANCE WITH ZONING AND DESIGN REVIEW STANDARDS:**

Per Ketchum Municipal Code (KMC) §17.96.010.A – *Applicability*, design review is required for all nonresidential uses and new multi-family dwellings. Before granting Design Review approval, the Commission must determine that the application meets two criteria: (1) the project doesn't jeopardize the health, safety, or welfare of the public, and (2) the project conforms to all Design Review standards and zoning regulations (KMC §17.96.050.A).

### **Conformance with Zoning Regulations**

During department review, city staff reviewed the project for conformance with all applicable zoning code requirements including uses, dimensional limitations, signage, parking, development standards, and dark skies. The project follows all applicable zoning code requirements. Below is an overview of code compliance issues highlighted during Preapplication Design Review and how the issues were addressed for Final Design Review. Please see Attachment D for a full review of dimensional standards.

### FAR for Community Housing

The 11,319 square-foot building has a total FAR of 2.06. The CC-2 district allows up to an FAR of 2.25, subject to design review approval, with the contribution of Community Housing. Based on the methodology outlined in KMC §17.124.040.2.a, the project must provide a minimum of 989 square feet of community housing. The project is proposing to meet the minimum requirements of the Community Housing provisions with a cash-in-lieu payment rather than on-site units. At the current rate of \$238/square foot, the total cash-in-lieu payment will be \$235,382.

### **Conformance with Design Review Improvements and Standards**

During department review, city staff reviewed the project for conformance with all applicable design review improvements and standards outlined in KMC §17.96.060 – *Improvements and Standards*. Staff also review the

project for conformance with KMC §17.96.070 – *Community Core (CC) Projects*. Finally, staff reviewed the project for conformance with all corresponding city code requirements related to right-of-way improvements including but not limited to sidewalks, street lighting, alleys, and on-street parking. Staff believes that either a requirement is not applicable due to the scope of the project, or requirements are met. Please see Attachment D for a review of all design review improvements and standards. Below is an overview of comments provided by the Commission in Preapplication Design Review and changes the applicant has made to address the comments:

#### Building Mass Due to Roof Form

The initial application, provided for Preapplication Design Review, showed a roof above the third floor that ran the full length of the building façade. The Commission provided feedback to the applicant that the size and overhang of the roof made the building appear to be very large from the perspective of pedestrians and encouraged the applicant to study other design solutions. The applicant revised the application, as illustrated in the conceptual renderings in Sheets A0.1-A0.3 of Attachment B, to incorporate a metal corner at each end of the roof along Washington Ave. Below are images of the initial proposal (left) and the revised proposal (right).



Figure 3: Initial Roof Design - Preapplication



Figure 3: Revised Roof Design - Final Design

This adjustment allows light passage through the roof and reduces the perceived mass of the building. Staff believes the proposed change achieves the intended effect and addresses the comments from the Commission.

#### **IV. CONFORMANCE WITH SUBDIVISION STANDARDS**

During Department Review, staff reviewed the preliminary plat application for conformance with KMC 16.04.030 – *Procedures for subdivision approval*, KMC 16.04.040 – *Development and Design*, and KMC 16.04.070 – *Condominiums*. Please see Attachment E for the review of all requirements and standards. Where “N/A” is checked, the standard is not applicable for one of two reasons:

- The standard applies to the creation of new subdivisions, not the subject property, which is an existing platted lot within the Ketchum Townsite.
- The standard applies to action that shall be taken at the final plat stage of the process and this application is for a preliminary plat.
- Per provisions of the standard, the City Engineer has determined that the standard does not apply.

The alley between N Washington Ave and Warm Springs Rd from 7<sup>th</sup> Street to 8<sup>th</sup> Street is not fully paved and not maintained by the City of Ketchum. The applicant proposes to pave the full width of the alley, for the length of the subject property. The applicant will be required to maintain the alley adjacent to the subject property until such time as the full length of the alley is improved to City standards.

Staff believes the proposed preliminary plat meets all the subdivision requirements and standards for a preliminary plat and condominium map.

## V. STAFF RECOMMENDATION

Staff recommends **approval** of the Design Review application subject to the following conditions:

1. In exchange for an increase in FAR, a voluntary community housing contribution of 989 square feet is required. A Floor Area Ratio Exceedance Agreement between the applicant and the City to memorialize the community housing contribution shall be signed prior to issuance of a Building Permit for the project. Payment-in-lieu contributions for community housing are required prior to issuance of a building permit for the project.
2. The project plans shall be revised, prior to building permit application, to reflect either one bicycle rack that accommodates four bicycles, or two racks that accommodate two bicycles each. The bicycle rack(s) shall be located no further than 50 feet from the entrance to the commercial unit or the main front entrance to the residential units.
3. Final civil drawings prepared by an engineer registered in the State of Idaho which include specifications for right-of-way, utilities, and drainage improvements shall be submitted for review and approval by the City Engineer, Streets, and Utilities departments prior to issuance of a building permit for the project.
4. Until such date when the full length of the alley located between N Washington Ave and Warm Springs Road from 7<sup>th</sup> Street to 8<sup>th</sup> Street is improved to meet the minimum improvements requirements of the City of Ketchum, the applicant, successors, and assigns shall be responsible for the maintenance and upkeep of the alley adjacent to the subject property, 760 N Washington Ave.
5. The term of Design Review approval shall be twelve (12) months from the date that the Findings of Fact, Conclusions of Law, and Decision are adopted by the Commission or upon appeal, the date the approval is granted by the Council subject to changes in zoning regulations.
6. In addition to the requirements set forth in this Design Review approval, this project shall comply with all applicable local, state, and federal laws.

Staff recommends **approval** of the Preliminary Plat application subject to the following conditions:

1. The preliminary plat is subject to all conditions of approval associated with Design Review approval 21-077.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

## VI. RECOMMENDED MOTIONS

Design Review:

"I move to approve the Design Review application for the 760 N Washington mixed-use project, as conditioned, and adopt the findings of fact, conclusions of law, and decision, as it does not jeopardize the health, safety, and welfare of the public and conforms to all applicable design review standards and zoning regulations."

Preliminary Plat:

"I move to recommend approval of the Condominium Preliminary Plat application for the 760 N Washington mixed-use project, as conditioned, and adopt the findings of fact, conclusions of law, and decision, as it conforms to all applicable subdivision regulations for a preliminary plat and condominium map."

### ATTACHMENTS:

- A. Application Materials – Supporting Documents
- B. Design Review project plans
- C. Preliminary Plat project plans
- D. Draft Findings of Fact, Conclusions of Law, and Decision – Design Review Application

E. Draft Findings of Fact, Conclusions of Law, and Decision – Condominium Preliminary Plat

**Attachment A:  
Applications and Supplemental  
Materials**

Design Review:  
Applications and Supplemental  
Materials





City of Ketchum  
Planning & Building

CERTIFIED  
DATE  
9-29-21

OFFICIAL USE ONLY	
File Number:	P-21-077
Date Received:	8-23-21
By:	MP
Pre-Application Fee Paid:	2691.00
Design Review Fee Paid:	
Approved Date:	
Denied Date:	
By:	
ADRE: Yes <input type="checkbox"/> No <input type="checkbox"/>	

### Design Review Application

APPLICANT INFORMATION			
Project Name: 760 N Washington Ave Mixed-Use		Phone: 208.720.8244	
Owner: SV Ventures, LLC		Mailing Address: P.O Box 5023 Ketchum ID 83340	
Email: reid.sanborn@evrealestate.com			
Architect/Representative: Daniel Hollis (Hollis Partners Architects)		Phone: 208.721.7160	
Email: daniel@hp-architects.com		Mailing Address: P.O.Box 1769, Sun Valley ID 83353	
Architect License Number: AR985372			
Engineer of Record: Galena Engineering Inc		Phone: 208.788.1705	
Email: sam@galena-engineering.com		Mailing Address: 317 N. River Street, Hailey ID 83333	
Engineer License Number: NA			
All design review plans and drawings for public commercial projects, residential buildings containing more than four (4) dwelling units and development projects containing more than four (4) dwelling units shall be prepared by an Idaho licensed architect or an Idaho licensed engineer.			
PROJECT INFORMATION			
Legal Land Description: Lot 6, Block 13			
Street Address: 760 Washington Avenue North, Ketchum		RPK 000 00130060	
Lot Area (Square Feet): 5,501sf			
Zoning District: Community Core - #2 Mixed Use			
Overlay District:	<input type="checkbox"/> Floodplain	<input type="checkbox"/> Avalanche	<input type="checkbox"/> Mountain
Type of Construction:	<input checked="" type="checkbox"/> New	<input type="checkbox"/> Addition	<input type="checkbox"/> Remodel <input type="checkbox"/> Other
Anticipated Use: Market rate Residential units for sale, Ground floor commercial space		Number of Residential Units: 4 residential units	
TOTAL FLOOR AREA			
	Proposed	Existing	
Basements		Sq. Ft.	Sq. Ft.
1 <sup>st</sup> Floor	3,370	Sq. Ft.	Sq. Ft.
2 <sup>nd</sup> Floor	4,143	Sq. Ft.	Sq. Ft.
3 <sup>rd</sup> Floor	4,143	Sq. Ft.	Sq. Ft.
Mezzanine		Sq. Ft.	Sq. Ft.
Total	11,656	Sq. Ft.	Sq. Ft.
FLOOR AREA RATIO			
Community Core: 2.25		Tourist:	General Residential-High:
BUILDING COVERAGE/OPEN SPACE			
Percent of Building Coverage:			
DIMENSIONAL STANDARDS/PROPOSED SETBACKS			
Front: 5' Average (N.Washington Ave)	Side: 0-3' along North	Side: 0-3' along South	Rear: 3' to Alley
Building Height: 37'-6 1/4"			
OFF STREET PARKING			
Parking Spaces Provided: 6 Spaces (accessed from alleyway to east)			
Curb Cut: 0	Sq. Ft.	%	
WATER SYSTEM			
<input checked="" type="checkbox"/> Municipal Service		<input type="checkbox"/> Ketchum Spring Water	



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

**Daniel Hollis (HP Architects)**

**8/17/21**

Signature of Owner/Representative

Date

## **DESIGN REVIEW EVALUATION STANDARDS**

**(May not apply to Administrative Design Review):**

### **17.96.060: IMPROVEMENTS AND STANDARDS FOR ALL PROJECTS**

#### **A. Streets:**

1. The applicant shall be responsible for all costs associated with providing a connection from an existing city streets to their development.
2. All streets designs shall be in conformance with the right-of-way standards and approved by the Public Works Director.

#### **B. Sidewalks:**

1. All projects under 17.96.010(A) that qualify as a "Substantial Improvement" shall install sidewalks in conformance with the right-of-way standards. Sidewalk improvements may be waived for projects that qualify as a "Substantial Improvement" which comprise additions of less than 250 square feet of conditioned space.
2. The length of sidewalk improvements constructed shall be equal to the length of the subject property line(s) adjacent to any public street or private street.
3. New sidewalks shall be planned to provide pedestrian connections to any existing or future sidewalks adjacent to the site. In addition, sidewalks shall be constructed to provide safe pedestrian access to and around a building.
4. The city may approve and accept voluntary cash contributions in-lieu of the above described improvements, which contributions must be segregated by the city and not used for any purpose other than the provision of these improvements. The contribution amount shall be one hundred ten percent (110%) of the estimated costs of concrete sidewalk and drainage improvements provided by a qualified contractor, plus associated engineering costs, as approved by the Public Works Director. Any approved in-lieu contribution shall be paid before the city issues a certificate of occupancy.

#### **C. Drainage:**

1. All storm water shall be retained on site.
2. Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.
3. The Public Works Director may require additional drainage improvements as necessary, depending on the unique characteristics of a site.



PO Box 1769 [post]  
Sun Valley, ID 83353  
220 River Street, East  
Ketchum, ID 83340  
v 208.721.7160

**12<sup>th</sup> October 2021**

**Morgan Landers**

City of Ketchum – Design Review Committee  
P.O. Box 2315  
480 East Ave. N.  
Ketchum, ID 83340

Dear Design Review Committee,

We are excited to submit to you for “*Final Design review*” our Mixed-Use project (“***The 760 N. Washington Mixed Use project***”) located at 760 N. Washington Avenue, Ketchum. A 3 story, mixed use structure, **11,319 sf**, located on the north end of the community core. Currently proposed 3 residential units will be available for market rate sales, as well as a ground floor commercial space.

The programming of the building is as follows:

Ground Level:

- Parking access from alley to the East.
- 9' - 10'-0" High Ceilings.
- Multiple Foyer/Entry Stairs for Upper Residential Units
- Mechanical Space
- (1) Commercial space fronting N. Washington Ave @ 1,473 square feet
- Outdoor Trash / Recycling area
- (2) car garage @ ranging from 240 SF to 301 SF accessed from the alleyway on the east side of the project.
- Storage room / lockers.
- Additionally, 3 car parking spaces including one ADA Van space.
- Landscaped Entry courtyard.

Second Level:

- Stair / elevator /Access Points to Residential Units
- (1) 3-bedroom, 3 bath unit, 1,872 square feet (#201)
- (1) 3-bedroom, 3 bath unit @ 1,888 square feet (#202)
- Balconies and Terraces for Residential Units
- Mechanical Space

Third Level:

- Stair / elevator /Access Points to Residential Units

- (1) 4-bedroom, 4 1/2 bath penthouse unit, office, bonus room, 3,700 square feet (#301)
- Balconies and Terraces for Penthouse unit.
- Mechanical

Roof Level:

- Outdoor mechanical area set at least 12' from any building edge.

We have proposed a mix of materials and colors that will hopefully enact a sense of vibrancy to this area of Ketchum. Key materials as per sample board images include a Stonewood siding/panel product connected to the building via a "rain-screen" detail. We are using Siparila wood siding (this has a 17-year warranty on not doing any refinishing), a standing seam bronze metal for a siding material in a standard pattern. The planter on the street frontage will be board-formed concrete.

We are proposing to also break up the building mass / scale by using 2 types of balcony / deck structures. One being a solid parapet condition with metal tube steel placed on top and then the other deck handrails will be a steel mesh system. Slightly different to the previous Lofts @ 660 & 780 1<sup>st</sup> Ave multifamily projects.

We look forward to conversing more about at the October 26th P&Z hearing date, please feel free to ask any questions or for additional information that will assist in approving this project to the next level. We are excited to work with you on this project, and we look forward to starting the next phase of the design process.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Hollis", written in a cursive style.

Daniel Hollis, Principal

# CONTENTS:

Project Data sheet – Development Potential

Additional Information requested by the city (response document)

## **Drawing List:**

- A0.0 Project Data / General Notes
- A0.1 Exterior 3D Massing Model Views
- A0.2 Exterior 3D Massing Model Views
- A0.3 Exterior 3D Model in Context
- A0.4 Existing Site pictures
- A0.6 Material Samples / Color Board
- A0.7 Construction Management Plan
  
- C Topographical & Site Information (Galena Engineering)
  - C0.1 Cover Sheet
  - C1.0 Site Grading & Drainage Plan (Galena)
  - C2.0 Details (Galena)
  
- L1 Site Plan (Eggers & Associates)
- L2 Landscape Plan (Eggers & Associates)
  
- A1.1 Site Plan
- A1.2 Arch Site Plan
- A2.1 First Level Floor Plan
- A2.2 Second Level Floor Plan
- A2.3 Third Level Floor Plan
- A2.7 Roof Plan
- A3.1 Exterior Elevations (North / West)
- A3.2 Exterior Elevations (South / East)
- A4.1 Building Sections
- A4.2 Building Sections
- A4.3 Building Sections
- A5.1 Wall Sections / Details
- A5.2 Wall Sections / Details
- A5.3 Wall Sections / Details
  
- M0.0 Cover Sheet (Musgrove, PA)
- P0.0 Site Utilities Plan (Musgrove, PA)
- E0.0 Electrical Cover Sheet
- E1.0 Electrical Site Plan (Musgrove, PA)
- E1.1 Photometric Electrical Site Plan (Musgrove, PA)
- E1.1 Photometric Electrical Site Plan w/ Street light (Musgrove, PA)
- E1.2 Exterior Lighting Cutsheets (Musgrove, PA)
- E2.0 1<sup>st</sup> Floor Lighting Plan (Exterior) (Musgrove, PA)
- E2.1 2<sup>nd</sup> Floor Lighting Plan (Exterior) (Musgrove, PA)
- E2.2 3<sup>rd</sup> Floor Lighting Plan (Exterior) (Musgrove, PA)

# 760 N Washington Avenue Development Potential

Legal – Lot 6, Block 13, 760 N. Washington Ave

Parcel Size – 5,501 SF

Dimensions – 55' on N. Washington Ave, 100' N. Washington Ave to Alleyway

Permissible Gross Density @ 2.25 Floor Area Ratio (FAR) = 12,375 SF

1. (A) 5,500 SF x (H) 2.25 (per 17.124.040: FLOOR AREA RATIOS AND COMMUNITY HOUSING)  
= 12,375 SF
2. (M) 11,720 SF – 12,375 SF = **-555 SF**

Community Housing Requirement (net SF)

20% of Gross FAR in excess of 1.0 FAR x 85% = 10,310 SF

Can be satisfied on-site, off-site, or by **payment in lieu** (currently set at \$238/SF)

**This will be a "Payment-in-lieu" project.**

Parking Requirement

Residential – one space over 750 (4 spaces required)

Project will provide 6 parking spaces, 2 more than required including a Van Accessible parking space.

Maximum Building Height

42 Feet (Proposed **37'-6 1/4"** north west roof)

Setbacks

N. Washington Avenue - average of 5 feet

Alley - 3 feet

South Side – 0' (we are proposing a 3'-0" setback)

North Side – 0' (we are proposing a 3'-0" setback)

## **RESPONSE TO CITY LETTER:**

### **Final Design Review**

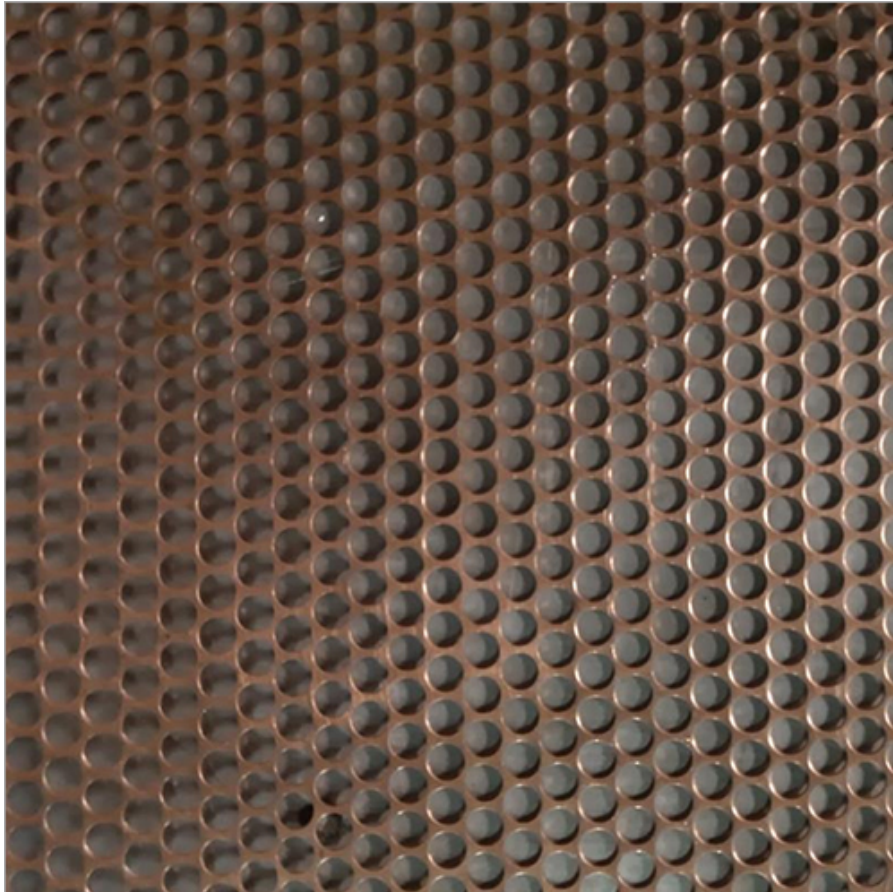
#### **Planning**

• **Exceedance Agreement** - Community Housing – An exceedance agreement memorializing the cash in lieu will be drafted and sent for applicant review under separate cover. **The exceedance agreement will be presented to City Council at the time of review and approval of the Preliminary Plat.**

*The client, Reid Sanborn has sent a copy of the exceedance agreement to the city for review on October 11<sup>th</sup> via email to Morgan Landers.*

• **Screening of Rooftop Mechanical Equipment** –Sheets A3.1 and A3.2 indicate the location of the elevator roof; however, screening of rooftop mechanical equipment is not shown. Please update Sheets A3.1 and A3.2 to show screening of rooftop mechanical equipment and indicate the proposed material for screening on Sheet A0.6.

*See revised A2.7 Roof Plan, A3.1 & A3.2 Building elevations for location and details for the screening around the roof top mechanical equipment.*



*Example of perforated metal screening for roof top mechanical.*

• **Roof Design Change** – Staff believes the changes to the roof, with the inclusion of the metal trellis at the corners, addresses the Planning Commission’s comment on the bulk of the roof overhang at the street. **No further revisions are requested.**

• **Street Light Location** – The streetlight photometric plan dated July 26, 2021, shows the light in a mid-lot location, however, Sheet L2, C1.0, and Sheet E1.0 shows an offset streetlight on the south side of the property. The offset location is acceptable provided the minimum illumination standards for sidewalks are met. Please see Attachment A for requirements. Please provide a revised photometric plan showing the offset light demonstrating compliance with illumination requirements for foot candles.

*Refer to the revised photometric plans E1.1 for new illumination studies.*

• **Garage Notation** – Sheet L2 denotes the space in front of the accessible parking space as “Garage”. Please revise Sheet L2 to change the reference to “Storage” as shown on Sheet C1.0. This correction is to ensure no confusion moving forward.

*See revised L2 submitted that shows the “Storage Room”.*

• **Transformer Location** – transformer shall be located as close to the rear (west) of the designated easement as possible. *Proposed screening is adequate and no revisions to the drawings are required.*

• **Preliminary Plat**

o Sheet 2 outlines various limited common elements and parking spaces with either a double line or single line. It is staff’s understanding that only the building or structure should be delineated with a double line and that limited common elements and common area outside the building or structure should be delineated with a single line. Please review Sheet 2 of the plat in comparison with the floor plans of the proposed building and revise accordingly.

o Please add the City of Ketchum file number of P21-044 to the bottom right of all sheets.

**Streets and Engineering**

See Attachment A for City Engineer and Streets comments. *No revisions to the application materials are required at this time,* however, conditions of approval will be recommended to address comments #3, #4, and #5.

• Please update the civil sheets to address the following comments: - All stormwater shall be retained on site – how and where are the roof drains being routed?  
- Sidewalk snow removal is the responsibility of the applicant. Are they proposing any snowmelt in the ROW? If so, an encroachment permit will need to be executed prior to Certificate of Occupancy of the building permit.

*As per sheet A1.1, note #2. Sidewalk snow removal in the ROW is the responsibility of HOA. No Snowmelt system is proposed for exterior sidewalks and entries.*

- Add note to sheet E1.0, if any existing utility junction boxes are located within the proposed sidewalk, they will need to be relocated into the ROW parking area.  
- The civil sheets and sheet E1.0 show an above ground power pole in the alley that no longer exists. The civil sheets do not accurately show existing communications lines. The previous property owner and the City of Ketchum worked together to underground the power and communications (Cox and CenturyLink) in the alley between 7th and 8th streets adjacent to the property. The power line undergrounding has been completed, however, the undergrounding of the communication lines for Cox and Centurylink was not completed. Please revise the civil sheets and sheet E1.0 to reflect accurate utilities and notate the undergrounding of all existing utilities. An encroachment agreement between the City and Cox has been drafted for council approval.

*The power poles and existing Communication lines (Cox & Centurylink) will be decommissioned and removed on October 28<sup>th</sup> according to my conversation with Cyndi Bradshaw (Idaho Power) on October 11<sup>th</sup>.*

- City standard is a 6” rolled curb, not vertical curb.  
- Cross slopes in asphalt parking area need to be shown.  
- Need to show radius for curb transition.



- The following items **do not require revisions to the current application**, but need to be addressed for review at the time of building permit application: - Streetlights are to be hard wired and connect to separate city lighting meter. I am not aware of a city owned lighting meter near the project location so they will likely need to install one. The city is aware that Fonroche may not carry hard wired fixtures, however, discussions with Fonroche are ongoing. No revisions are required at this time.
- Project needs to meet all City of Ketchum ROW standards
- A dig permit and TURP permit is required for the project. **KMV Builders will pull these permits.**
- The following needs to be included on the Construction Activity Plan:
  - Detail of the proposed construction fencing needs to be provided for the CAP.
  - Any road closures need to be addressed on the CAP
  - Street dimensions need to be shown on the CAP
  - Dimension of the proposed fencing in ROW needs to be shown on CAP
  - The CAP will need to address the following items: project schedule, excavation quantities, truck routes, dust abatement, dust, mud, sand and gravel control, and construction vehicle parking.
- Work within ROW required to meet KMC 12.04.040, final review of work in the ROW will be conducted at Building Permit application.
- ROW improvement plans will need to be stamped and signed by a license engineer. Plans currently only have an engineer's stamp.

### **Utilities – Water and Wastewater**

**No revisions of the project plans are required to address the comments below, however, comments need to be addressed for building permit application.**

- Sewer - Existing sewer service to be used if possible. Line will need to be inspected by contractor to ensure it is in usable condition or repaired to usable condition. If a new sewer service is necessary, it will need to be installed to City of Ketchum standards and inspected by City personnel.
- Water – A new fire sprinkler line needs to be installed, with a common meter installed in mechanical room for the residences unless builder wants individual meters for each. The existing water service needs to be abandoned at the main water line. Inspection will be needed for new tap and installation of services and meters.

### **Fire**

- All projects shall utilize unique project/building names. Please revise the project name to be unique to the project as there is a Lofts at 660 and Lofts at 780 near the project.

**Currently working on a name change for both 760 N Washington Ave and 780 1<sup>st</sup> Ave. Will notify city at time of permitting.**

- See Attachment B for Fire Department comments. **No action is required at this time to address these comments.**

C L E A R   C R E E K   D I S P O S A L

PO Box 130 • Ketchum, ID 83340 • Phone 208.726.9600 • Fax: 208.726.8041

August 7, 2021

Planning & Zoning  
City of Ketchum  
P O Box 2315  
Ketchum, ID 83340-2315

Re: 760 Washington Ave N

To whom it may concern,

Please allow this letter to serve that Daniel P Hollis of Hollis Partners Architects has engaged in conversations with me, regarding the new building mentioned above.

This building will house three single family homes, one commercial unit and will utilize carts for garbage service. *There is room for four carts as there will be four units, however given the nature of commercial space there may be a need for multiple service days to accommodate adequate service needs.* The future HOA will need contract for moving carts to the alley or street for pickup and return to the enclosure as an additional special service. Clear Creek Disposal will not accept responsibility for any damage to building and/or vehicles from the movement of carts.

If you have any questions regarding this project, please don't hesitate to call.

Sincerely,



Mike Goitiandia  
Clear Creek Disposal

.760 Washington Ave N





August 16, 2021

Reid Sanborn  
Po Box 5023  
Ketchum, Id 83340

To whom it may concern,

Thank you for your inquiry about electrical service at 760 N Washington St  
Ketchum, Id 83340

This property is located within Idaho Power's service area in the state of Idaho .

Idaho Power will provide electrical service to this location once any required easement or right of way are obtained by Idaho Power and/or the Customer, and in compliance with the statutes of the State of Idaho/Oregon and the Idaho Power tariffs on file with our regulators. Tariffs include the General Rules and Regulations that covers new service attachments and distribution line installations or alterations.

To start new service or obtain more information about new service, visit our website:  
<https://www.idahopower.com/service-and-billing/> . You may also contact Idaho Power's Customer Care Team at 208-388-2323, or 1-800-488-6151 (outside the Treasure Valley).

Sincerely,

Cyndi Bradshaw  
Distribution Designer  
Cbradshaw@Idahopower.Com  
208-788-8002

# APPLICATION DESIGN

760 N Washington Ave

Ketchum ID



<b>Project Number:</b>	<u>G5276</u>
<b>Date:</b>	7/26/2021
<b>Written by:</b>	Shaunak PILLAI
<b>Version :</b>	A



# The global leader in solar lighting



Fonroche Lighting America began as SolarOne, a pioneer in solar lighting in the U.S. for more than a decade. Now we are proud to be part of [Fonroche Lighting](#), the global leader in off-grid solar street lighting. The deep resources and broader scope of an established market leader lets us take solar lighting even further, from the tribal lands of Oklahoma to the West African Republic of Senegal.

We can invest in innovation, pushing efficiency and reliability even higher. We can provide field-tested expertise and responsive service to our customers. And we can take on projects of any size, from local to national. That's why so many [municipalities](#), [military](#) and [federal facilities](#), [tribes](#), [commercial properties](#), and [developers](#) trust us to deliver the full promise of solar lighting.



## The **3** key benefits for your project

### - OFF-GRID

100% solar, not connected to the utility grid. No outages.  
365 nights of light a year – guaranteed.

### - POWERFUL

Powerful illumination, on a par with grid-connected systems.

### - COST-EFFICIENT

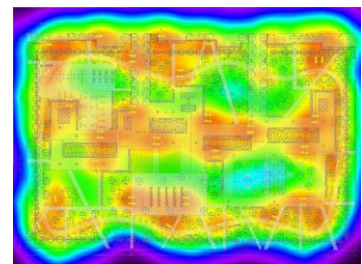
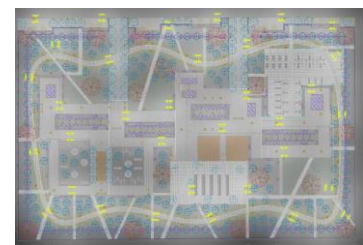
No maintenance for the first 10 years.  
Rapid installation. No operating costs.

## Feasibility of your solar lighting project

To guarantee powerful, cost-effective off-grid lighting, SolarOne operates its own **design office**.

We assess the feasibility of each project in four stages:

1. First, we define your **lighting requirements**.
2. Next, we analyze the last 10 years of **local weather data** to determine how much energy our PV panels will generate.
3. On this basis, we **calculate** what size and how many products we need to install.
4. Finally, our sales team draws up a **cost estimate**.



## 1 Project = 1 Study



1



### 10-Year Analysis of local weather data

We use the **PVsys** software suite and **Meteonorm** historical time series irradiation data to calculate the real-world operating conditions — orientation and tilt angle of the panel, shadow, etc. — and external parameters, such as direct and diffuse irradiation, temperature and the solar calendar.

2



### Simulation of product(s) over a typical year

Our teams have developed a solar sizing software application, which we use to determine which products will best meet your needs. We then simulate how these products operate over a typical year, based on the average conditions for **the last decade**.

3



### Sizing the project to your needs

We use a set of key criteria to optimally specify your project:

- Average battery charge level over the year
- Minimum charge level
- Comparative analysis of energy generated by the panel vs. energy used by the system
- Worst-case scenario (lowest irradiation, longest night)

4



### Results

Based on our experience, we propose the **optimal solution** in terms of lighting **performance** and **cost effectiveness**.

Autonomy of  
**365**  
nights of lighting /year



## SMARTLIGHT WITH SIGNIFY ROADFOCUS



Non pro-rated

 **signify**

Lumec RoadFocus LED



**POWER 365**  
Ultimate Solar Lighting Performance of Excellence



### PHOTOVOLTAIC MODULE



PV panel power rating	NA
PV panel tilt angle	NA

### POWER 365: SMART STORAGE AND MANAGEMENT



Battery capacity	NA
------------------	----

### LED LIGHT UNIT



Lighting power	20 W nominal
----------------	--------------

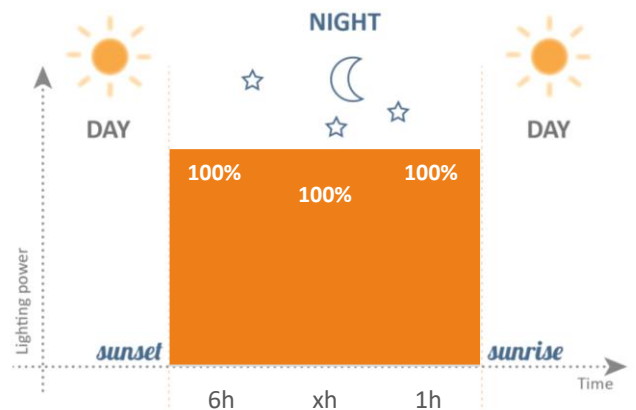
LED light unit specification	2700K
------------------------------	-------

### POLE & CROSSPIECE

Pole height	14'
-------------	-----

Protective treatment	Powder Coated T6 Aluminum
----------------------	---------------------------

Chosen lighting profile for your project





# PHOTOMETRIC STUDY

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*\*Note: these results are only valid if the Smartlight PV panel is at an azimuth angle of zero degrees and is completely free of shadow.*

*\*\*These results are subject to change due to technological or regulatory advances. This technical report is valid for 60 days from the date you receive it.*

# 760 N Washington Ave



## Lighting Plan

Project Number: G5276

By: Shaunak Pillai  
shaunak.pillai@fonroche.us  
Date:7/26/2021

220 Reservoir Street, Suite 19  
Needham, MA 02494  
Phone Number: (339) 225 4530  
www.fonrochesolarlighting.com

### Luminaire Schedule

Symbol	Qty	Label	Description	LLF
—□	1	rfs-15w12led27k-g2-r2m	RFS-15W12LED2_7K-G2-R2M	1.000

### Luminaire Location Summary

SeqNo	Label	X	Y	Z	Orient	Tilt
1	rfs-15w12led27k-g2-r2m	30.7	63.8	15.25	180	0

# 760 N Washington Ave



## Lighting Plan

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Phone Number: (339) 225 4530  
www.fonrochesolarlighting.com

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Curb	Illuminance	Fc	0.91	1.87	0.30	3.03	6.23

# 760 N Washington Ave



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 Needham, MA 02494  
 Phone Number: (339) 225 4530  
 www.fonrochesolarlighting.com

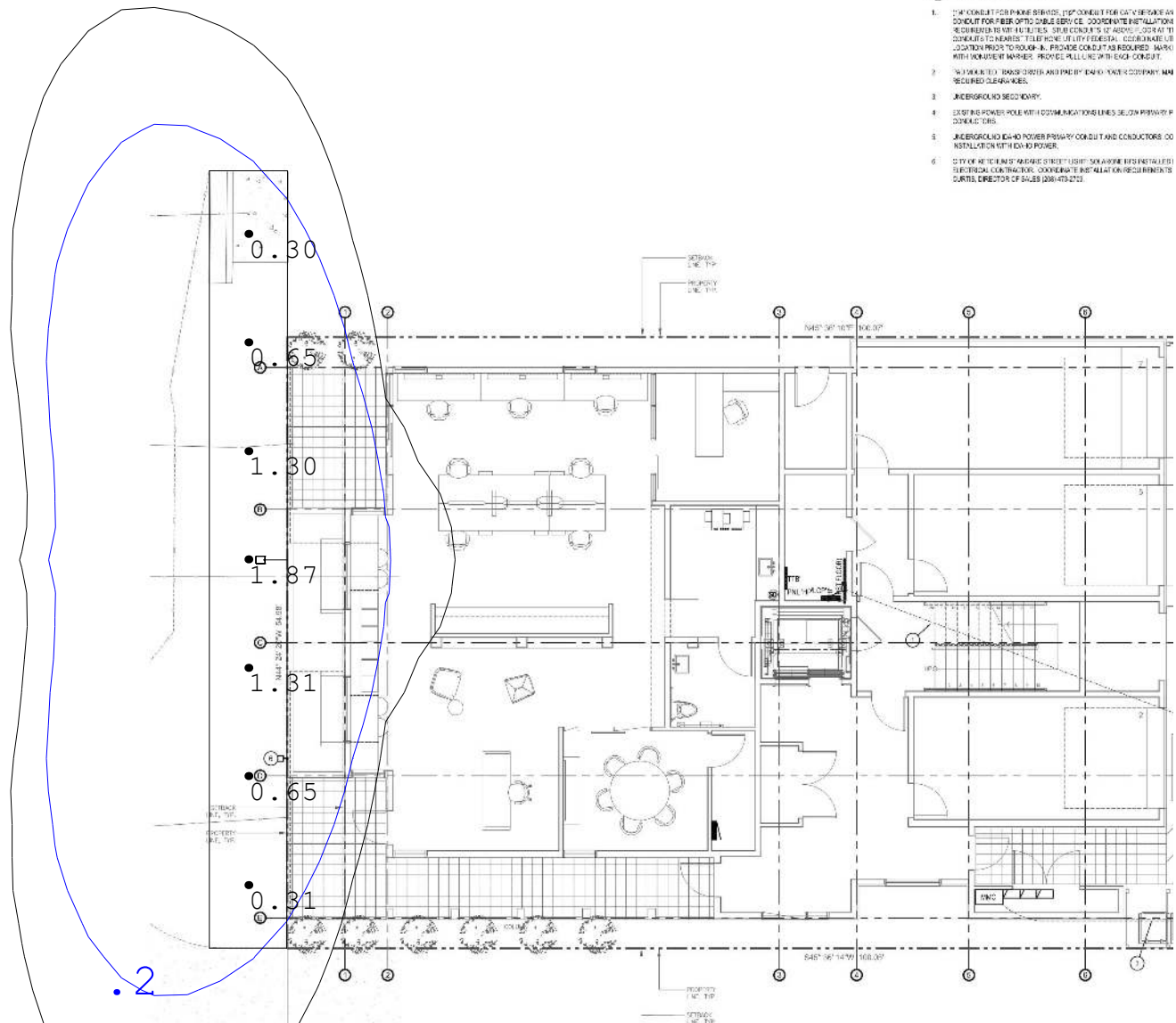
## Lighting Plan

Project Number: G5276

By: Shaunak Pillai  
 shaunak.pillai@fonroche.us  
 Date: 7/26/2021

### KEYED NOTES:

1. 1"4" CONDUIT FOR PHONE SERVICES. 1"2" CONDUIT FOR DATA SERVICE AND CONDUIT FOR FIBER OPTIC CABLE SERVICE. COORDINATE INSTALLATION REQUIREMENTS WITH UTILITIES. SHALL CONDUITS BE ADJUSTED AT 1"2" CONDUITS TO NEAREST 1/4" INCREMENTS. FEDERAL COMMUNICATIONS COMMISSION PROVISIONS TO REQUIRE A. PROVIDE CONDUIT MARKERS MARKED WITH NON-REMOVABLE MARKER. PROVIDE ALL LINES WITH EXACT CONDUIT.
2. ALL MARKED TAPS, JOINTS AND END BY DATE VENDOR COMPANY AND SECURED CLEARANCES.
3. UNDERGROUND SECONDARY.
4. EXISTING POWER POLE WITH COMMUNICATIONS LINES BELOW PRIMARY CONNECTIONS.
5. UNDERGROUND 60-90 POWER PRIMARY CONDUIT AND CONDUCTORS ON INSTALLATION WITH 60-90 POWER.
6. CITY OF NEEDHAMSTOWN STREET LIGHTING ADOPTS THE INSTALLATION ELECTRICAL CONTRACTORS. COORDINATE INSTALLATION REQUIREMENTS SURVEY DIRECTOR OF SALES (208)473-2723.



1 ELECTRICAL SITE PLAN  
 E1.0 SCALE: 1" = 5'

# 760 N Washington Ave

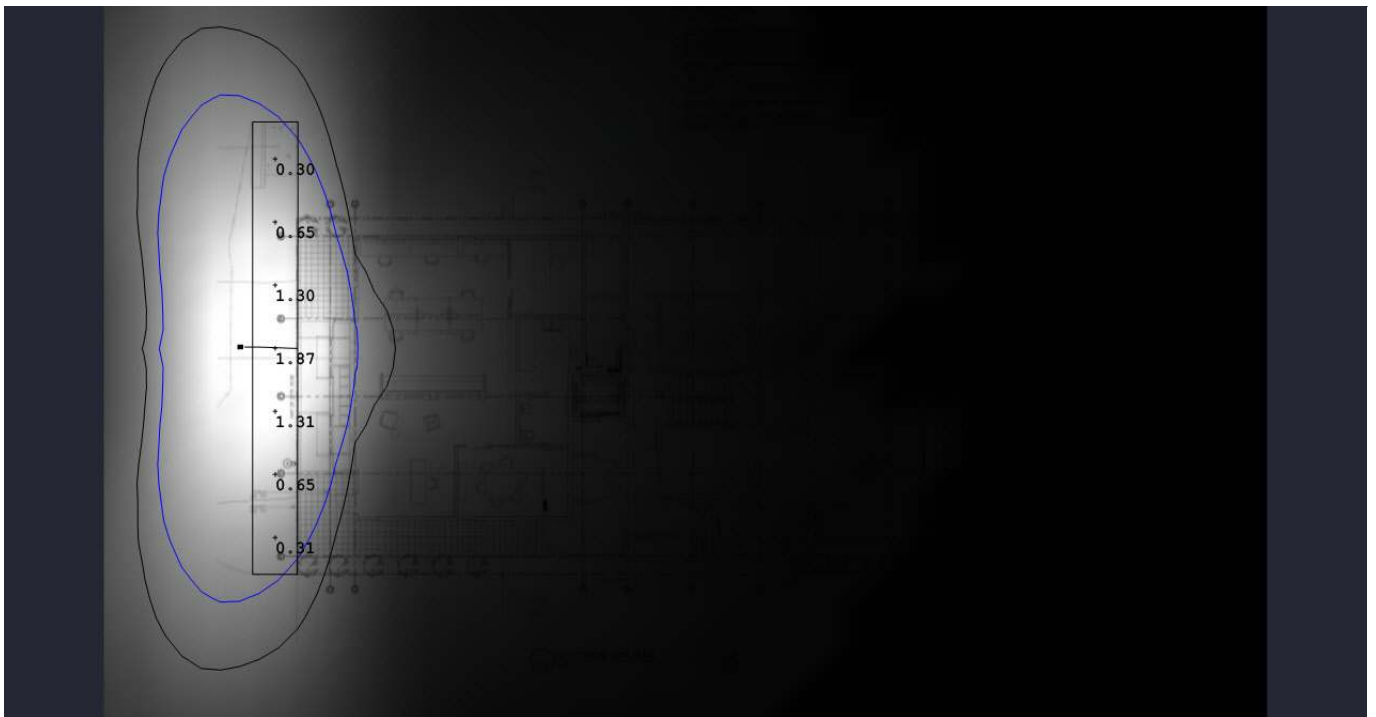


## Lighting Plan

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By: Shaunak Pillai  
shaunak.pillai@fonroche.us  
Date: 7/26/2021

220 Reservoir Street, Suite 19  
Needham, MA 02494  
Phone Number: (339) 225 4530  
[www.fonrochesolarlighting.com](http://www.fonrochesolarlighting.com)



3D Rendering

# 760 N Washington Ave

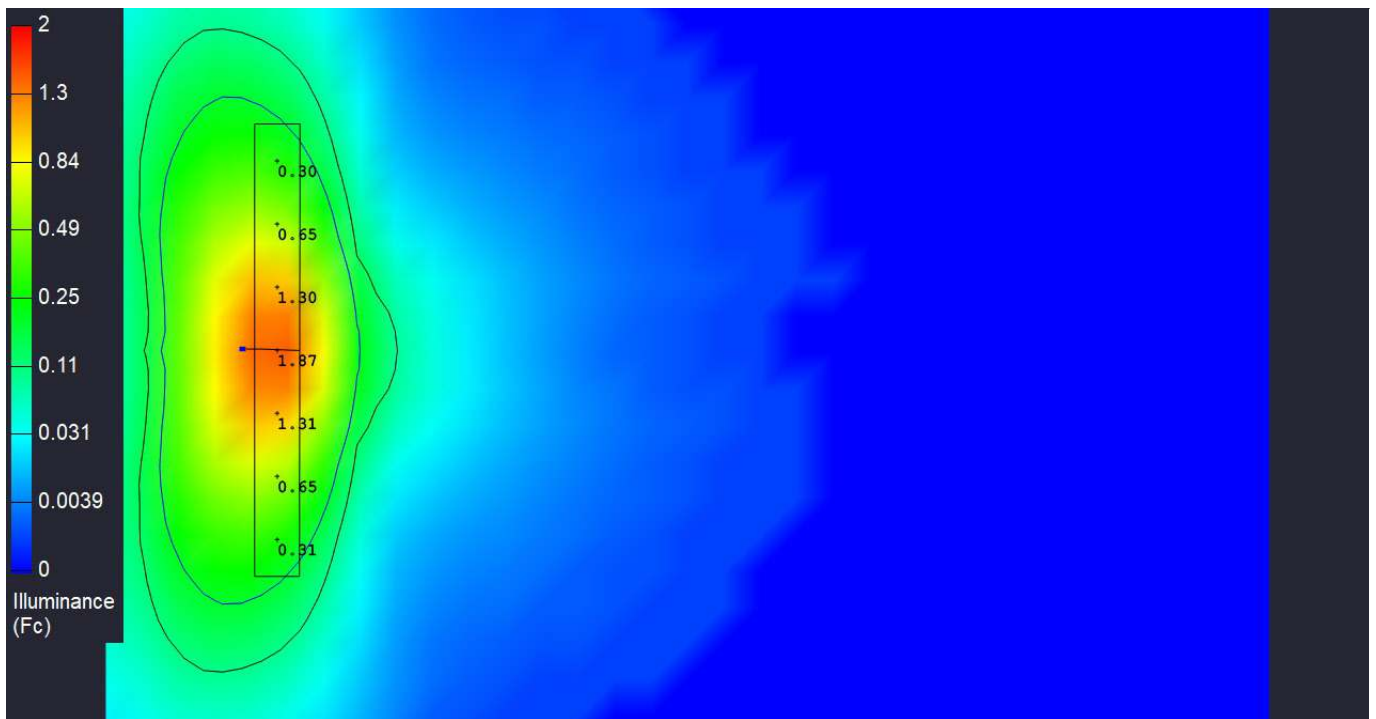


## Lighting Plan

Project Number: G5276

By: Shaunak Pillai  
shaunak.pillai@fonroche.us  
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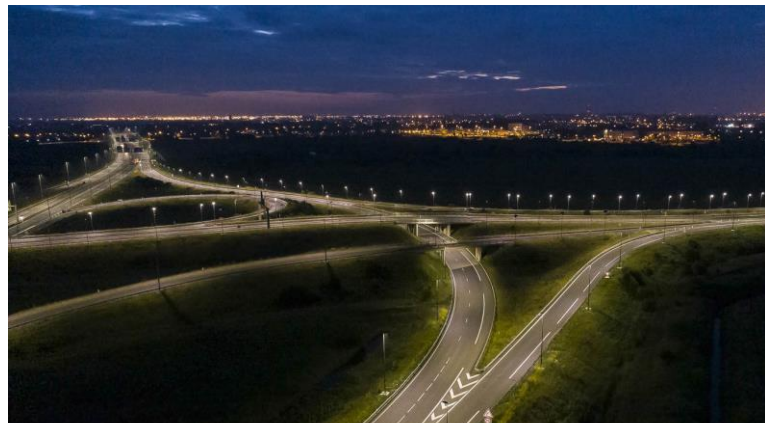
220 Reservoir Street, Suite 19  
Needham, MA 02494  
Phone Number: (339) 225 4530  
www.fonrochesolarlighting.com



False Color Rendering



# A few examples







**FONROCHE**  
lighting AMERICA

Solar lighting

Your commitment to sustainability

**Contact us**

**Dale Curtis**

*Director of Sales*

**M: (208) 484-8993**

**E: dale.curtis@Fonroche.US**

FIND OUT MORE AT

**[www.FonrocheSolarLighting.com](http://www.FonrocheSolarLighting.com)**

FONROCHE LIGHTING AMERICA | 220 Reservoir St. #19  
Needham, MA 02494 | USA  
**Telephone : 339-225-4530**

Preliminary Plat:  
Applications and Supplemental  
Materials



City of Ketchum  
Planning & Building

**CERTIFIED COMPLETE**  
9-29-21

**Preliminary Plat  
Subdivision Application**

OFFICIAL USE ONLY	
Application No:	P21-044
Date Received:	5-7-21
By:	mf
Fee Paid:	2625.00
Approved Date:	
By:	

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](http://www.ketchumidaho.org) and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: The Lofts at 760 Washington Avenue			
Owner of Record: SV Ventures, LLC			
Address of Owner: PO Box 5023, Ketchum, ID 83340			
Representative of Owner: Galena Engineering			
Legal Description: Ketchum Lot 6 Block 13			
Street Address: 760 N Washington Avenue			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 5 Residential Condominium Units			
Total Land Area: +/- 5,501 sf (0.13 acres)			
Current Zoning District: Community Core (CC) Mixed Use Subdistrict			
Proposed Zoning District: N/A			
Overlay District: N/A			
TYPE OF SUBDIVISION			
Condominium <input checked="" type="checkbox"/>	Land <input type="checkbox"/>	PUD <input type="checkbox"/>	Townhouse <input type="checkbox"/>
Adjacent land in same ownership in acres or square feet:			
Easements to be dedicated on the final plat: <b>Existing Idaho Power and Centurylink Easements as shown.</b>			
Briefly describe the improvements to be installed prior to final plat approval: <b>Certificate of Occupancy per 16.04.070C1a</b>			
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 tortious 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.

Applicant Signature \_\_\_\_\_ Date 5/3/21



**Sun Valley Title**  
Authorized Agent for:  
**Title Resources Guaranty Company**

File Number: 20393295

### Contact Information

We would like to thank you for your business and we appreciate the opportunity to serve you. The title commitment has been sent to the parties listed below.

**If you have any closing questions, please contact your Escrow team:**

Alison Warner	Beth Landes
ali@sunvalleytitle.com	beth.landes@sunvalleytitle.com
(208)726-9341	

**TitleOne Corporation dba Sun Valley Title State License: 712444**

**If you have any title questions, please contact your Title Officer:**

Nick Busdon	Sun Valley Title Address:
nbusdon@sunvalleytitle.com	271 1st Avenue North, PO Box 2365
(208)726-9341	Ketchum, ID 83340

### Agents / Brokers and Transaction Coordinators

Reid Sanborn  
Engel & Volkers Sun Valley  
reid.sanborn@evusa.com  
(208)720-8244

Jessica Blake  
jessica.blake@evusa.com

Matt Bogue  
matt@kenny-bogue.com  
(208)720-7948

Theresa Curnow  
theresa.curnow@engelvoelkers.com



COMMITMENT FOR TITLE INSURANCE
Issued by
TITLE RESOURCES GUARANTY COMPANY

Title Resources Guaranty Company, a Texas corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate 180 days after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Title Resources Guaranty Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

Handwritten initials 'WK' above a signature line.

An authorized signature



Title Resources Guaranty Company

By:
President/CEO

Secretary

Handwritten signature of Michael Gayden



## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org/>.

## Privacy Policy Notice

Rev. 10-23-2017

FACTS	WHAT DOES SUN VALLEY TITLE DO WITH YOUR PERSONAL INFORMATION?		
Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.		
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and account balances</li> <li>• Payment history and credit card or other debt</li> <li>• Checking account information and wire transfer instructions</li> </ul> <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p>		
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Sun Valley Title chooses to share; and whether you can limit this sharing.		
	Reasons we can share your personal information	Does Sun Valley Title share?	
	Can you limit this sharing?		
	For our everyday business purposes – such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus	Yes	No
	For our marketing purposes- to offer our products and services to you	No	We don't share
	For joint marketing with other financial companies	No	We don't share
	For our affiliates' everyday business purposes- information about your transactions and experiences	Yes	No
	For our affiliates' everyday business purposes- information about your creditworthiness	No	We don't share
	For our affiliates to market to you	No	We don't share
	For nonaffiliates to market to you	No	We don't share
Questions?	Go to <a href="http://www.sunvalleytitle.com/Legal/Privacy">http://www.sunvalleytitle.com/Legal/Privacy</a>		



<b>Who we are</b>	
<b>Who is providing this notice?</b>	Sun Valley Title
<b>What we do</b>	
<b>How does Sun Valley Title protect my personal information?</b>	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.
<b>How does Sun Valley Title collect my personal information?</b>	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• Apply for insurance or pay insurance premiums</li> <li>• Provide your mortgage information or show your driver's license</li> <li>• Give us your contact information</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
<b>Why can't I limit all sharing?</b>	<p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes – information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for nonaffiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p>
<b>Definitions</b>	
<b>Affiliates</b>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• <i>Our affiliates include companies that are owned in whole or in part by Realogy Holdings Corp., such as Better Homes and Gardens® Real Estate, CENTURY 21®, Coldwell Banker®, Coldwell Banker Commercial®, The Corcoran Group®, ERA®, Sotheby's International Realty®, ZipRealty®, NRT LLC, Cartus and Title Resource Group.</i></li> </ul>
<b>Nonaffiliates</b>	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• <i>Sun Valley Title does not share with nonaffiliates so they can market to you.</i></li> </ul>
<b>Joint Marketing</b>	<p>A formal agreement between nonaffiliated financial companies that together market financial products or service to you.</p> <ul style="list-style-type: none"> <li>• <i>Sun Valley Title does not share with nonaffiliated financial companies for joint marketing purposes.</i></li> </ul>
<b>Other Important Information</b>	
<b>For European Union Customers</b>	Please see our Privacy Policy located at <a href="http://www.sunvalleytitle.com/Legal/Privacy">http://www.sunvalleytitle.com/Legal/Privacy</a>

**For our California Customers**

Please see our notice about the California Consumer Protection Act located at <http://www.sunvalleytitle.com/Legal/Privacy>



<b>FACTS</b>	WHAT DOES TITLE RESOURCES GUARANTY COMPANY DO WITH YOUR PERSONAL INFORMATION?	
<b>Why?</b>	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.	
<b>What?</b>	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and account balances</li> <li>• Payment history and credit card or other debt</li> <li>• Checking account information and wire transfer instructions</li> </ul> <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p>	
<b>How?</b>	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons TITLE RESOURCES GUARANTY COMPANY chooses to share; and whether you can limit this sharing.	
<b>Reasons we can share your personal information</b>	<b>Does TITLE RESOURCES GUARANTY COMPANY share?</b>	<b>Can you limit this sharing?</b>
<b>For our everyday business purposes – such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus</b>	Yes	No
<b>For our marketing purposes- to offer our products and services to you</b>	No	We don't share
<b>For joint marketing with other financial companies</b>	No	We don't share
<b>For our affiliates' everyday business purposes- information about your transactions and experiences</b>	Yes	No
<b>For our affiliates' everyday business purposes- information about your creditworthiness</b>	No	We don't share
<b>For our affiliates to market to you</b>	No	We don't share
<b>For nonaffiliates to market to you</b>	No	We don't share
<b>Questions?</b>	Go to <a href="https://www.trgc.com/privacypolicy">https://www.trgc.com/privacypolicy</a>	

Who we are	
Who is providing this notice?	TITLE RESOURCES GUARANTY COMPANY
What we do	
How does TITLE RESOURCES GUARANTY COMPANY 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 safeguards and secured files and buildings.
How does TITLE RESOURCES GUARANTY COMPANY collect my personal information?	<p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• Apply for insurance or pay insurance premiums</li> <li>• Provide your mortgage information or show your driver's license</li> <li>• Give us your contact information</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> <li>• Sharing for affiliates' everyday business purposes –information about your creditworthiness</li> <li>• Affiliates from using your information to market to you</li> <li>• Sharing for nonaffiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p>
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Other Important Information	
For European Union Customers	Please see our Privacy Policy located at <a href="https://www.trgc.com/privacypolicy">https://www.trgc.com/privacypolicy</a>
For our California Customers	Please see our notice about the California Consumer Protection Act located at <a href="https://www.trgc.com/privacypolicy">https://www.trgc.com/privacypolicy</a>



COMMITMENT FOR TITLE INSURANCE  
Issued by  
TITLE RESOURCES GUARANTY COMPANY

Issuing Office: TitleOne Corporation dba Sun Valley Title  
ALTA® Universal ID: 1065022  
Commitment Number: 20393295

SCHEDULE A

1. Commitment Date: December 2, 2020 at 07:30 AM

2. Policy or Policies to be issued:

X ALTA Owners Policy (6/17/06)	<i>Standard Coverage</i>	Policy Amount:	\$950,000.00
Proposed Insured:		Premium:	\$2,932.00
Galena Peak Partners, LLC			

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

Fee Simple

4. Title to the estate or interest in the Land is at the Commitment Date vested in:

Andrew Joseph Castellano, Trustee of the Andrew Joseph Castellano Trust dated September 28, 1999

5. The Land described as follows:

See Attached Schedule C

Title Resources Guaranty Company

TitleOne Corporation dba Sun Valley Title

By:


Nick Busdon, Authorized Signatory

Title Resources Guaranty Company

By:

President/CEO

Secretary



*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Title Resources Guaranty Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*



**SCHEDULE B, PART I  
Requirements**

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. NOTE: According to the available records, the purported address of said land is:  
  
760 N Washington Ave, Ketchum, ID 83340
6. Necessary conveyance to the proposed insured.
7. Note: In the event this transaction fails to close, or this commitment is cancelled, a cancellation fee will be charged to comply with the State of Idaho Department of Insurance regulations.
8. The Company will require delivery of and approval by the Company of an Indemnity and Affidavit as to Debts, Liens and Possession, prior to the issuance of the policy.
9. The Company will require a copy of the Operating Agreement and other related documents for Galena Peak Partners, LLC, showing the power and authority of the party or parties who plan to execute the forthcoming conveyance or mortgage on behalf of said limited liability company.

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TRGC Form: Comm16 ALTA Commitment Form Adopted 6-17-2006 Revised 08-01-2016 Technical Corrections 04-02-2018

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**SCHEDULE B, PART II**  
**Exceptions**

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. If the Company's requirements are satisfied, Exceptions 1 through 7 will be removed on Enhanced/Extended coverage policies.

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. Rights or claims of parties in possession not shown by the public records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land, and that is not shown by the Public Records.
4. Easements, or claims of easements, not shown by the public records.
5. Any lien, or right to a lien, for services, labor, or materials heretofore or hereafter furnished, imposed by law and not shown by the public records.
6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims to title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
7. Taxes or special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices to such proceedings whether or not shown by the records of such agency, or by the public records.
8. Taxes for the year 2019 are paid in full.  
Parcel Number: RPK00000130060  
Original Amount: \$3,273.44
9. Taxes, including any assessments collected therewith, for the year 2020 which are due and payable, but not delinquent.  
Parcel Number: RPK00000130060  
Original Amount: \$3,114.96  
Without homeowner's exemption
10. Water and sewer charges, if any, for the City of Ketchum.
11. Easements, reservations, restrictions, and dedications as shown on the official plat of Ketchum Townsite.
12. Reservations and exceptions in a United States Patent, and in the act authorizing the issuance thereof, recorded May 2, 1889 in Book 1 of Patents, at Page [389](#).
13. Right of way for ditches, tunnels, telephone, and distribution lines constructed by authority of the United States, as granted to the United States under the provisions of Section 58-604 Idaho Code.

(End of Exceptions)

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SCHEDULE C

**Legal Description:**

Lot 6, Block 13 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

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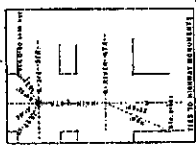
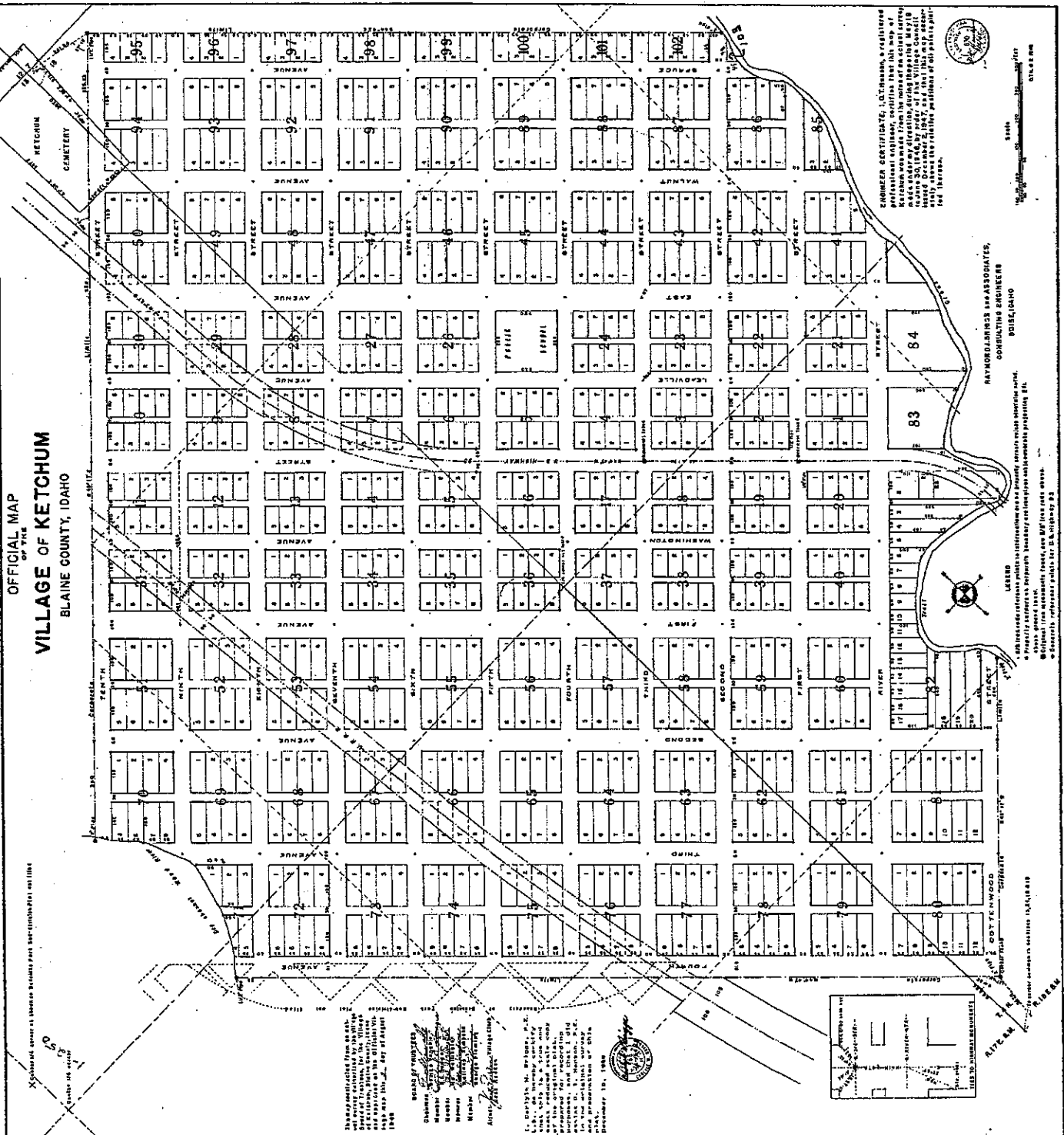


302967

STATE OF IDAHO  
 COUNTY OF BLAINE  
 City of Ketchum  
 AT 4-03  
 2-13  
 RECORDED  
 BY [Signature]  
 FEES \$ 1.00



THIS MAP IS A PROFESSIONAL REPRODUCTION OF THAT ON FILE IN THE PUBLIC RECORDS OFFICE, THE COMPANY ASSUMES NO LIABILITY FOR INACCURACY, IF ANY, WITH ANOTHER OR RE-SHOWN.



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Parcel Number

**RPK00000130060**

Property Year

**2020**

Legal Description

KETCHUM  
LOT 6 BLK 13  
5500SF

Base Code Area 003-001  
Incr Code Area 003-014

Project Name  
KETCHUM 003-001

Property Address

760 N WASHINGTON AVE  
KETCHUM ID 83340

Parcel Status Active  
Property Type Real Property  
Sub Type

Owner/Contact Name	Type	Relationship	Owner%	HOE
CASTELLANO ANDREW JOSEPH TRUST	OWNER	TRUSTEE1	0.00%	
ANDREW JOSEPH CASTELLANO TRUST	OWNER	TRUST	100.00%	

Mailing Address  
PO BOX 1180  
KETCHUM ID 83340

Land Group  
KETCHUM TOWNSITE  
Township 4N Range 17E Section 13  
Location Code ERES  
Parcel Type  
Zoning

Associated Parcels  
PP1P00000T3060

Building Permits  
None

Reappraisal Year 2016  
Inspection Date 04/13/2018  
Appraiser Initials TLR

Name(s) shortened for printing. Type & percent are from data conversion. Refer to actual instrument(s).

Parcel Exemption: None

CB: No NC: No

Tax Certification District Roll Type Units Amount

Instrument	Eff Date	Action	Source	Target	Comments
649431	01/22/2018	Ownership	2018		
648932	12/22/2017	Ownership	2017		
641814	02/28/2017	Ownership	2017		
639470	11/04/2016	Ownership	2016		

SCC	CHARACTERISTIC			ROLLS			ACRES	VALUATION SUMMARY			URBAN RENEWAL	
	Type	Suffix	Description	Assessed	Occupancy	Status	Quantity	Assessed Value	Exemption Amount	Net Taxable Value	Net Taxable Base	Net Taxable Incr
21	LAND			PRIMARY	NO	E	0.126	\$ 448,910	\$ 0	\$ 448,910	\$ 90,750	\$ 358,160
42	COMM	1		PRIMARY	NO	E		\$ 84,027	\$ --	\$ 84,027	\$ 0	\$ 84,027
<b>TOTALS:</b>							<b>0.126</b>	<b>\$ 532,937</b>	<b>\$ 0 --</b>	<b>\$ 532,937</b>	<b>\$ 90,750</b>	<b>\$ 442,187</b>

ROLL STATUS: E Equalized (Final)

**BLAINE COUNTY TREASURER****JOHN DAVID DAVIDSON**

219 1ST AVE SOUTH SUITE 102

HAILEY ID 83333

TELEPHONE: (208) 788-5530

**TAX MASTER INQUIRY**

PARCEL NUMBER

**RPK00000130060**

TAX CODE AREA

003-001

LEGAL DESCRIPTION

KETCHUM

LOT 6 BLK 13

5500SF

PRIMARY PROPERTY ADDRESS

760 N WASHINGTON AVE

KETCHUM ID 83340

CASTELLANO ANDREW JOSEPH TRUSTEE  
 ANDREW JOSEPH CASTELLANO TRUST DATED 8/28/1999  
 PO BOX 1180  
 KETCHUM ID 83340

<b>BALANCE DUE</b>	INTEREST DATE 11/30/2020
<b>\$ 3,114.96</b>	BALANCE AS OF 11/30/2020 10:19 am
TOTAL	

Tax Year Assessment Roll

Bill Number: 333740

2020	PRIMARY	FIRST HALF	SECOND HALF	FULL YEAR		
<b>TAX / CERTIFICATION</b>						
Charges	\$	1,557.48	\$	1,557.48	\$	3,114.96
Adjustments	\$	0	\$	0	\$	0
Payments	\$	0	\$	0	\$	0
<b>LATE CHARGE</b>						
Charges/Adjustments	\$	0	\$	0	\$	0
Payments	\$	0	\$	0	\$	0
<b>FEES</b>						
Charges/Adjustments	\$	0	\$	0	\$	0
Payments	\$	0	\$	0	\$	0
<b>INTEREST</b>						
Charges/Adjustments	\$	0	\$	0	\$	0
Payments	\$	0	\$	0	\$	0
<b>AMOUNT DUE</b>	<b>\$</b>	<b>1,557.48</b>	<b>\$</b>	<b>1,557.48</b>	<b>\$</b>	<b>3,114.96</b>

VALUATION	
TAXABLE VALUE:	\$ 532,937

CHARGES		
Tax Code Area:	003-001	Levy: 0.005844856
Tax Charge:	\$	3,114.96
Certifications:	\$	0
<b>TOTAL CHARGES:</b>	<b>\$</b>	<b>3,114.96</b>

The amount due shown here is as of 10:19 am on November 30, 2020, with interest calculated to November 30, 2020.

CASTELLANO ANDREW JOSEPH TRUSTEE

PO BOX 1180  
KETCHUM ID 83340-0000

Bank Code

Details

Possible  
Deferred Tax

**Pre Paid \$**

SubRoll

Code Area

003001

Districts

Values

Property Description

Interest Date

11/30/2022



Calculate



History  
Print

Total Due

3,114.96

Year	Amount Due Full Year	Amount Due 1st Half	Amount Due 2nd Half	Tax/Cert Chg Full Year	Tax/Cert Pay Full Year	Tax/Cert Adj Full Year	Late Charge Full Year	Fees Full Year
2020	3114.96	1557.48	1557.48	3114.96	0.00	0.00	0.00	0.00
2019	0.00	0.00	0.00	3273.44	-3273.44	0.00	0.00	0.00
2018	0.00	0.00	0.00	3159.02	-3159.02	0.00	0.00	0.00
2017	0.00	0.00	0.00	2580.60	-2580.60	0.00	0.00	0.00
2016	0.00	0.00	0.00	1934.64	-1934.64	0.00	0.00	0.00
2015	0.00	0.00	0.00	2172.86	-2172.86	0.00	0.00	0.00
2014	0.00	0.00	0.00	2205.02	-2205.02	0.00	0.00	0.00
2013	0.00	0.00	0.00	2049.94	-2049.94	0.00	0.00	0.00
2012	0.00	0.00	0.00	2721.24	-2721.24	0.00	0.00	0.00

Public Pre-Paid | Tax Summary




PrePaid Details

Year	Transaction Date	Prepaid Amount	Packet #	Payment Status	Reversed Amount	Reversed Date	Reversed #	Payment Intent

**Instrument # 680742**

HAILEY, BLAINE, IDAHO  
03-25-2021 9:41:46 AM No. of Pages: 2  
Recorded for: TITLEONE - TWIN FALLS  
JOLYNN DRAGE Fee: \$15.00  
Ex-Officio Recorder Deputy: GWB  
Electronically Recorded by Simplifile

**Sun Valley Title**

 A TitleOne Company

Order Number: 20393295

**Warranty Deed**

For value received,

**Andrew Joseph Castellano, Trustee of The Andrew Joseph Castellano Trust dated September 28, 1999**

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

**SV Ventures, LLC, an Idaho limited liability company**

whose current address is 100 Sun Valley Rd Suite 1497 Sun Valley, ID 83353

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

Lot 6, Block 13 of the VILLAGE OF KETCHUM, BLAINE COUNTY, IDAHO, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

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

Dated: March 21, 2021

The Andrew Joseph Castellano Trust dated September 28, 1999

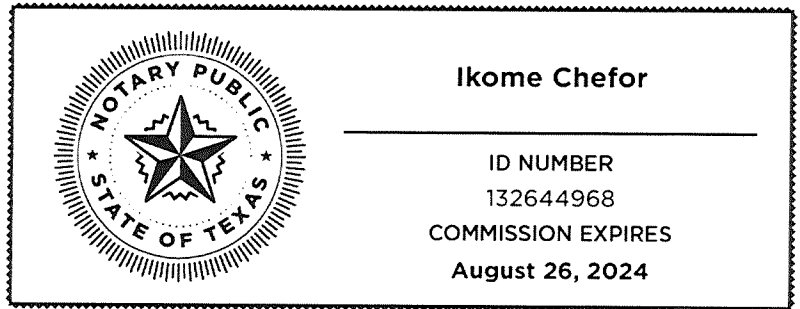
Andrew Joseph Castellano  
By: Andrew Joseph Castellano, Trustee

State of Texas, County of Harris, ss.

On this 24th day of March in the year of 2021, before me, the undersigned, a notary public in and for said state personally appeared Andrew Joseph Castellano, known or identified to me to be the person whose name is subscribed to the within instrument, as trustee of The Andrew Joseph Castellano Trust and acknowledged to me that he/she executed the same as trustee.



Notary Public  
Residing In: Houston, TX  
My Commission Expires: 08/26/2024  
(seal)



Notarized online using audio-video communication



**ARTICLES OF INCORPORATION  
OF  
THE IDA BUILDING OWNERS ASSOCIATION, INC.**

The undersigned, for the purpose of forming a nonprofit corporation under the laws of the State of Idaho in compliance with the Idaho Nonprofit Corporation Act (Title 30, Chapter 30, Idaho Code), do hereby certify, declare, and adopt these Articles of Incorporation of The IDA Building Owners Association, Inc. (“**Articles**”):

ARTICLE I  
NAME

The name of the corporation is The IDA Building Owners Association, Inc. (the “**Association**”).

ARTICLE II  
TERM

The period of existence and duration of the life of the Association is perpetual.

ARTICLE III  
NONPROFIT

The Association is a nonprofit, membership corporation.

ARTICLE IV  
REGISTERED AGENT

Reid Sanborn, whose street address is 291 N. First Ave., Ketchum, Idaho 83340, is hereby appointed as the initial registered agent of the Association.

ARTICLE V  
PURPOSE AND POWERS OF THE ASSOCIATION

The Association is formed to exercise all powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Condominium Declaration for The IDA Building, as the same shall hereinafter be recorded in the real property records of Blaine County, Idaho, as may be amended from time to time according to its terms (the “**Declaration**”). The Declaration is incorporated by this reference as if fully set forth herein. Capitalized terms used and not defined in these Articles have the meanings set forth in the Declaration. The Association does not contemplate pecuniary gain or profit to the Members. The Association is formed for the purpose of acting as the “management body” of the Project in accordance with the Condominium Act.

ARTICLE VI  
MEMBERSHIP & VOTING RIGHTS

**Member**” means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1) membership for each Unit in the Project owned by such Owner. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among

themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

(a) Class A Members. "**Class A Members**" shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

(b) Class B Member. The "**Class B Member**" is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the "**Initial Development Period**"). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the "**Class B Member Termination Date**").

## ARTICLE VII BOARD OF DIRECTORS

The business and affairs of the Association is managed and controlled by the Board of Directors (the "**Board**"). The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. The names and addresses of the persons who are to act in the capacity of initial directors until the selection of their respective successors are as follows:

Reid Sanborn	291 N. First Ave. Ketchum, Idaho 83340
Garrison Belles	100 Sun Valley Rd. #1497 Ketchum, ID 83340
Jon Gilmour	PO Box 5973 Ketchum, Idaho 83340

## ARTICLE VIII DISSOLUTION

The Association will only be dissolved at an annual meeting, or a special meeting of the Association called for that purpose, by the affirmative votes of eighty-five percent (85%) or more of the total voting power of the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the real and personal property of the Association will be distributed as follows: (i) dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was

created; or (ii) granted, conveyed, and assigned to a nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

**ARTICLE IX**  
**AMENDMENTS**

These Articles may be amended at any annual meeting, or any special meeting of the Association called for that purpose, by the affirmative vote of sixty-five percent (65%) or more of the total voting power of the Association. No amendment that is inconsistent with the provisions of the Declaration will be valid.

**ARTICLE X**  
**INCORPORATOR**

The name and address of the incorporator of the Association is:

Reid Sanborn  
291 N. First Ave.  
Ketchum, Idaho 83340

IN WITNESS WHEREOF, these Articles are executed effective this \_\_\_\_ day of \_\_\_\_\_,  
2020.

\_\_\_\_\_  
Reid Sanborn, Incorporator

**BYLAWS**  
**OF**  
**THE IDA BUILDING OWNERS ASSOCIATION, INC.**

These Bylaws (these “**Bylaws**”) of The IDA Building Owners Association, Inc., an Idaho nonprofit corporation (the “**Association**”), are applicable to the Project as identified in that certain Condominium Declaration for The IDA Building, to be hereinafter recorded in the real property records of Blaine County, Idaho, as the same may be amended from time-to-time according to its terms (the “**Declaration**”). The Declaration is hereby incorporated herein in its entirety by this reference and made a part of these Bylaws as if set out in full herein, and all capitalized terms not otherwise defined herein have the meaning set forth in the Declaration.

**ARTICLE 1 - MEMBERS**

Section 1.1 Membership and Voting. **Member**” means each Person holding a membership in the Association, including Grantor. Every Owner of a Unit is a Member of the Association and has one (1) membership for each Unit in the Project owned by such Owner. If the Owner of a Unit shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Unit may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Unit. To this end, only one (1) vote is allocated to each Unit, regardless of the number of Persons that hold an ownership interest in such Unit. Memberships in the Association shall be appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner’s title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

(a) Class A Members. “**Class A Members**” shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

(b) Class B Member. The “**Class B Member**” is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the “**Initial Development Period**”). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the “**Class B Member Termination Date**”).

Section 1.2 Annual Meetings of Members. The Association will hold an annual meeting of Members each year on such date as the Board may designate. At such meeting, the Members may transact such business as may properly come before them if a quorum is present.

Section 1.3 Special Meetings. The president, or in the absence of the president, any other officer of the Association, will call a special meeting of the Association as directed at any time by resolution of the Board or upon request of Grantor, or, after the Initial Development Period, upon the Association's receipt, in any twenty-one (21) day period, of signed, written requests from fifty percent (50%) or more of the total voting power of the Association. The notice of all special meetings will be given as provided in Section 1.6 of these Bylaws, and will state the nature of the business to be undertaken. No business will be transacted at a special meeting except as stated in the notice, unless by consent of the Members representing more than fifty percent (50%) of the total voting power in the Association, either in person or by proxy.

Section 1.4 Order of Business. The order of business at all meetings will be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of committees; (e) unfinished business; and (f) new business.

Section 1.5 Place of Meetings. Meetings of the Association will be held in the location designated by the Board, which location will be a suitable place in the Project or close thereto. Such meetings will be conducted in accordance with Robert's Rules of Order.

Section 1.6 Notice of Meetings. Notice of annual or special meetings of the Association will be delivered, mailed or emailed to all Members, and will be given not less than five (5) days nor more than thirty (30) days prior to the time of said meeting and will set forth the place, date and hour of the meeting, and the nature of the business to be undertaken at any special meeting, by the acting chairman of the previous annual meeting, or, in such person's absence, by the Association's secretary of the previous annual meeting, or, in both persons' absence, by the Members having one-quarter (1/4) of the total voting power in the Association. The mailing of a notice (postage prepaid) or the emailing of a notice in the manner provided in this Section 1.6, is considered notice served. If no address has been furnished to the Association's secretary, notice is deemed to have been given to a Member if posted in a conspicuous place in the Project.

Section 1.7 Quorum. Except as otherwise provided in the Condominium Documents, the presence in person or by proxy of the Grantor constitutes a quorum during the Initial Development Period. After the Initial Development Period, the presence in person or by proxy of the Members representing thirty percent (30%) or more of the total voting power of the Association constitutes a quorum. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. If any meeting cannot be held because a quorum is not present, the Members present may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was scheduled, without notice other than announcement at the meeting. At such second meeting, the presence of Members representing no less than fifteen percent (15%) of the quorum required at the preceding meeting constitutes a quorum. Except as otherwise provided herein or in the Declaration, decisions and resolutions of the Association require an affirmative vote of the Members representing a majority of the total voting power present at an annual or special meeting of the Association at which a quorum is present.

Section 1.8 Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Association's secretary at least twenty-four (24) hours before the appointed time of each meeting. Every proxy is revocable by the Member who executed the proxy at any time and automatically ceases after completion of the meeting for which the proxy was filed, if filed for a particular meeting. In no event will a proxy be valid after eleven (11) months from the date of its execution.

Section 1.9 Action without Meeting. Any action which may be taken at a meeting of the Association, may be taken without a meeting if authorized in writing signed by all of the Members who

would be entitled to vote at a meeting for such purpose, and filed with the Association's secretary. Any action so approved will have the same effect as though taken at a meeting of the Members.

## ARTICLE 2 - BOARD

Section 2.1 Number and Qualification. The business and affairs of the Association is managed by the Board. The Board consists of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Grantor's sole discretion, and to otherwise fill vacancies on the Board as they arise. After the Initial Development Period: (a) the Owners have the right to elect and remove directors as provided in these Bylaws; and (b) any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

Section 2.2 Powers. The Board's power on behalf of and in respect of the Association will be all powers and privileges permitted to be exercised by a Board of a nonprofit corporation under applicable law, subject only to such limitations as are expressly stated in the Condominium Documents and the Condominium Act. The Board will conduct, direct, and exercise full control over all activities of the Association. Unless otherwise provided in the Condominium Documents, any action taken by the Board on behalf of the Association, will be sufficient to bind the Association and will conclusively evidence the authority of the Board with respect thereto. The Board is vested with, and responsible for, the powers and duties identified in the Declaration.

Section 2.3 Annual meetings. Annual meetings of the Board may be held without notice, at such times, in such place and at such hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting will be held at the same time on the next day which is not a legal holiday.

Section 2.4 Special Meetings. Special meetings of the Board may be called by or at the request of the President or any two (2) directors. The person or persons authorized to call special meetings of the Board may fix any place as the place for holding any special meeting of the Board called by them. Whenever any director has been absent from any special meeting of the Board, an entry in the minutes to the effect that notice has been duly given in the manner provided in Section 2.5 will be conclusive and incontrovertible evidence that due notice of such meeting was given to such director, as required by law and as provided herein.

Section 2.5 Notice. Notice of any special meetings of the Board will be hand delivered, mailed, or emailed to all directors at least three (3) days previous thereto and will set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. Notice shall be deemed received upon hand delivery or refusal to accept hand delivery, two (2) days after deposit in a regular depository of the United States mail with postage prepaid, or when sent if sent by email unless the sender learns that the recipient did not receive the email. Notwithstanding the foregoing, actual notice however and from whomever received shall always be effective.

Section 2.6 Waiver of Notice. Before or at any meeting of the Board, any director may in writing waive notice of such meeting and such waiver will be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board will be waiver of notice by that director of the time and place thereof. If all directors are present at any meeting of the Board, no notice will be required and any business may be transacted at such meeting. The transactions of any meeting of the Board, however called and noticed or wherever held, will be as valid as though transacted at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the directors not

present signs such a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents, and approvals will be filed with the records of the Association or made a part of the minutes of the meeting.

Section 2.7 Quorum. A majority of the number of directors fixed by Section 2.1 will constitute a quorum for the transaction of business at any meeting of the Board. Any act taken by a majority of the directors present at a meeting at which a quorum is present will be the act of the Board.

Section 2.8 Voting. Each director will have one (1) vote as a director.

Section 2.9 Action without a Meeting. Any Board action that may be taken at a meeting may be taken without a meeting if all directors sign a consent setting forth the action so taken.

Section 2.10 Vacancies. Vacancies on the Board during the Initial Development Period shall be filled by the Grantor. After the Initial Development Period, any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining directors, through a special election at any meeting of the Board. Until such time as a vacancy is filled as provided herein, the Board shall continue to conduct business as if no vacancy existed. A vacancy or vacancies will be deemed to exist in case of death, resignation, removal, or judicial adjudication of mental incompetence of any director, or in the case the full number of authorized directors are not elected at any meeting at which such election is to take place.

Section 2.11 Fidelity Bonds. The Board may require that all officers and employees of the Association handling or responsible for the Association funds will furnish adequate fidelity bonds. The premium on such bonds will be paid by the Association or its manager.

Section 2.12 Committees. The Board, by resolution, may from time to time designate such committees as the Board desires, and may establish the purposes and powers of each such committee created. The resolution designating and establishing a committee will provide for the appointment of its members, as well as a chairperson, will state the purpose of the committee, and will provide for reports, termination, and other administration matters as deemed appropriate by the Board.

Section 2.13 Books, Financial Statements and Audit. The Board will cause to be maintained a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles. Financial statements for the Association will be prepared regularly and, upon request, copies will be made available to each Member of the Association as follows:

(a) A pro forma operating statement or budget representing the Association for each “fiscal year” (which will begin on the 1st day of January and end on the 31st day of December of every year except that the first fiscal year will begin on the date of incorporation) will be made available to the Members not less than fifteen (15) days prior to the beginning of each fiscal year.

(b) Within ninety (90) days after the close of each fiscal year, the Association will cause to be prepared and made available to each Member, a balance sheet as of the last day of the Association’s fiscal year and annual operating statements reflecting the income and expenditures of the Association for its last fiscal year. The operating statement will include a schedule of Assessments received and receivable.

Section 2.14 Removal. During the Initial Development Period, only the Grantor has the power to remove a director, which removal may be with or without cause. After the Initial Development Period, the Members may remove one (1) or more directors with or without cause. A director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the



director. A director may be removed by the Members only at a meeting called for the purpose of removing that director, and the meeting notice must state that the purposes, or one of the purposes, of the meeting is removal of the director.

Section 2.15 Term. Directors appointed by the Grantor during the Initial Development Period shall serve until the earlier of the following: (a) death; (b) resignation; (c) removal; or (d) the date of the first annual meeting of the Members after expiration of the Initial Development Period. At the first annual meeting of the Members after the expiration of the Initial Development Period, and each annual meeting thereafter, the Members shall elect the directors. Directors so elected by the Members shall serve until the earlier of: (i) the next annual meeting of the Members; (ii) death; (iii) resignation; or (iv) removal. Notwithstanding anything to the contrary contained herein, despite the expiration of a director's term, the director continues to serve until the director's successor is appointed or elected, and qualifies, or until there is a decrease in the number of directors. At the expiration of a director's term (i.e. on the date of the first annual meeting of the Members after the director's election), the director's successor (which may be the same individual) shall be elected by a plurality of the votes cast by the Members entitled to vote in the election at a meeting at which a quorum is present. Members shall have no right to cumulate their votes for directors.

### ARTICLE 3 - OFFICERS

Section 3.1 Designation. The principal officers of the Association will be a president, a vice president, secretary, and a treasurer, all of whom will be elected by the Board. The Board may appoint an assistant treasurer and an assistant secretary, and such other officers as in the Board's judgment may be necessary. One person may hold two or more offices, except those offices of president and secretary.

Section 3.2 Election of Officers. The officers of the Association will be elected annually by the Board at the organizational meeting of each new Board, and each officer will hold office for one (1) year unless such officer will sooner resign or will be removed or otherwise disqualified.

Section 3.3 Removal of Officers. Upon an affirmative vote of a majority of the Board, any officer may be removed, either with or without cause, and a successor elected at any annual meeting of the Board, or any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written notice to the Board or to the president or secretary of the Association. Any such resignation will take effect at the date of receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board will not be necessary to make it effective. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer he or she replaces.

Section 3.4 Compensation. Officers, agents, and employees may receive such reasonable compensation for their services as may be authorized by the Board. Appointment of any officer, agent, or employee will not of itself create contractual rights of compensation for services performed by such an officer, agent, or employee.

Section 3.5 Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 3.6 President. The president will be the chief executive officer of the Association. The president will preside at all meetings of the Association and of the Board. The president will have all of the general powers and duties which are usually vested in the office of the president of a nonprofit corporation. The president will, subject to the control of the Board, have general supervision, direction,

and control of the business of the Association. The president will be ex officio a member of all standing committees, and the president will have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 3.7 Vice President. The vice president will take the place of the president and perform such duties whenever the president will be absent, disabled or unable to act. If neither the president nor the vice president is able to act, the Board will appoint a member of the Board to do so on an interim basis. The vice president will also perform such other duties as will from time to time be imposed by the Board or these Bylaws.

Section 3.8 Secretary. The secretary will record the votes and keep the minutes of all meetings of the Board and the minutes of all meetings of the Association at the principal office of the Association or such other place as the Board may order. The secretary will have charge of such books and papers as the Board may direct, and the secretary will, in general, perform all the duties incident to the office of secretary. The secretary will give, or cause to be given, notices of meetings of the Association and of the Board required by these Bylaws or by law to be given. The secretary will maintain a book of record Owners and Occupants, listing the names and addresses of the Owners and Occupants as furnished to the Association and such book will be changed only at such time as satisfactory evidence of a change in ownership or occupancy is presented to the secretary. The secretary will perform such other duties as may be prescribed by the Board or these Bylaws.

Section 3.9 Treasurer. The treasurer will have responsibility for the Association's funds and securities and will be responsible for keeping, or causing to be kept, full and accurate accounts of the financial transactions of the Association including accounts of all assets, liabilities, receipts, and disbursements, all in books belonging to the Association. The treasurer will be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board. The treasurer will disburse the funds of the Association as may be ordered by the Board in accordance with the Declaration, will render to the president and directors upon request, an account of all transactions as treasurer and of the financial condition of the Association, and will have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

#### ARTICLE 4 - ASSESSMENTS PROCEDURES

The policies and procedures for Assessments (such as notices, payment methods, installment options, late fees, interest charges, collection fees, and other matters) will be as set forth in the Declaration or as otherwise set forth in the Condominium Documents.

#### ARTICLE 5 - INDEMNIFICATION AND INSURANCE

Section 5.1 Definitions. For the purposes of this Article, "agent" means any person who is or was a director, officer, employee, or other agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, or was a director, officer, employee, or agent of a corporation which was a predecessor corporation of the Association; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "expenses" includes, without limitation, attorneys' fees and costs and any expenses of establishing a right to indemnification under Section 5.3 or Section 5.4(c).

Section 5.2 Indemnification. The Association will indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Association to procure a judgment in its favor) by reasons of the fact that such person is or was an agent of

the Association, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Association and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent will not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Association or with respect to any criminal proceeding that the person had reasonable cause to believe that the person's conduct was unlawful. However, no indemnification will be made in respect of any claim, issue, or matter as to which such person will have been adjudged to be liable to the Association in the performance of such person's duty to the Association, unless and only to the extent that the court in which such proceeding is or was pending will determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court will deem proper.

Section 5.3 Expenses in Successful Defense. To the extent that an agent of the Association has been successful on the merits in defense of any proceeding referred to in Section 5.2 or in defense of any claim, issue, or matter therein, the agent will be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 5.4 Determination of Standard of Conduct. Except as provided in Section 5.3, any indemnification under this Article will be made by the Association only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 5.2, as determined by:

- (a) A majority vote of directors who are not parties to such proceeding;
- (b) Approval or ratification by the affirmative vote of a majority of the total voting power of the Association as cast by the Members at a duly held meeting of the Association at which a quorum is present;
- (c) The court in which such proceeding is or was pending, upon application made by the Association or the agent or the attorney or other persons rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Association; or
- (d) Independent legal counsel in written opinion, engaged at the direction of a majority of disinterested directors.

Section 5.5 Advancing Expenses. Expenses incurred in defending any proceeding may be advanced by the Association prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount if it will be determined ultimately that the agent is not entitled to be indemnified as authorized in this Article.

Section 5.6 Extent and Limitations of Indemnifications. No indemnification or advance will be made under this Article, except as provided in Section 5.3 or Section 5.4(c), in any circumstance where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these Bylaws, a resolution of the Board or Members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 5.7 Beneficial Effect. This Article will create a right of indemnification for each agent referred to in this Article, whether or not the proceeding to which the indemnification relates arose in whole or in part prior to adoption of this Article; and in the event of the death of such agent, whether before or after initiation of such proceeding, such right will extend to such agent's legal representatives. In addition, to the maximum extent permitted by applicable law, the right of indemnification hereby given will not be exclusive of or otherwise affect any other rights such agent may have to indemnification, whether by law or under any contract, insurance policy, or otherwise.

Section 5.8 Liability Insurance. The Association may purchase and maintain insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Association would have the power to indemnify the agent against such liability under the provisions of this Article.

#### ARTICLE 6 - ASSOCIATION RECORDS

The Association will keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records will be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Article 6. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

#### ARTICLE 7 - CONFLICTING PROVISIONS

If any provision of these Bylaws conflicts with applicable law, the Declaration, or the Articles, such conflicting provision will be severable and the other provisions of these Bylaws will remain in full force and effect.

#### ARTICLE 8 - AMENDMENTS TO BYLAWS

These Bylaws may be amended at any annual meeting, or any special meeting of the Association called for that purpose, by the affirmative vote of at least sixty-five percent (65%) of the total voting power of the Association. No amendment that is inconsistent with the provisions of the Declaration will be valid.

*[Remainder of page intentionally left blank; adoption on the following page.]*

**CONSENT OF DIRECTORS OF THE  
THE IDA BUILDINGOWNERS ASSOCIATION, INC.  
IN LIEU OF MEETING**

The undersigned, constituting all of the Directors of the The IDA BuildingOwners Association, Inc., an Idaho nonprofit corporation (the “**Association**”), do hereby consent to, adopt, and approve in writing the following corporate action without a meeting in accordance with the provisions of the general nonprofit corporation laws of the State of Idaho:

RESOLVED, that the above and foregoing Bylaws are hereby duly adopted as the Bylaws of the Association and that the same do now constitute the Bylaws of the Association.

RESOLVED, that Reid Sanborn is hereby elected president of the Association, Jon Gilmour is hereby elected vice president and secretary of the Association, and Garrison Belles is hereby elected treasurer of the Association.

This Consent of Directors of the The IDA Building Owners Association, Inc. in Lieu of Meeting is effective as of the \_\_\_\_ day of \_\_\_\_\_, 2021.

**DIRECTORS:**

\_\_\_\_\_  
Reid Sanborn

\_\_\_\_\_  
Jon Gilmour

\_\_\_\_\_  
Garrison Belles

**CERTIFICATE OF SECRETARY**

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting secretary of The IDA Building Owners Association, Inc., an Idaho nonprofit corporation; and

2. The foregoing Bylaws comprising 10 pages, including this page, constitute the Bylaws of The IDA Building Owners Association, Inc., and were duly adopted by the Board pursuant to that “**Consent of Directors of The IDA Building Owners Association, Inc. in Lieu of Meeting**,” dated effective the \_\_\_ day of \_\_\_\_\_, 2021.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and attest the act of the Association effective the \_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jon Gilmour, Secretary

**CONDOMINIUM DECLARATION  
FOR  
THE IDA BULIDING**



**TABLE OF CONTENTS**

**SECTION 1 RECITALS..... 1**

    1.1 Property Covered ..... 1

    1.2 Residential Use ..... 1

    1.3 Purpose..... 1

**SECTION 2 DECLARATION..... 1**

**SECTION 3 ADDITIONAL DEFINITIONS ..... 2**

**SECTION 4 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP ..... 5**

    4.1 Estates of an Owner of a Condominium ..... 5

    4.2 Title ..... 5

    4.3 No Further Division ..... 5

    4.4 Inseparability of Condominiums..... 5

    4.5 Partition of Common Area Not Permitted ..... 5

    4.6 Taxes and Assessments..... 5

    4.7 Owner’s Rights with Respect to Interiors ..... 6

**SECTION 5 EASEMENTS..... 6**

    5.1 Easements for Encroachments ..... 6

    5.2 Easements of Access for Repair, Maintenance, and Emergencies ..... 6

    5.3 Owner’s Right to Ingress, Egress, and Support ..... 7

    5.4 Association’s Right to Use of Common Area..... 7

    5.5 Grantor’s Right Incident to Construction ..... 7

    5.6 Certain Easements Benefit City ..... 7

    5.7 Emergency Easement..... 7

    5.8 Recorded Easements ..... 8

    5.9 Easements for Annual Inspection ..... 8

    5.10 Easements Deemed Created..... 8

**SECTION 6 DESCRIPTION OF CONDOMINIUM..... 8**

**SECTION 7 USE OF CONDOMINIUMS..... 8**

    7.1 Single-Family Residential..... 8

        7.1.1 Commercial..... 9

    7.2 Leasing ..... 9

    7.3 Obstructions of Common Area ..... 9

    7.4 Maintenance of Interiors and Limited Common Area ..... 9

    7.5 Prohibition of Damage and Certain Activities ..... 10

    7.6 No Hazardous Activities ..... 11

    7.7 Over the Air Reception Devices ..... 11

    7.8 Energy Devices, Outside..... 12

    7.9 Signs..... 12

7.10 Window Treatments.....	12
7.11 Water Beds.....	12
7.12 Appliances.....	12
7.13 Construction and Structural Alterations.....	13
7.14 Sewer System Restrictions.....	13
7.15 Deck Restrictions.....	13
7.16 Garage Restrictions.....	14
7.17 Carports Restrictions.....	14
7.18 Storage Area Restrictions.....	14
7.19 No Smoking.....	14
7.20 Animals/Pets.....	14
7.21 Assistance Animals.....	14
7.22 Right to Enjoy and Use Units.....	15

**SECTION 8 THE RESIDENCES AT SEVEN EIGHTY OWNERS ASSOCIATION  
15**

8.1 Creation and Designation of Association.....	15
8.2 Membership and Voting.....	15
8.3 Member Meetings.....	16
8.4 Proxies.....	16
8.5 Board of Directors.....	16
8.6 Delegation of Authority.....	17
8.7 Powers of the Association.....	17
8.8 Duties of the Association.....	20
8.9 Immunity and Indemnification.....	21
8.10 Waiver of Consequential Damages.....	22

**SECTION 9 ASSESSMENTS..... 22**

9.1 Covenant to Pay Assessments.....	22
9.2 Rate of Assessment.....	22
9.3 Regular Assessments.....	22
9.4 Special Assessments.....	23
9.5 Limited Assessments.....	23
9.6 Notice and Assessment Due Date.....	24

**SECTION 10 ENFORCEMENT OF ASSESSMENTS; LIENS ..... 24**

10.1 Right to Enforce.....	24
10.2 Assessment Liens.....	24
10.3 Method of Foreclosure.....	25
10.4 Required Notice.....	25
10.5 Subordination.....	25
10.6 Grantor Exemption.....	25

**SECTION 11 RIGHTS TO COMMON AREAS ..... 25**

11.1 Use of Common Area.....	25
------------------------------	----

11.2 Delegation of Right to Use .....	26
11.3 Damages.....	26
<b>SECTION 12 MECHANIC’S LIEN RIGHTS .....</b>	<b>26</b>
<b>SECTION 13 INSURANCE.....</b>	<b>27</b>
13.1 Types of Insurance .....	27
13.2 Form .....	28
13.3 Insurance Proceeds.....	28
13.4 Owner’s Own Insurance .....	28
13.5 Mutual Waiver of Subrogation Rights .....	29
<b>SECTION 14 CASUALTY, DAMAGE OR DESTRUCTION.....</b>	<b>29</b>
14.1 Affects Title .....	29
14.2 Association As Agent .....	29
14.3 General Authority of Association .....	29
14.4 Estimate of Costs .....	30
14.5 Repair or Reconstruction .....	30
14.6 Funds for Reconstruction.....	30
14.7 Disbursement of Funds for Repair or Reconstruction .....	30
14.8 Decision not to Rebuild .....	30
<b>SECTION 15 CONDEMNATION .....</b>	<b>31</b>
15.1 Consequences of Condemnation.....	31
15.2 Proceeds .....	31
15.3 Complete Taking.....	31
15.4 Partial Taking.....	31
15.5 Reorganization .....	31
15.6 Reconstruction and Repair.....	32
<b>SECTION 16 DISCLAIMERS, WAIVERS, AND ACKNOWLEDGMENTS .....</b>	<b>32</b>
16.1 Disclaimer and Waiver of Warranties.....	32
<b>SECTION 17 RESOLUTION OF DISPUTES.....</b>	<b>33</b>
17.1 Agreement to Avoid Litigation .....	33
17.2 Exemptions .....	33
17.3 Dispute Resolution.....	34
<b>SECTION 18 INITIAL DEVELOPMENT PERIOD.....</b>	<b>35</b>
18.1 Project Management .....	35
18.2 Grantor Exemptions .....	35
18.3 Water Rights Appurtenant to Project.....	36
18.4 Grantor’s Exemption from Assessments .....	36
18.5 Assignment of Grantor’s Rights .....	36

<b>SECTION 19 TERM.....</b>	<b>36</b>
<b>SECTION 20 MISCELLANEOUS .....</b>	<b>36</b>
20.1 Amendment.....	36
20.2 Mortgage Protection.....	37
20.3 Enforcement and Non-Waiver .....	37
20.4 Registration of Mailing Address .....	38
20.5 Interpretation.....	38
20.6 Owner’s Obligations Continue .....	39
20.7 Exhibits .....	39
20.8 Acknowledgement and Waivers .....	39

**EXHIBITS**

- EXHIBIT A — Legal Description of the Property
- EXHIBIT B — Plat of The Residences at Seven Eighty 1st Ave
- EXHIBIT C — Articles of Incorporation
- EXHIBIT D — Proportionate Interest in Common Area

# CONDOMINIUM DECLARATION

FOR

## THE IDA BUILDING

THIS CONDOMINIUM DECLARATION FOR THE IDA BUILDING (this “**Declaration**”) is made effective as of \_\_\_\_\_, 2021 (the “**Effective Date**”), by SV Ventures LLC, an Idaho limited liability company (“**Grantor**”). Capitalized terms not otherwise defined in the text of this Declaration are defined in Section 3.

### SECTION 1 RECITALS

**1.1 Property Covered.** Grantor is the owner of that certain real property located in Ketchum, Blaine County, Idaho, legally described on Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”), as shown on the final plat for The IDA Building, recorded in the real property records of Blaine County, Idaho, on \_\_\_\_\_, 2021, as Instrument No. \_\_\_\_\_, Book \_\_\_\_ of Plats at Pages \_\_\_\_ through \_\_\_\_, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the “**Plat**”).

**1.2 Residential Use.** Grantor intends to develop the Property with a residential condominium building (the “**Building**”) in accordance with the Plat, this Declaration, and the development approvals now or hereinafter obtained from the City of Ketchum and other governing authorities. The Property, together with the Building and every other building, improvement, or structure thereon, and every easement or right appurtenant thereto, is referred to in this Declaration as the “**Project**.”

**1.3 Purpose.** The purpose of this Declaration is to provide for condominium ownership of the Project pursuant to Condominium Act, designate Common Area and Limited Common Area, create the Association as the management body to administer the Project pursuant to the Condominium Act, and to set forth the restrictions, covenants, limitations, easements, conditions, and equitable servitudes that apply to and are unique to the Project and this condominium ownership regime (collectively “**Restrictions**”).

### SECTION 2 DECLARATION

Grantor hereby declares that the Project and every Condominium and portion thereof is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved in accordance with and subject to the provisions of this Declaration, each and all of which are hereby declared to be in furtherance of a general plan: (a) for the creation, maintenance, and sale of an ownership in fee simple of separate interests in Units and for co-ownership with others, as tenants-in-common, of Common Area and Limited Common Area, all pursuant to the Condominium Act; and (b) to protect, enhance, and preserve the value, amenities, desirability, and attractiveness of the Project and to ensure a well-integrated, high quality residential condominium development. This Declaration shall: (i) run with the land and shall be binding upon any Person having or acquiring any right, title, or interest in the Project and every Condominium and portion thereof; (ii) inure to the benefit of the Project and every portion thereof; and (iii) inure to the benefit

of and be binding upon Grantor and each Owner having or holding any right, title, or interest in any Unit or portion of the Project, and their successors, heirs, and assigns.

### **SECTION 3 ADDITIONAL DEFINITIONS**

**“Applicable Laws”** means all applicable federal, state, and local laws, rules, regulations, ordinances, and orders relating to the use, occupancy, and/or ownership of the Project or any portion thereof.

**“Articles”** mean the Articles of Incorporation of the Association, a true, correct, and certified copy of which is attached hereto as Exhibit C and incorporated herein by this reference, as the same may be amended from time to time in accordance with the provisions thereof; provided, however, in order to be effective such amendment must reference this Declaration, as amended, and be recorded in the real property records of Blaine County, Idaho.

**“Assessments”** mean the Regular Assessments, Special Assessments, and Limited Assessments, together with any late payment charges, interest, administrative fees, and costs (including without limitation attorneys’ fees) incurred in collecting the same.

**“Association”** means The Residences at Seven Eighty Owners Association, Inc., an Idaho nonprofit corporation, its successors and assigns.

**“Association Rules”** means the rules and regulations relating to the Project that may be adopted, amended, or repealed from time to time by the Board, as more particularly described in Section 8.7.3 hereof.

**“Board”** means the board of directors of the Association.

**“Bylaws”** mean the bylaws of the Association, as the same maybe amended from time to time in accordance with the provisions thereof.

**“Carport”** means each of carports 101, 201, and 302 identified on the Plat. Grantor hereby designates each Carport as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Carport 101 is Limited Common Area for the Exclusive Use of Unit 101, Carport 201 is Limited Common Area for the Exclusive Use of Unit 201, and so forth), to the exclusion of all others

**“Common Area”** means: (a) all portions of the Project other than the Units, including all Limited Common Area; (b) all leases, licenses, use rights, or agreement rights for amenities or facilities owned or held by or for the benefit of the Association from time-to-time; and (c) any personal property owned or held by or for the benefit of the Association from time to time. Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other instrument, or by designating it as such in this Declaration. In addition, the Association may acquire any Common Area it deems necessary or beneficial to the Project.

**“Condominium”** means a separate ownership interest in a Unit together with an undivided tenant-in-common interest in the Common Area (expressed as percentages of the entire ownership

interest in the Common Area), as set forth on Exhibit D attached hereto and incorporated herein by this reference.

“**Condominium Act**” means the Condominium Property Act of the State of Idaho, Idaho Code Section 55-1501 *et seq.*, as may be amended from time to time.

“**Condominium Documents**” means this Declaration, the Plat, the Articles, the Bylaws, the Associate Rules, the Management Agreement, the Owner Maintenance Manual, and any other procedures, rules, regulations, or policies adopted under such documents by the Board, as the same may be amended from time to time according to their terms.

“**Deck**” means each of decks 101, 201, 202, 203, 204, 301, and 302 identified on the Plat, and includes the railings or fences thereon. Grantor hereby designates each Deck as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Deck 101 is Limited Common Area for the Exclusive Use of Unit 101, Deck 102 is Limited Common Area for the Exclusive Use of Unit 102, and so forth), to the exclusion of all others.

“**Garage**” means each of garages 101, 201, and 301 identified on the Plat. Grantor hereby designates each Garage as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Garage 201 is Limited Common Area for the exclusive use of Unit 201 and Garage 301 is Limited Common Area for the exclusive use of Unit 301), to the exclusion of all others.

“**Limited Assessment**” means a charge against a particular Owner for an expense directly attributable to such Owner, equal to the cost incurred or estimated to be incurred by the Association in connection with corrective action or maintenance, repair, replacement and operation activities performed pursuant to the provisions of this Declaration, including damage to or maintenance, repair, replacement and operation activities performed for any Common Area or the failure of an Owner to keep the Owner’s Condominium in proper repair, and including interest thereon as provided in this Declaration or for any goods or services provided by the Association benefiting less than all Owners, as more particularly described in Section 9.5 herein.

“**Limited Common Area**” means those portions of the Common Area designated for the exclusive use of an Owner or Owners to the exclusion, limitation, or restriction of other Owners. Limited Common Area may be established from time to time by Grantor or the Association on any portion of the Project by describing such area on the Plat, by granting or reserving it in a deed or other document or instrument, or by designating it as such in this Declaration. The term Common Area as used in this Declaration shall include Limited Common Area.

“**Management Agreement**” means any agreement and all amendments thereto entered into by the Association and the Management Company, providing for the management, maintenance, and operation of the Project, including, without limitation the Common Area, by the Management Company.

“**Management Company**” means the Person hired by the Association to manage the Project on the terms and conditions set forth in a Management Agreement.

**“Mortgage”** means any mortgage, deed of trust, or other security instrument by which a Condominium or any part thereof is encumbered.

**“Mortgagee”** means any Person or any successor to the interest of such Person named as the mortgagee, trust beneficiary, or creditor pursuant to any Mortgage under which the interest of an Owner’s interest in its Condominium, or successor to the interest of such Owner, is encumbered.

**“Occupant”** means any Person, other than an Owner, that resides in a Unit, including, without limitation, family members, guests, and Tenants.

**“Owner”** means the record owner, whether one or more Persons, holding fee simple title to a Unit, excluding Mortgagees, unless and until such Mortgagee has acquired fee simple title pursuant to foreclosure or other proceedings or obtains a deed to such Unit in lieu of such foreclosure or other proceedings.

**“Person”** means an individual, corporation, trust, estate, partnership, limited liability company, association, joint venture, government, government subdivision or agency, and any other legal entity.

**“Regular Assessment”** means an assessment by the Association to provide for the payment of all estimated expenses growing out of or connected with the Project as a whole, as more particularly described in Section 9.3 herein.

**“Special Assessment”** means that portion of the costs of the capital improvements, replacements, equipment purchases and replacements, or shortages in Regular Assessments which are authorized to be paid to the Association pursuant to the provisions of this Declaration as more particularly described in Section 9.4 herein.

**“Storage Area”** means each of storage areas 101, 201, 202, and 301 identified on the Plat. Grantor hereby designates each Storage Area as Limited Common Area appurtenant to, and for the exclusive use of, the Unit with the corresponding Unit number (e.g. Storage Area 101 is Limited Common Area for the exclusive use of Unit 101, Storage Area 201 is Limited Common Area for the exclusive use of Unit 201, and so forth), to the exclusion of all others.

**“Tenant”** shall mean any Person leasing all or any part of a Condominium from any Owner.

**“Unit”** means the separate ownership interest component of a Condominium, as bounded by the unfinished interior surfaces of the perimeter: (a) walls; (b) floors; (c) ceilings; (d) windows (including window frames and window trim); and (e) doors (including door frames and door trim) of each Unit as shown the Plat, together with the airspace so encompassed. The Unit includes all of the following within the said boundaries of each Unit shown on the Plat: (i) all finishes and coverings on the interior surfaces of said perimeter walls, floors, ceilings, windows, and doors, including without limitation paneling, wood, tile, paint, paper, carpeting, and texturing; (ii) all fixtures, improvements, hardware, and appliances; and (iii) all heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, and utility services located within and serving only the Unit. The following are not part of a Unit: (A)



bearing walls; (B) structural columns; (C) floors; (D) roofs; (E) foundations; (F) elevator equipment and shafts; (G) central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services that serve more than one Unit, except the outlets thereof when located within the Unit; and (H) pipes, ducts, flues, chutes, conduits, wires and other utility installations that serve more than one Unit, except the outlets thereof when located within the Unit. Provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines located within a Unit that serve more than one Unit. There are seven (4) Units at the Project: Unit 101, 201, 202 and 301, as each are identified on the Plat.

## **SECTION 4 NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP**

**4.1 Estates of an Owner of a Condominium.** The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit and an undivided tenant-in-common interest in the Common Area. The percentage of ownership interest in the Common Area which is to be allocated to each Condominium as a whole for purposes of Assessments, tax assessment under Section 55-1514 of the Condominium Act, and liability as provided by Section 55-1515 of the Condominium Act, is set forth on the attached Exhibit D.

**4.2 Title.** Title to a Condominium may be held or owned by any Person and in any manner in which title to any other real property may be held or owned in the State of Idaho.

**4.3 No Further Division.** No Owner may divide, adjust, or further condominiumize such Owner's Unit without the prior written approval of the Association, the City of Ketchum, and all other governing authorities whose approval is required, and all such divisions, adjustments, and further condominiumizations must comply with any condominium project amendment requirements of Blaine County, and otherwise comply with all Applicable Laws.

**4.4 Inseparability of Condominiums.** No part of a Condominium, or of the legal rights comprising ownership of a such Condominium may be separated from any other part thereof during the period of Condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Area appurtenant to such Unit shall always be conveyed, devised, encumbered, transferred, and otherwise affected only as a complete Condominium and shall not be transferred in any way resulting in the division of the Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of the Condominium or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance, respectively, of the entire Condominium together with all appurtenant rights created by law or this Declaration.

**4.5 Partition of Common Area Not Permitted.** The Common Area shall be owned in common by all of the Owners of Units, and no Owner may bring any action for partition thereof.

**4.6 Taxes and Assessments.** Each Owner shall execute such instruments and take such actions as may reasonably be specified by the Association to obtain separate real property tax assessments of the interest of each Owner in each Condominium. If any taxes of special districts or other assessments may, in the opinion of the Association, nevertheless, be a lien on the Property or any part thereof, the Association shall pay the same and assess the same to the responsible

Owner or Owners. Each Owner shall pay the taxes and assessments assessed against such Owner's Condominium, or interest therein, and such Owner's interest in the Common Area, or any part of any or all of the foregoing. The Association reserves the right to protest any tax valuations or assessments by any taxing government agency and to pay for any costs associated with such protests. Each Owner agrees to reimburse the Association for any costs associated with such protests as related to that Owner's Unit.

**4.7 Owner's Rights with Respect to Interiors.** Each Owner shall have the exclusive right to maintain, finish, refinish, and decorate the interior surfaces of the walls, floors, ceilings, windows (including window frames and window trim), and doors (including door frames and door trim) forming and within the interior boundaries of the Owner's Unit, including but not limited to the installation of carpet or other floor coverings, paint or wallpaper, cabinets, and plumbing and electrical fixtures subject to the terms and conditions of the Condominium Documents, including without limitation Section 7 of this Declaration.

## **SECTION 5 EASEMENTS**

**5.1 Easements for Encroachments.** If any part of the Common Area encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Area, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered encumbrances on the Common Area or the Units. Encroachments referred to herein include, but are not limited to encroachments caused by settling, rising or shifting of the earth under the Building, or by changes in position caused by repair or reconstruction of the Building or any part thereof. Notwithstanding the foregoing, no Owner shall be entitled to deliberately and intentionally encroach on the Common Area without the prior written approval of the Board, or on any other Unit without the prior written consent of the other Unit Owner.

**5.2 Easements of Access for Repair, Maintenance, and Emergencies.** Portions of the Common Area and/or easement areas granted pursuant to this Declaration or any other Condominium Document, are or may be located within the Units or may be conveniently accessible only through the Units. The Owners have the irrevocable right, to be exercised by the Association as their agent, of access to each Unit and to all Common Area from time to time during such reasonable hours as may be necessary and established by the Board for the construction, installation, inspection, operation, maintenance, repair or replacement of any of the Common Area located therein or accessible therefrom, or the construction, installation, inspection, operation, maintenance, repair or replacement of any improvements and facilities located within the Common Area, or for making repairs, maintenance and emergencies therein necessary to prevent damage to the Common Area or to another Unit or Units or to correct a violation of any covenant, condition or restriction of the Declaration when, after reasonable efforts by the Association, the Owner fails to do so. The Association shall also have such right of access independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the construction, installation, inspection, operation, maintenance, repair, emergency repair or replacement of any of the Common Area or as a result of emergency repairs within another Unit at the insistence of the Association or of Owners shall be an expense of all of the Owners; provided, however, that if such damage is the result of the negligence of an Owner or such Owner's Occupants, invitees, or

licensees, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Unit shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association as an Assessment pursuant to Section 9 herein.

**5.3 Owner's Right to Ingress, Egress, and Support.** Each Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to that Owner's Condominium, and shall have the right to the horizontal and lateral support of such Owner's Condominium, and such rights shall be appurtenant to and pass with the title to each Condominium. In exercising the rights granted in this Section, each Owner agrees to use reasonable efforts to avoid interference with the access to other Condominiums.

**5.4 Association's Right to Use of Common Area.** The Association shall have the right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration or other Condominium Documents, including the right to grant utility easements, alter the Common Areas, and to construct and maintain maintenance and storage facilities in the Common Area for use by the Association.

**5.5 Grantor's Right Incident to Construction.** Grantor and Persons it shall select, shall have the express and unconditional right to ingress and egress over, upon and across the Project, including Common Area and all Units, the right to store materials thereon and to make other use thereof as may be reasonably necessary or incident to completion of development and construction of the Building and Units shown on the Plat or any amendment thereto and the completion of all Units for use and occupancy; provided, however, that no such rights shall be exercised by Grantor in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to an Owner's Condominium by that Owner or such Owner's Occupants, invitees, or licensees.

**5.6 Certain Easements Benefit City.** The easements herein granted to an Owner for ingress and egress to and from such Owner's Condominium over, upon, and across the Common Area are hereby recognized to be a condition of platting the Property imposed by the City of Ketchum. Such easements shall not be dissolved or altered in any material way that would prevent their beneficial use for their intended purposes without the express written consent of the City of Ketchum.

**5.7 Emergency Easement.** A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all streets and property within the Project in the proper performance of their duties. The easement granted herein is recognized to be a condition of platting the Property imposed by the City of Ketchum. Such easement shall not be dissolved or altered in any material way that would prevent its beneficial use for its intended purpose without the written consent of the City of Ketchum.

The Owners expressly acknowledge that the Association and the Ketchum Fire Department shall each have one master key capable of accessing all doors connected to the common security system of the Building. The Owners expressly agree to notify the Association prior to re-keying

any lock in the Building controlled by a common security or access system and agree to use a locksmith approved by the Board.

**5.8 Recorded Easements.** The Property, and all portions thereof, shall be subject to all easements shown on any recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use, now existing or hereafter created, including without limitation any storm drainage easements, street light easements, sanitary sewer easements, or any other public utility easement shown on the Plat.

**5.9 Easements for Annual Inspection.** Any Person authorized by the Board shall have the right of access to all Units on an annual basis for the purpose of inspecting such Units for compliance with the terms and conditions of Condominium Documents.

**5.10 Easements Deemed Created.** All conveyances of Condominiums hereafter made, whether by the Grantor or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Sections 5.1 through 5.10 above, even though no specific reference to such easements or to those Sections appear in any such conveyance.

## **SECTION 6 DESCRIPTION OF CONDOMINIUM**

Every contract for the sale of a Condominium and every other instrument affecting title to such Condominium shall describe that Condominium by the Unit shown on the Plat with appropriate reference to the Plat and to this Declaration, as each appears on the records of Blaine County, Idaho, in the following manner:

Unit \_\_\_ as shown on the final plat of The IDA Building, recorded in the real property records of Blaine County, Idaho, on \_\_\_\_\_, 2021, as Instrument No. \_\_\_\_\_, Book \_\_\_ of Plats at Pages \_\_\_ through \_\_\_ (as may have been heretofore amended or supplemented), and as defined and described in that certain Condominium Declaration for The IDA Building recorded in the real property records of Blaine County, Idaho, on \_\_\_\_\_, 2021, as Instrument No. \_\_\_\_\_ (as may have been heretofore amended or supplemented).

Such description shall be construed to describe the separate ownership interest in the identified Unit, together with the appurtenant undivided tenant-in-common interest in the Common Area, and to incorporate all rights incident to ownership of a Condominium interest and all the limitations on such ownership as described in the Condominium Documents or any amendments or supplements thereto, whether or not so specified in the instrument.

## **SECTION 7 USE OF CONDOMINIUMS**

**7.1 Single-Family Residential.** The Residential Units shall be used exclusively for single-family residential purposes and other uses incidental thereto as permitted by Applicable Law. Except for Home Occupations permitted pursuant to this Section, no Unit shall be used at any time for commercial or business activity. A “**Home Occupation**” shall be any gainful occupation conducted in a Unit by an Occupant thereof, provided that the home office or studio

located thereon does not exceed four hundred (400) square feet in size and is located entirely within the Unit, and further provided that such Home Occupation is conducted in accordance with the other terms and limitations of the Condominium Documents and Applicable Law. A Unit may be used for other Home Occupations only upon a written approval signed by all Owners, which approval may be subject to such requirements and conditions as the Owners and/or Association deems appropriate, and which Home Occupation must be conducted in accordance with the other terms and limitations of the Condominium Documents and Applicable Law. No Home Occupation may: (a) involve highly combustible materials; (b) involve retail operations; (c) use power equipment or tools; (d) cause abnormal automotive or pedestrian traffic at the Project; (e) be, in the reasonable opinion of the Board, objectionable due to unsightliness, odor, dust, smoke, noise, glare, heat, vibration or similar disturbances; (f) involve dispatch activities where employees meet at the Project and are sent to other locations; (g) involve other uses that, in the reasonable opinion of the Board, would detract from the residential character of the Project. It shall not be a violation of this Section for an Owner to lease its Condominium in accordance with Section 7.2. The use of a Condominium for a shelter home, as the same is defined in Idaho Code § 67-6530, whether or not operated for profit, shall for the purposes of this Declaration be a commercial or business use to the fullest extent permitted by Applicable Law.

**7.1.1 Commercial.** The Commercial Unit on the ground floor shall be used exclusively for commercial purposes and other uses incidental thereto as permitted by Applicable Law.

**7.2 Leasing.** Each Owner shall be entitled to lease its Condominium. An Owner who leases a Condominium shall be fully responsible for the acts and omissions of, and damage caused by, such Owner's Tenant as if such Tenant were the Owner. Any Owner who leases a Condominium shall comply with all Applicable Laws, including without limitation Fair Housing Act to the extent it applies to such Owner. Each such lease shall be in writing and shall provide that the terms and conditions thereof shall be subject in all respects to this Declaration and the Association Rules, and that any failure by the Tenant to comply with the terms of such documents shall be a default under the lease. The Association Rules may provide for fines against an Owner if the Tenants of such Owner's Condominium excessively loud or otherwise disruptive.

**7.3 Obstructions of Common Area.** Except to the extent installed or placed by Grantor or the Association, there shall be no obstruction of the Common Area, nor shall anything be stored on any part of the Common Area, without the prior written consent of the Board. Nothing shall be altered on, planted in, constructed on, or removed from the Common Area except upon the prior written consent of the Board.

**7.4 Maintenance of Interiors and Limited Common Area.** Each Owner shall keep such Owner's Unit, including, without limitation, interior walls, windows, floors, ceilings, windows, doors, and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition, and good state of operating condition and repair and shall keep the heating and air conditioning equipment, water heater, and other utility systems and related devices exclusively serving the Owner's Unit in a good state of operating condition and repair and free from any odor and/or mold. Each Owner shall keep the Limited Common Area designated for the exclusive use of such Owner in a clean, sanitary, and attractive condition, and good state of operating condition and repair, including removal of snow and ice on such Limited Common Area. Each Owner shall notify the Association of any unsafe condition existing in, on, or around the

Limited Common Area. In addition, nothing unsightly, in the reasonable opinion of the Board, shall be kept on any exterior Limited Common Area (including without limitation all Decks). If Grantor has caused to be prepared and delivered to the Owners a preventative maintenance manual containing minimum maintenance or other standards applicable to the individual Units and/or the Limited Common Area appurtenant thereto (an “**Owner Maintenance Manual**”), then each Owner shall cause the Units and Limited Common Areas owned by such Owner to be maintained in accordance with the requirements set forth in the Owner Maintenance Manual. The requirements set forth in the Owner Maintenance Manual are in addition to the requirements of any warranty or other operating guidelines and instructions.

## **7.5 Prohibition of Damage and Certain Activities.**

7.5.1 No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or such Owner’s Tenants, Occupants, invitees, or licensees, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by such Owner or such Owner’s Tenants, Occupants, invitees, or licensees.

7.5.2 No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Project or any portion thereof, except in such containers and other areas designated for such purpose by Grantor or the Board, and no odor shall be permitted to arise from any portion of the Project so as to render, in the reasonable opinion of the Board, the Project or any portion thereof unsanitary, offensive, or detrimental to the Project, or to any other property in the vicinity of the Project. No exterior fires and no obstructions of pedestrian walkways shall be permitted to exist at the Project. No business or Home Occupation, no noise, no unsightliness, and no other nuisance shall be permitted to exist or operate upon any portion of the Project in violation of Applicable Law or so as to be, in the reasonable opinion of the Board, offensive or detrimental to the Project or to its Owners or their Occupants or to other property in the vicinity Project. Without limiting the generality of any of the foregoing, no Owner shall use or install or permit to be used or installed any whistles, bells or other sound devices, or flashing lights or search lights within the Project without the Board’s approval. No unsightly articles shall be permitted to remain on any Condominium so as to be visible from any other portion of the Project. Without limiting the generality of the foregoing, refuse, garbage, trash, equipment, gas canisters, propane gas tanks, barbecue equipment, heat pumps, compressors, and containers shall be kept in such containers and other areas designated for such purpose by Grantor or the Board. No clothing or fabric shall be hung, dried, or aired in such a way as to be visible from the exterior of the Unit it in which it is hung, dried, or aired. Window air-conditioning units are not allowed. Windows shall be covered only by drapes, shades or shutters that are not loud or excessively bright in color, and shall not be painted or covered by foil, cardboard, sheets or similar materials.

7.5.3 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any part thereof for any use or purpose in violation of Applicable Law.

7.5.4 Owners shall not use or suffer or permit any Person or Persons to use any Condominium or any portion thereof, for any use or purpose in violation of any of the terms and conditions of this Declaration or other Condominium Documents.

7.5.5 Except as allowed by Association Rules or by prior written approval of the Board, Owners shall not display or sell merchandise or allow carts, portable signs, devices or any other objects to be stored or to remain outside the defined exterior walls and permanent doorways of the Units. Owners further agree not to install any exterior lighting, shades or awnings, amplifiers or similar devices for use in or about the Building which may be heard or seen outside the Unit, such as flyers, flashing lights, searchlights, loudspeakers, phonographs or radio broadcasts, or make any changes to the facade of the Building or operate any customer service windows without Board's prior written consent. Owners shall not conduct or permit to be conducted any sale by auction in, upon or from the Units, whether said auction be voluntary, involuntary, pursuant to any assignment for the payment of creditors or pursuant to any bankruptcy or other solvency proceeding.

7.5.6 Owners shall not do or permit anything to be done in or about any Unit or in the Common area, nor bring or keep anything therein, which will in any way result in the cancellation of or increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Board or which would be in violation of Applicable Law. Any Owner taking or permitting any such action, which has been approved by the Board and results in an increased rate of insurance on the Project or any part thereof, shall be solely responsible for the payment of the resulting difference in such increased premium.

7.5.7 Owners shall not do or permit anything to be done in or about the Unit or Common Area which will in any way obstruct or interfere with the rights of other Owners or Occupants in the Building, create undue noise and disruption, or injure or annoy them or use or allow the Unit to be used for an unlawful or objectionable purpose, nor shall Owner cause, maintain or permit any nuisance in, on, or about the Building.

7.5.8 Owners shall not use or suffer or permit any Person or Persons to use the Units or any part thereof for any adult bookstore, adult movie theater, boarding house, or any other activity expressly prohibited by the Board.

**7.6 No Hazardous Activities.** No activities shall be conducted at the Project which are or might be unsafe or hazardous to any Person or property, as reasonably determined by the Board. Such prohibition includes, without limitation, the discharge of firearms and participation in archery activities, and the use of any outdoor wood burning devices.

**7.7 Over the Air Reception Devices.** All Owners who desire to use any device or antenna to receive over the air transmissions shall be required to use one Grantor or the Association may install one common antenna or other device to receive over the air transmissions, which antenna or device shall be located on the Project in a location designated and approved by the Grantor or the Board (a "Common Antenna"). In event a Common Antenna is installed, all Owners who desire to use any antenna or device to receive over the air transmissions shall be required to use the Common Antenna, subject to reasonable restrictions related thereto established by the Board. Notwithstanding the foregoing, no portion of this restriction shall apply to the extent that it conflicts with any Applicable Law governing such antenna or devices. Those Owners using the Common Antenna shall share the costs and expenses associated therewith in the manner reasonably determined by the Board.

In the event a Common Antenna has not been installed, Owners shall be permitted to install small satellite dishes or other devices within the service well on the roof of the Building for cable services using the electrical conduit system located in the core of the Building, subject to the prior written approval of the Board. In the event that a satellite dish or other device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

**7.8 Energy Devices, Outside.** No energy production devices or generators of any kind (including without limitation solar energy devices and windmills), shall be constructed or maintained on or in any portion of the Common Area without the prior written approval of the Board. In the event that the addition or use of such a device is approved by the Board, it (and any related equipment) must be installed and/or screened in the manner approved by the Board.

**7.9 Signs.** No more than one (1) sign will be allowed to be displayed on or within a Unit or the Deck appurtenant thereto at the same time to advertise the Lot for sale or or to advertise the Lot during the course of construction, and all such signs shall be removed within fifteen (15) days after occupancy. Directional and open house signs may be used during open house time period only. No sign of any kind will be displayed to the public view more than six (6) square feet in size. The commercial unit will be allowed commercial signage for the occupying business in accordance with applicable city code and ordinances. Except as set forth above, no signs of any kind, including, without limitation, decorations, banners, holiday signs, or political or commercial signs, shall be displayed on or from any portion of the Project except as approved by the Board in its reasonable direction. Notwithstanding the foregoing, no portion of this restriction shall apply to the extent that it conflicts with any Applicable Law governing signs.

**7.10 Window Treatments.** No window or glass tinting or coverings shall be permitted, including any appliqué, decals, or other materials, that would be visible from the exterior of any Unit, or that would otherwise in any manner change the exterior appearance of any glass or window in terms of color, reflectivity, tint, or appearance, except as otherwise may be permitted by the Board. In the event replacement of any glass pane constituting Common Area shall become necessary, such glass shall be replaced by the Association; provided, however, an Owner may be required to pay for such replacement pursuant to Section 9.5. This paragraph shall be interpreted in such manner as to favor and facilitate a uniform appearance of the Project from the exterior thereof. Subject to the Association Rules, acceptable window coverings are vertical blinds, mini-blinds, draperies, curtains, shutters and other such items. Items including, but not limited to aluminum foil, newspaper, sheets, cardboard, reflective tint, paint, etc. are not permitted to be used as window covering.

**7.11 Water Beds.** No water beds shall be permitted in any Unit. Each Owner acknowledges that substantial damage to other Units and/or Common Areas may occur as a result of a violation of this restriction.

**7.12 Appliances.** No appliances shall be installed or maintained in a Unit that are inconsistent in terms of energy source or energy usage from those utility lines and hookups initially installed or made available by Grantor with respect to a Unit. By way of illustration, but not of limitation, if and to the extent that the Unit was originally equipped with a gas utility hookup for clothes dryers, stoves, ovens, or other appliances, no modifications shall be permitted for the



installation of electricity powered clothes dryers, stoves, ovens or other appliances, unless electricity powered clothes dryers, stoves, ovens or other appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. Likewise, if the Unit was originally equipped and/or designed for any electrical appliances, no modifications shall be permitted for the installation of gas-powered appliances, unless gas powered appliances were originally available for use and operation in the Unit and can be installed with minimal disruption to Common Areas. The Board reserves the right to designate specific Association Rules pertaining to the minimum design and performance characteristics of appliances to be installed in the Units. All installation and use of any appliances shall comply with and not violate the terms of any warranty guidelines or manufacturers' guidelines or recommendations.

**7.13 Construction and Structural Alterations.** An Owner may make improvements or alterations to the interior of the Owner's Unit and the Limited Common Area appurtenant to such Unit, provided that such improvements or alterations: (a) do not impair the structural integrity, mechanical systems or Common Area of the Project; (b) are not to walls, doors, windows, or other portions of the Project that are visible from the outside of the Unit; and (c) do not otherwise penetrate any Common Area. To the extent an Owner desires to make an improvement or alteration in violation of any portion of the foregoing, such Owner shall first obtain the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed. All improvements and alterations constructed pursuant to the terms of this Section 7.13 shall comply with all Applicable Laws.

**7.14 Sewer System Restrictions.** No Owner or other Person shall deposit any glass, metal, seafood shells, diapers, clothing, rags, plastic, sanitary napkins, tampons, flammable material, oil, gas, grease, chemicals or other objects or materials other than natural human waste and generally accepted household cleaners into the sewer system either directly or through any Owner's waste disposal unit(s). The cost of any and all damage sustained by the sewer system caused by an Owner's deposit in the sewer system of any of the items listed above shall be the sole responsibility of said Owner.

**7.15 Deck Restrictions.** Decks shall not be used for storage purposes, including for the storage of pets, pet equipment, bicycles, boxes, storage sheds, and so forth, except that patio furniture shall be permitted on Deck in accordance with this Section. Any item to be stored shall be stored and maintained either wholly within the interior of the Owner's Unit, Storage Area, in such other designated by the Board, if any. Any plants or similar items kept on a Deck shall be in accordance with the approved plant list or otherwise subject to approval by the Board, shall be watered and maintained in good condition, and dead plants, leaves, and other items shall be promptly removed and discarded. No over-watering of any plants located on a Deck (i.e., of such a nature to cause water run-off) shall be permitted. Patio furniture as approved by the Board or that otherwise complies with the Association Rules shall be permitted on the Decks. Decks shall be kept in a clean and orderly fashion. Owners shall not hang any items from the Decks or the railings thereon, and Owners shall not place any temporary lighting, whether electric, battery-operated, solar, or otherwise, on such Owner's Deck. No shelving, storage devices or apparatuses, or other improvements or alterations shall be permanently affixed to any Deck, except upon the prior written approval of the Board.

**7.16 Garage Restrictions.** Garages shall be used only for the storage of operable vehicles that fit therein when the Garage door is closed, and for the storage of non-combustible and otherwise non-hazardous material that fit therein when the Garage door is closed. Doors to the Garages shall remain closed at all times except when depositing or retrieving items therefrom.

**7.17 Carports Restrictions.** Carports shall be used only for the storage of operable vehicles and bicycles that fit therein. The Owner to Condominium to which each Carport is appurtenant is responsible for maintaining the ground surface of the carport in safe and good operating condition and repair, including without limitation performing snow and ice treatment.

**7.18 Storage Area Restrictions.** Storage Areas shall be used only for the storage non-combustible and otherwise non-hazardous material that fit therein when the door to the Storage Area is closed. Doors to the Storage Areas shall remain closed at all times except when depositing or retrieving items therefrom.

**7.19 No Smoking.** The Project is hereby designated as “smoke free,” and no smoking of any kind is allowed at the Project. Notwithstanding the foregoing, the Board may from time to time designate certain outdoor areas of the Project as “Permitted Smoking Areas,” in which event smoking shall be allowed only in such designated areas. Neither Grantor nor the Association guarantees a smoke free environment at the Project or any portion thereof.

**7.20 Animals/Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or in any portion of the Project except that Household Pets (defined below) may be kept for an Owner’s personal use provided that: (a) such Household Pets are not bred or maintained for any commercial purpose; (b) no more than two (2) of any combination of Household Pets may be kept in a Unit; and (c) all such Household Pets shall be properly restrained and controlled at any time they are within the Project. “**Household Pets**” means indoor domesticated dogs and indoor domesticated cats. Any Household Pet which, in the reasonable opinion of the Board, is vicious or excessively noisy, or which damages or destroys property shall be deemed a nuisance and shall be removed from the Project upon the written request of the Board. An “excessively noisy” Household Pet is any Household Pet that habitually or frequently disturbs the sleep, peace, or quiet of any Occupant. Owners shall contact the local animal control agency regarding noisy Household Pets prior to complaining to the Board about such animals. Any costs associated with responding to complaints relating to animals (including without limitation Household Pets), livestock, or poultry at the Project may be levied as a Limited Assessment against the Owner of the Unit in which such animals, livestock, or poultry are being kept. The Owner of the Unit where a Household Pet is kept, as well as the legal owner of the Household Pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the Household Pet, and for any clean-up of any portion of the Project necessitated by such Household Pet.

**7.21 Assistance Animals.** Notwithstanding anything to the contrary contained in Section 7.20 hereof, assistance animals are welcome in the Project in accordance with the Fair Housing Act (42 U.S.C. § 3601 *et seq.*, as amended) and the implementing regulations promulgated thereunder. An assistance animal shall be as defined in the Fair Housing Act, which is currently any animal needed by a disabled individual to have an equal opportunity to use and enjoy a dwelling. Examples of assistance animals are guide animals, animals that alert people who

are deaf, animals that pull a wheelchair, animals that alert and protect a guest who is having a seizure, animals that remind an individual with mental illness to take prescribed medications, animals that calm an individual with Post Traumatic Stress Disorder (PTSD) during an anxiety attack and animals that provide comfort or emotional support. Assistance animals in training are to be treated as assistance animals, even if the handler is not disabled. An assistance animal need not be licensed or certified by any government. Individuals with assistance animals shall not be treated less favorably than other Occupants or charged fees that are not charged to other Occupants without animals. The Association shall have the right, to the extent permitted under the Fair Housing Act, to prohibit or restrict any assistance animal that: (a) is out of control and the handler does not take effective action to control it; or (b) the animal's behavior poses a threat to the health or safety of others. The Owner of the Unit where an assistance animal is kept, as well as the legal owner of the assistance animal (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the assistance animal, and for any clean-up of any portion of the Project necessitated by such assistance animal.

**7.22 Right to Enjoy and Use Units.** Each Owner shall be entitled to use and enjoy the Owner's Unit for its intended purpose and nothing herein is intended to impose or grant the authority to impose any restrictions, limitations or prohibitions which would deprive an Owner of the reasonable use and enjoyment of the Owner's Unit. Notwithstanding the foregoing, no Owner shall be entitled to use the Owner's Unit for any uses not allowed under the Ketchum Municipal Code or otherwise limited by this Declaration or any other Condominium Documents.

## **SECTION 8 THE IDA BULIDING OWNERS ASSOCIATION**

**8.1 Creation and Designation of Association.** Grantor has incorporated the Association as a nonprofit corporation under the laws of the State of Idaho, and Grantor hereby designates the Association as the "management body" of the Project in accordance with the Condominium Act. The Association is charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, this Declaration (as it relates to the Association's management of the Project), and the other Condominium Documents, as each may be amended and/or supplemented from time to time according to their respective terms. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to conflict with this Declaration.

**8.2 Membership and Voting.** "Member" means each Person holding a membership in the Association, including Grantor. Every Owner of a Condominium is a Member of the Association and has one (1) membership for each Condominium in the Project owned by such Owner. If the Owner of the a Condominium shall be more than one (1) Person, all such Persons shall have a membership in the Association and be deemed Members, but the voting rights in the Association attributable to that Condominium may not be split and shall be exercised by one (1) representative selected by such Persons as they, among themselves, may determine. In the event such Persons are unable to agree among themselves on any matter put to a vote as to how the vote shall be cast, such Persons shall not be entitled to vote on the matter in question. If only one such Person casts a vote, it will thereafter be conclusively presumed for all purposes that such Person was acting with the authority and consent of all other co-Owners of such Condominium. To this end, only one (1) vote is allocated to each Condominium, regardless of the number of Persons that hold an ownership interest in such Condominium. Memberships in the Association shall be

appurtenant to the Unit owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned or alienated in any way except upon the transfer of Owner's title to a Unit and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association. The Association shall have two (2) classes of membership as follows:

8.2.1 Class A Members. “**Class A Members**” shall be the Owners of the Units, with the exception of the Grantor for so long as the Class B Member exists. Upon the Class B Member Termination Date (defined below), at all meetings of the Association each Member will be entitled to one (1) vote for each Unit owned by such Member. Prior to the Class B Termination Date, Class A Members are not entitled to vote.

8.2.2 Class B Member. The “**Class B Member**” is Grantor, who shall be the sole voting Member of the Association entitled to vote the collective voting power of the Association from the period commencing on the Effective Date and expiring on the Class B Member Termination Date (the “**Initial Development Period**”). The Class B Member shall cease to exist upon the earlier to occur of the following: (a) Grantor no longer owns any Units within the Project; or (b) Grantor informs the Board, in a writing recorded in the real property records of Blaine County, Idaho, that Grantor no longer wishes to exercise its rights as the Class B Member (as applicable, the “**Class B Member Termination Date**”).

8.3 Member Meetings. The Association shall hold an annual meeting of the members and periodic special meetings of the members as set forth in the Condominium Documents. Subject to Sections 8.2.1 and 8.2.2, each Member shall be entitled to one (1) vote as a Member in the Association for each Unit owned by such Member.

8.4 Proxies. A membership in the Association shall be appurtenant to and inseparable from the Condominium owned by such Member. A membership in the Association shall not be assigned, transferred, pledged, or alienated in any way except: (a) that an Owner may give a proxy pursuant to the Bylaws; and (b) upon the transfer of title to the Condominium and then only to the transferee of title to said Condominium. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association. Provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium or to any Person that has assumed by contract, or otherwise, liability for paying Assessments of any Owner.

8.5 Board of Directors. The business and affairs of the Association are managed by the Board. The Board will consist of not less than three (3) directors and no more than five (5) directors. Directors need not be Owners. During the Initial Development Period, Grantor has the exclusive right to appoint, remove, and replace directors at any time and from time-to-time in Grantor's sole discretion, and to otherwise fill vacancies on the Board as they arise. After the Initial Development Period, the Owners have the right to elect and remove directors as provided in the Bylaws. After the Initial Development Period, any vacancy on the Board shall be filled by a plurality of the votes cast by the remaining Directors through a special election at any meeting of the Board.

**8.6 Delegation of Authority.** The Board may at any time and from time-to-time delegate all or any portion of its powers and duties to committees, officers, employees, or to any Person to act as manager, including the Management Company.

**8.7 Powers of the Association.** The Association shall have all the powers of a nonprofit corporation incorporated under the laws of the State of Idaho and all of the powers and duties set forth in the Condominium Documents, including the power to perform any and all acts which may be necessary to, proper for, or incidental to the foregoing powers. The powers of the Association include, by way of illustration and not limitation:

8.7.1 Assessments. The power and authority to levy Assessments on the Owners of Condominiums and to enforce payment of such Assessments, including the power and authority to establish and fund via Assessments such operating and capital reserves as the Board deems necessary or prudent.

8.7.2 Right of Enforcement. The power and authority at any time and from time-to-time, on its own behalf or on behalf of any consenting Owners, to take any action, including any legal action, to prevent, restrain, enjoin, enforce, or remedy any breach or threatened breach of the Condominium Documents. The power of enforcement includes:

8.7.2.1 The right to remove, alter, rebuild, or restore any improvements constructed, reconstructed, refinished, added, altered, or maintained in violation of the Condominium Documents. If such improvements are located in a Unit, the Board must first provide the Owner thereof with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure, and the Owner of the improvements must immediately reimburse the Association for all expenses incurred with such removal.

8.7.2.2 The right to enforce the obligations of the Owners to pay each and every Assessment or charge provided for in the Condominium Documents.

8.7.2.3 The right to perform any duty or obligation of an Owner under the Condominium Documents if such duty or obligation is not timely performed by such Owner. In such event, the defaulting Owner must immediately reimburse the Association for all costs reasonably incurred by the Association in performing such duty or obligation. Except in the event of an emergency, the Association must provide the defaulting Owner with a notice specifying the default and a reasonable period (no less than ten (10) days and not to exceed thirty (30) days) to cure prior to exercising its power and authority hereunder.

8.7.2.4 The right to authorize variances from the requirements of this Declaration when required by applicable law (such as the Fair Housing Act) or when needed to prevent the requirements would impose an undue hardship on an Owner that would be inequitable for such Owner to bear. The granting of a variance does not waive any element of the Declaration for any purpose except as to the particular Condominium and the particular provision covered by the variance. Approval of a variance does not affect the Owner's obligation to comply with the other elements of this Declaration or Applicable Law.

8.7.3 Association Rules. The power and authority to adopt, amend, and repeal the Association Rules as the Board deems reasonable and appropriate to govern the Project,

including rules and regulations regarding: (a) the use of the Common Area; (b) imposition of fines for violations of the Condominium Documents (subject to applicable law, such as Idaho Code § 55-115); and (c) procedures in the conduct of business and affairs of the Association. Except when inconsistent with this Declaration, the Association Rules have the same force and effect as if they were set forth in and were made a part of this Declaration. A copy of the Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner.

8.7.4 Emergency Powers. The power and authority to enter upon any Unit as necessary in connection with any maintenance or construction for which it is responsible, or when necessitated by violation of the Declaration or other Condominium Documents, or in the event of any emergency involving potential danger to life or property and the power to take corrective action. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association, except as otherwise provided herein. Owners acknowledge that the Ketchum Fire Department and the Association shall have a master key to all locks in the Project. Owners further agree to notify the Board and employ a locksmith approved by the Board before any locks may be changed to preserve the system.

8.7.5 Common Area. The power and authority to manage, operate, maintain, repair, and replace the Common Area for the benefit of the Project and the Owners, and the power and authority to construct, install, maintain, repair, replace, and operate any improvements in the Common Area, any public right-of-way serving the Project or any other location deemed by the Board to benefit the Project, including any fences, signs or other improvements at Project entrances or otherwise in the vicinity of the Project, and any berms, retaining walls, fences, and other amenities within or abutting any Common Area.

8.7.6 Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements and rights-of-way in, on or under the Common Area as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment of the Project, and/or for the preservation of health, safety, convenience and welfare of the Owners. The foregoing power includes, without limitation, the power to grant and convey to such third parties licenses, easements, and rights-of-way for the purpose of constructing, erecting, operating, or maintaining any of the following:

8.7.6.1 Lines, cables, wires, conduits, or other devices for the transmission of electricity, heating, power, telephone, television and data, other utility services and, meters and other facilities associated with the foregoing;

8.7.6.2 Sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

8.7.6.3 Cross parking easements, sidewalk abutments, drive lanes, parking areas, curb cuts, landscaping abutting common areas, public and private streets or land conveyed for any public or quasi-public purpose.

8.7.7 Property for Common Use. The power and authority to acquire and hold for the use and benefit of all of the Owners, or for the benefit of only those Owners within a

particular Condominium, tangible and intangible personal property and real property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interest in the Common Area.

8.7.8 Amenity Agreements. The power and authority to enter into any lease, license, use, or other agreement as the Board deems proper or convenient to secure the use of off-site amenities or facilities for the benefit of the Project. Without limiting the generality of the foregoing, and only by way of example, the Association may enter into such agreements with others for the use of any recreational amenities or facilities, including clubhouses and swimming pools, by the Owners on such terms as the Association deems reasonable or prudent.

8.7.9 Inspection. The power and authority to enter a Unit for the purpose of conducting regular maintenance inspections.

8.7.10 Taxes. The power and authority to pay all real and personal property taxes and assessments (if any) levied against the Common Area, the Association, and any other property owned by the Association. In addition, the Association must pay all taxes, including income, revenue, corporate, or other taxes (if any) levied against the Association.

8.7.11 Entitlement Obligations. The power and authority to fulfill any duties imposed by any governmental or other quasi-governmental agencies as part of the entitlements for the development of Project, including any requirements or obligations identified in such entitlements as the responsibility of community association or homeowners' association or management body, such as plat notes, development agreements, or conditions of approval.

8.7.12 Financing. The power and authority to enter into any agreements necessary or convenient to allow Owners to take full advantage of, or secure the full availability of, any financing programs offered or supported by the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Housing Administration (FHA), the Veterans Administration (VA), the Federal Home Loan Mortgage Corporation (FHLMC) or any similar entity.

8.7.13 Estoppel Certificates. The power and authority to execute a written statement stating: (a) whether or not, to the knowledge of the Association, a particular Owner or Owner's Condominium is in default of this Declaration or other Condominium Documents; (b) the dates to which any Assessments have been paid by a particular Owner; and (c) such other matters as the Board deems reasonable. Any such certificate may be relied upon by a bona-fide prospective purchaser or Mortgagee of such Owner's Condominium, but only to the extent such prospective purchaser or Mortgagee has no knowledge to the contrary. The Association may charge a reasonable fee for such statements.

8.7.14 Improvements in Public Right-of-Way. The power and authority to enter into license and easement agreements with the City of Ketchum (or assume the duties and obligations under any such license agreement entered into by Grantor) to install, maintain, improve, irrigate, trim, repair, and replace improvements and landscaping in the public rights-of-way (including sidewalk easements and planter strips).

8.7.15 Implied Rights. Notwithstanding the foregoing, the Association may exercise any other right or privilege given to it expressly by this Declaration or by Applicable Law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such rights shall include without limitation the right to acquire water meters for each Unit.

8.7.16 Use of Association Powers. Notwithstanding the foregoing, the Association shall not take any action that would impair an Owner's right to enjoy and use his/her Unit as set forth herein, in particular Section 7.22.

8.7.17 Power to Levy Fines. The power to impose reasonable monetary fines which shall constitute a lien upon the Unit owned or occupied by the Owner, Lessee, or other Person determined by the Board to be in violation of the Condominium Documents (individually, a "**Violation**"). Provided, however, the Association shall not impose a fine on an Owner for a Violation unless: (a) the Board votes to impose the fine at any regular or special meeting of the Board or the Association (individually, a "**Levy Meeting**"); (b) such Owner is provided at least thirty (30) days advance written notice of the Levy Meeting by personal service or certified mail at the last known address of such Owner as shown in the records of the Association; and (c) such Owner is given a reasonable opportunity to respond to the Violation during the Levy Meeting. Provided further, the Association shall not impose a fine on an Owner if such Owner, prior to the Levy Meeting, begins resolving the Violation and continues to address the Violation in good faith until the Violation is fully resolved (the "**Remedial Period**"). For purposes of this Section, the phrase "address the violation in good faith until the Violation is fully resolved" means the Owner must resolve the Violation within thirty (30) calendar days of the Notice; provided, however, if the nature of the Violation is such that more than thirty (30) calendar days are required for its resolution, then the Owner must diligently prosecute the same to completion within sixty (60) calendar days. All such fines shall be deemed to be a part of the Assessments to which the Owner's Unit is subject under this Declaration. In all events, no portion of such fines may be used to increase the compensation to the Board or agent thereof.

**8.8 Duties of the Association.** In addition to the power delegated to it by the Condominium Documents, the Association or its agents shall have the obligation to conduct all business affairs of the Association and to perform, without limitation, each of the following duties:

8.8.1 Operation and Maintenance of Common Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all improvements thereon, including parking areas, drive lanes, landscaping, common seepage beds and the exterior of the Building, including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired by the Association, and shall maintain the same in a good, clean, attractive and sanitary condition, order and repair.

8.8.2 Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the Common Area, the Association, or property owned by the Association and all such taxes shall be paid or a bond insuring payment posted prior to the sale or the disposition of any property to satisfy the payment of such taxes. In addition, the Association shall pay all other taxes, federal, state or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax exempt corporation.



8.8.3 Water and Other Utilities. Acquire, provide and/or pay for water, storm drainage system maintenance, sewer services, electric services, garbage, disposal, refuse and rubbish collection and other necessary services for the Common Area and Units, except to the extent separately billed or separately metered, as may be determined by the Board from time to time in its discretion.

8.8.4 Insurance. Obtain, from reputable insurance companies authorized to do business in the State of Idaho and maintain in effect the policies of insurance described in Section 13 hereof.

8.8.5 Maintenance of Exteriors and Improvements. Maintain and repair the exterior surfaces of the Building and improvements in the Project. The exterior maintenance shall include: painting, staining, repairing, restaining, replacing and caring for all exterior surfaces including roofs and exterior portions of doors as necessary to maintain them in good condition.

8.8.6 Inspection and Maintenance Guidelines. The Board shall adopt inspection and maintenance guidelines for the periodic inspection and maintenance of the Common Area, including, without limitation, the sewer system and drainage facilities. The Board periodically, and at least once every two (2) years, shall review and update the inspection and maintenance guidelines. The Board shall take all appropriate steps to implement and comply with the inspection and maintenance guidelines, and shall keep records of such implementation and compliance.

8.8.7 Drainage Facilities. Operate and maintain the storm drainage area, as depicted on the Plat. Notwithstanding anything to the contrary, no buildings or other similar improvements shall be constructed within the storm drainage area that would materially interfere with the Property's drainage system.

8.8.8 Maintenance of Records and Right of Inspection. The Association shall keep such records of its business and affairs as is customary for community or homeowner associations, including a membership register, accounting records, financial statements, operating budgets, balance sheets, and minutes of meetings of the Board and committees. Such records shall be available at the Association's regular offices for inspection and copying by any Owner at such Owner's expense. The Board may establish reasonable rules with respect to: (a) notice to be given to the custodians of the records by persons desiring to make the inspection; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents requested pursuant to this Section 8.8.8. The Association's obligations hereunder may be fulfilled by making the records available to an Owner electronically, including delivery by electronic mail or the posting of such records on a website.

**8.9 Immunity and Indemnification.** Each Owner understands and agrees that: (a) Grantor and its members, managers, agents, and employees, and (b) the Association its directors, officers, agents, employees, and committee members (each individually a "**Released Party**") shall be immune from personal liability to such Owner, and such Owner hereby knowingly and voluntarily waives and releases each Released Party, for such Released Party's actions or failure to act with respect to the Condominium Documents to the extent that such acts or failures to act do not constitute willful misconduct on the part of such Released Party. The Association shall

indemnify, defend, and hold each Released Party harmless from any action, expense, loss or damage caused by or resulting from such Released Party's actions or failure to act with respect to the Condominium Documents; provided, however, the Association shall not be obligated to indemnify, defend, and hold harmless any Released Party for their own gross negligence or willful misconduct.

**8.10 Waiver of Consequential Damages.** Neither the Grantor nor the Association shall be liable to any Owner for, and each Owner releases the Grantor and the Association from, any form of indirect, special, punitive, exemplary, incidental, consequential, or similar costs, expenses, damages, or losses.

## **SECTION 9 ASSESSMENTS**

**9.1 Covenant to Pay Assessments.** By acceptance of a deed to any Condominium, each Owner covenants and agrees to pay when due (without deduction, setoff, abatement of counterclaim of any kind whatsoever) all Assessments or charges made against such Owner or such Owner's Condominium pursuant to the Condominium Documents. Assessments against a Condominium shall be a continuing lien on such Condominium until paid, whether or not ownership of such Condominium is transferred. Assessments against a Condominium are also the personal obligation of the Owner of the Condominium when the Assessment becomes due and payable. Such personal obligation shall remain with such Owner regardless of whether such Owner remains the owner of the Condominium. Delinquent Assessments related to a Condominium shall not pass to such Owner's successors in title unless expressly assumed by them. Such Assessments and charges, together with interest, costs and reasonable attorneys' fees, which may be incurred in collecting the same, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such Assessment or charge is made. The due date, manner and method of payment shall be as set forth in this Declaration or as established by the Board from time to time.

**9.2 Rate of Assessment.** Except as otherwise provided herein, all Owners shall be responsible for Regular Assessments and Special Assessments levied by the Association in proportion to their percentage ownership interest in the Common Area, as set forth on Exhibit D. Owners shall be responsible for Limited Assessments levied by the Association, as set forth in Section 9.5.

### **9.3 Regular Assessments.**

**9.3.1 Purpose of Regular Assessments.** The proceeds from Regular Assessments are to be used to pay for all costs and expenses incurred by the Association, including attorneys' fees and other professional fees, for the conduct of its affairs as provided in this Declaration (including without limitation Section 8 hereof) and other Condominium Documents, including without limitation the costs and expenses of construction, improvement, protection, maintenance, repair, management and operation of the Common Area and furnishing utility services, including water, sewer, gas, geothermal systems, trash and electricity and other common services to the Common Area, and each Condominium (if not separately metered), insurance, and any deficit remaining from previous periods (collectively the "**Expenses**"). "Expenses" shall also include and an amount to fund adequate reserves for repairs, replacement, maintenance, and

improvement of those elements of the Common Area, or other property of the Association that must be replaced and maintained on a regular basis, and for extraordinary operating expenses, contingent risks or liabilities (such as indemnification and defense expenses), capital repairs, capital replacements, and any other expenses for which the Board, in its reasonable opinion, deems prudent to fund a reserve. If not already separately metered, the Board reserves the right to separately meter utility services provided to each Condominium, and in such event the Owner of the Condominium shall be fully responsible for the costs of providing utilities for the Owner's individual use.

9.3.2 Computation of Allocation for Regular Assessments. Unless otherwise determined by the Board, the Association shall compute and forecast the amount of its Expenses and Regular Assessments on an annual basis. The computation of Regular Assessments shall take place not less than thirty (30) nor more than sixty (60) days before the beginning of each fiscal year of the Association, unless a change in the Members or other circumstance makes it impracticable to compute the Regular Assessments in that timeframe. In such event, the Owners shall be immediately notified upon completion of such computation. Notwithstanding the foregoing, the computation of Regular Assessments shall be completed in good faith and shall be valid upon completion. The computation of the Regular Assessments for the period from the recordation of this Declaration until the beginning of the next fiscal year shall be reduced by an amount which fairly reflects the fact that such period was less than one year. The Board shall have the exclusive right to approve any Assessment under this Section 9.

Except as provided herein, Regular Assessments shall be levied by the Association against Condominiums in proportion to their percentage ownerships in the Common Area as set forth on Exhibit D. Certain Expenses which exist only for the benefit of or only to serve a single Condominium or group of Condominiums (but not all Condominiums) shall only be levied against the Owners thereof in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D.

9.4 Special Assessments. In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will be inadequate to meet the Expenses of the Association for any reason, including, without limitation, costs of construction, reconstruction, unexpected repairs or replacement of improvements upon the Common Area, attorneys' fees and/or litigation costs, other professional fees, or for any other reason, the Board shall determine the approximate amount necessary to defray such Expenses and levy a Special Assessment for such amount. The Board shall, in its discretion, determine the schedule under which such Special Assessment will be paid. If such Special Assessment shall affect more than one Condominium or group of Condominiums (but not all Condominiums), the Owners of the affected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownerships, as among each other, as set forth on Exhibit D, while all Owners shall share such costs associated with the Common Area in proportion to their ownership interests set forth on Exhibit D.

9.5 Limited Assessments. Notwithstanding the above provisions with respect to Regular Assessments and Special Assessments, the Association may levy a Limited Assessment against an Owner: (a) for any fines (in accordance with Section 8.7.17 hereof), fees or charges levied against the Owner under the Condominium Documents; (b) to reimburse the Association for any costs incurred to bring the Owner's Condominium or any improvements therein into

compliance with the Condominium Documents; (c) to reimburse the Association for any damages caused by an Owner or such Owner's Tenants, Occupants, invitees, or licensees to any Common Area or improvements or other property owned or maintained by the Association; and (d) for the cost of providing any goods or services under the Condominium Documents that benefit such Owner or Owner's Condominium, but less than all Owners or all Owners' Condominiums. If such Limited Assessment shall affect more than one Condominium, but not all Condominiums, the Owners of the effected Condominiums shall pay those costs associated solely with their Condominiums in proportion to their percentage ownership, as among each other, while all Owners shall share such costs associated with the Common Area in proportion to their percentage ownership interest set forth on Exhibit D, as applicable.

**9.6 Notice and Assessment Due Date.** Unless the Board establishes a different schedule for the payment of Regular Assessments, monthly installments of the Regular Assessments shall be paid on or before the 1<sup>st</sup> of each month. The Board shall, in its reasonable discretion, determine the schedule under which Assessments (other than Regular Assessments) will be paid. If not paid within five (5) days after the due date, a one-time late charge equal to ten percent (10%) of the Regular Assessment shall be charged to the Owner. Each Assessment, other than a Regular Assessment, shall become delinquent if not paid within ten (10) days after the date of notice thereof to the Owner. If all or any part of an Assessment is not paid within five (5) days after its due date, then: (a) the delinquent Owner shall pay to the Association a late payment charge equal to 5% of the delinquent amount; and (ii) interest shall accrue on the delinquent amount at the rate of twelve percent (12%) per annum until paid in full. In the event an Owner's payment is returned for any reason, such Owner shall pay to the Association an administrative fee in an amount set by the Board and thereafter the Association shall have the right to require future Assessments due from such Owner to be paid in the form of a cashier's check, certified check, or other form of immediately collectible funds acceptable to the Association in the Board's discretion.

## **SECTION 10 ENFORCEMENT OF ASSESSMENTS; LIENS**

**10.1 Right to Enforce.** The Association has the right to collect and enforce its Assessments, including any late charges and/or interest accrued thereon pursuant to the provisions hereof. Each Owner shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration, including any late charges and/or interest accrued thereon, and agrees to the enforcement of all Assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay (and agrees that the lien may include) reasonable attorneys' fees and costs, including the costs and expenses for any lien releases, in addition to any other relief or remedy obtained against such Owner. The Board or its authorized representative may enforce the obligations of the Owners to pay such Assessments by commencement and maintenance of a suit at law or in equity, or the Board may exercise the power of foreclosure and sale pursuant to this Section to enforce the liens created pursuant to this Section. A suit to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

**10.2 Assessment Liens.** There is hereby created a claim of lien with power of sale on each and every Condominium to secure payment of any and all Assessments levied against such

Condominium pursuant to this Declaration together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorneys' fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Condominium upon recordation of claim of lien with the Blaine County Recorder, which claim of lien shall be the "notice of assessment" described in the Condominium Act. Each delinquency shall constitute a separate basis for a claim of lien, but any number of defaults may be included within a single claim of lien. Such claim of lien may be foreclosed in any manner permitted by Applicable Law. Upon payment of such lien in full, the Association shall prepare and record a release of such claim of lien.

**10.3 Method of Foreclosure.** To the extent permitted by law, such lien may be foreclosed by appropriate action in court or by sale by the Association, its attorney or other Person authorized to make the sale. Such sale shall be conducted in accordance with the provisions of the Idaho Code applicable to the exercise of powers of sale in deeds of trust or any other manner permitted by Applicable Law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any title company authorized to do business in Idaho as trustee for the purpose of conducting such power of sale or foreclosure.

**10.4 Required Notice.** No action may be brought to foreclose the claim of lien provided for herein, whether judicially, by power of sale, or otherwise, until the expiration of thirty (30) days after a copy of such notice of claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner described in such notice of assessment, and to the Person in possession of such Condominium(s).

**10.5 Subordination.** Upon recordation of a claim of lien for delinquent Assessments in accordance with Applicable Law, such lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the claim of lien except for: (a) liens which, by law, would be superior thereto; and (b) the lien of a first priority Mortgage given and made in good faith and for value that is of record as an encumbrance against such Condominium prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Section 10.5, the sale or transfer of any Condominium shall not affect the lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether before, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

**10.6 Grantor Exemption.** Grantor is exempt from Assessments as set forth in Section 18.4.

## **SECTION 11 RIGHTS TO COMMON AREAS**

**11.1 Use of Common Area.** Every Owner shall have a nonexclusive right and easement to use the Common Area (exclusive of Limited Common Area) and an exclusive or semi-exclusive right to use Limited Common Area designated for exclusive or semi-exclusive use by the Owner, which shall be appurtenant to and shall pass with the title to every Condominium, subject to the following provisions:

11.1.1 Assessments. The rights of the Association to levy Assessments as provided herein and the payment by an Owner of all such Assessments;

11.1.2 Voting. The right of the Association to suspend the voting rights and rights to use of, or interest in Common Area by an Owner for any period during which any Assessments or charges against such Owner's Condominium remains unpaid;

11.1.3 Dedication or Transfer. The right of the Association to dedicate or transfer all or any part of Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No dedication or transfer shall be effective unless an instrument verifying is executed and recorded by the Association verifying that such dedication or transfer has been approved by: (a) the vote or written consent of Owners representing more than fifty percent (50%) of the total voting power in the Association, and (b) more than fifty percent (50%) of all Mortgagees; and

11.1.4 Association Rules. The right of the Association to establish and enforce such Association Rules as the Association deems proper regarding the Project and use of Common Area.

**11.2 Delegation of Right to Use**. Any Owner may delegate in accordance with the respective Condominium Documents, such Owner's reasonable right to the use and enjoyment of the Common Area to such Owner's Tenants, Occupants, invitees, or licensees.

**11.3 Damages**. To the extent permitted by law, each Owner shall be liable for expenses for corrective action necessitated by violation of the Declaration or Association Rules or for any damage to such Common Area which may be sustained by reason of such Owner's Tenants, Occupants, invitees, or licensees. In the case of joint ownership of a Condominium, the liability of such Owners shall be joint and several. The cost of corrective action shall be assessed as an Assessment against the Condominium and may be collected as provided herein for the collection of other Assessments.

## **SECTION 12 MECHANIC'S LIEN RIGHTS**

No labor performed or services or materials furnished with the consent of or at the request of an Owner or such Owner's agent, contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner or against any part thereof, or against any other property of any other Owner, unless such other Owner has expressly consented to or requested in writing the performance of such labor or furnishing of such materials or services. Such express written consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency corrective action undertaken by the Association. Labor performed or services or materials furnished for the Property if duly authorized by the Association shall be deemed to be performed or furnished with the express consent of each Owner. Any Owner may remove his/her Condominium from a lien against two or more Condominiums or any part thereof by payment of sums secured by such lien which is attributable to such Owner's Condominium.

## SECTION 13 INSURANCE

**13.1 Types of Insurance.** The Association shall obtain and keep in full force and effect at all times such bonds and insurance as may be required by Applicable Law and such further insurance as the Board deems necessary or prudent, including casualty insurance for any property or improvements owned or maintained by the Association, public liability insurance related to the Association's operations and the use of the Common Area, directors and officers liability coverage, automobile insurance, worker's compensation insurance and fidelity bonds. Unless otherwise authorized by the Board, the Association shall procure at least the following insurance policies to the extent such policies are available on commercially reasonable terms:

13.1.1 Casualty Insurance. The Association shall obtain and maintain a "bare walls" insurance on the Building and other property owned by the Association in such amounts as shall provide for full replacement thereof, including, but not limited to, those costs associated with rebuilding, design, any required permits, legal fees, and any other fees associated with the replacement of the Building, in the event of damage or destruction from the casualty against which such insurance is obtained. Such insurance shall include fire and extended coverage, vandalism and mischief, and such other risks and hazards against which the Board deems appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as the Board, in its reasonable opinion, deems consistent with good business practice. The Association's policy of casualty insurance does not insure individual Units or the betterments or improvements made thereto (including without limitation cabinets, countertops, sinks, floor coverings, paint, attached fixtures, utility systems serving only the Unit, and the like) or the personal property or other contents thereof, all of which shall be insured by the Unit Owner pursuant to Section 13.4 hereof.

13.1.2 Commercial General Liability Insurance. The Association shall and maintain a policy of commercial general liability insurance covering the activities of the Association, its Board, employees, and agents and have a combined single limit of not less than \$2,000,000 per person and per occurrence and property damage liability insurance with a limit of not less than \$2,000,000 per accident or occurrence.

13.1.3 Workers Compensation and Employer's Liability Insurance. The Association shall cause the Management Company to purchase and maintain workers compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by Applicable Law.

13.1.4 Directors' and Officers' Liability Insurance. Full coverage directors' and officers' liability insurance with a limit of at least Two Hundred Fifty Thousand Dollars (\$250,000) for the directors and officers of the Association. In addition, the Association shall cause the Management Company to purchase, in such amounts and in such form as the Board shall deem appropriate, coverage against liability on account of the Management Company's dishonesty of employees, officers and directors; destruction or disappearance of money or securities; and forgery.

13.1.5 Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, including errors and omissions insurance for the actions of the Board, as it shall deem appropriate with respect to the Buildings, including any personal property of the Association located thereon.

**13.2 Form**. Casualty insurance on the Project shall be carried in a form or forms naming the Association as the insured as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's name, Unit number, and the appurtenant undivided interest in the Common Area) and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first priority Mortgagees of Owners which from time to time shall give notice to the Association of such Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days' prior written notice is first given to each Owner and to each first priority Mortgagee requesting such notice. The Association shall furnish to each Owner and to Grantor a true copy of such policy together with a certificate identifying the interest of the Owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

The commercial general liability policy shall name Grantor, the Management Company, and the Association as the insured, with the Association as trustee for the Owners, and shall protect each Owner against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the Building.

**13.3 Insurance Proceeds**. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Section and as provided in Section 14 hereof. In the event: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees elect not to rebuild the Project, the insurance proceeds shall be distributed to the Owners based on the ownership percentage of each Owner at the time of the casualty.

**13.4 Owner's Own Insurance**. Each Owner shall obtain and maintain at its own expense, insurance providing coverage in the event of damage or destruction to the Owner's Unit, regardless of the cause of such damage or destruction, and covering such other risks as Owner may deem appropriate. The foregoing insurance shall be in such amounts as shall provide for full replacement of the Owner's Unit, including all betterments and improvements made to thereto (including cabinets, countertops, sinks, floor coverings, paint, attached fixtures, and the utility systems serving only the Unit), and all personal property located therein and the contents thereof. Each Owner shall also obtain and maintain liability insurance covering all occurrences commonly insured against death, bodily injury, and property damage, with a per limit occurrence of not less



than \$500,000.00 and an annual aggregate limit of not less than \$1,000,000.00, arising out of or in connection with the use, ownership, or maintenance of the Owner's Unit. All policies carried by each Owner pursuant to this Section 13.4 shall: (a) name the Association and the Grantor as additional insureds with rights to enforce; (b) be without contribution with respect to any insurance maintained by the Association for the benefit of all Unit Owners; and (c) provide that the insurer waives any and all rights of subrogation as against the Association, the Grantor, each other Owner.

**13.5 Mutual Waiver of Subrogation Rights.** Whenever: (a) any loss, cost, damage, or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by either by the Grantor, Association, or Owner, or anyone claiming by, through, or under the Grantor, Association, or Owner in connection with the Project; and (b) the Grantor, Association, or such Owner is then covered or required to be covered under this Declaration to be so insured in whole or in part by insurance with respect to such loss, costs, damage, or expense, then the party so insured (or so required) hereby releases the other parties from any liability said other parties may have on account of such loss, costs, damage, or expense to the extent of any amount recovered by reason of such insurance (or which could have been recovered had such insurance been carried as so required) and waives any right of subrogation which might otherwise exist in or accrue to any Person on account thereof, provided that such release of liability and waiver of the right of subrogation shall not be operative in any case where the effect thereof is to invalidate such insurance coverage. Grantor, the Association, and each Owner shall obtain and furnish evidence to the other Party of the waiver by its insurance carrier(s) of any right of subrogation.

## **SECTION 14 CASUALTY, DAMAGE OR DESTRUCTION**

**14.1 Affects Title** Title to each Condominium is hereby made subject to the terms and conditions hereof, which bind the Grantor and all subsequent Owners, whether or not it is expressed in the deed by which any Owner acquires a Condominium.

**14.2 Association As Agent.** All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney-in-fact in their name, place and stead for the purpose of dealing with their Condominium upon the Condominium's damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Grantor or from any Owner shall constitute such appointment.

**14.3 General Authority of Association.** As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in succeeding Sections means restoring the Condominiums, including the site improvements, equipment and facilities therein, to substantially the same condition in which it existed prior to damage, with each Unit and the Common Area having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction unless: (a) Owners representing eighty percent (80%) or more of the total voting power in the Association; and (b) more than fifty percent (50%) of all first priority Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

**14.4 Estimate of Costs.** As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain estimates that it deems reliable of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

**14.5 Repair or Reconstruction.** As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or construction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be in accordance with the original plans and specifications of the Project or may be in accordance with any other plans and specifications the Association may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Unit may not vary by more than five percent (5%) from the number of cubic feet and the number of square feet for such Unit as originally constructed pursuant to such original plans and specifications without the written consent of all affected Owners, and the location of the Units shall be substantially the same as prior to damage or destruction.

**14.6 Funds for Reconstruction.** The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Section 9.4 hereof, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such Special Assessments shall be allocated and collected as provided in that Section. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

**14.7 Disbursement of Funds for Repair or Reconstruction.** The insurance proceeds held by the Association and the amounts received from the assessments provided in Section 14.6 constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the cost of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners requiring repair and/or reconstruction of such Owner's Unit in proportion to the contributions by such Owner pursuant to the assessments by the Association under Section 14.6 of this Declaration.

**14.8 Decision not to Rebuild.** If eighty percent (80%) or more of the Owners and more than fifty percent (50%) of the first priority Mortgagees agree not to rebuild, the Project shall be sold. All insurance proceeds and all sale proceeds shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D; and such apportioned proceeds shall be paid into separate accounts, each such account representing one (1) Condominium. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium designation and the name of the Owner. From each separate account the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to Mortgagees and other lienors in the order of priority of their Mortgages and other liens, and the balance remaining to each respective Owner.

## SECTION 15 CONDEMNATION

**15.1 Consequences of Condemnation.** If at any time or times during the continuance of the condominium ownership regime pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section shall apply.

**15.2 Proceeds.** All compensation, damages, and other proceeds therefrom, the sum of which is hereinafter called the “**Condemnation Award**,” shall be payable to the Association.

**15.3 Complete Taking.** In the event that all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D, provided that if a standard different from the value of the Condominiums as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled and pay such amounts as soon as practicable.

**15.4 Partial Taking.** In the event that less than all of the Units are taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership regime hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners as follows:

15.4.1 Allocation to Common Area. The total amount allocated to taking of or injury to the Common Area shall be apportioned among the Owners in the same proportions as their share of the Common Area as provided in Exhibit D;

15.4.2 Allocation to Condominiums. The total amount allocated to severance damages shall be apportioned to those Condominiums which were taken or condemned as follows: (a) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within the Owner’s own Unit shall be apportioned to the particular Unit involved; and (b) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board, in its reasonable opinion, determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable.

**15.5 Reorganization.** In the event a partial taking results in the taking of a complete Unit, then, upon the distribution of such Owner’s apportioned proceeds, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall re-allocate the ownership, voting rights and assessment ratio determined in accordance with this

Declaration according to the same principles employed in this Declaration at its inception and shall submit such re-allocation to the remaining Owners for approval and amendment of this Declaration as provided in Section 20.1 hereof.

**15.6 Reconstruction and Repair.** Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 14 above.

## **SECTION 16 DISCLAIMERS, WAIVERS, AND ACKNOWLEDGMENTS**

**16.1 Disclaimer and Waiver of Warranties.** Without limiting any other provision in this Declaration, by acceptance of deed to a Condominium, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following:

16.1.1 That Grantor hereby disclaims any and all warranties, express and implied, including without limitation the implied warranty of habitability and the implied warranty of fitness for a particular purpose, and by acceptance of a deed to a Condominium, each Owner waives and releases Grantor with respect to any such warranties;

16.1.2 That the Project is or may be located within or nearby certain airplane flight patterns, and/or subject to levels of airplane traffic noise; and that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or relating to airplane flight patterns, and/or airplane traffic noise; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to airplane flight patterns or airplane traffic noise;

16.1.3 That the Project is or may be located adjacent to or nearby roadways and subject to levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; that Grantor hereby specifically disclaims any and all representations and warranties, express and implied, arising from or related to such roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to roadways and levels of traffic thereon, and to noise, dust, and other nuisances arising from such roadways and levels of traffic;

16.1.4 That construction and installation of improvements by Grantor or other Owners, or third parties, may involve the operation of noisy equipment, generate dust, and may impair or eliminate the view, if any, of or from any Unit and/or Common Areas; and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such construction and installation, view impairment or elimination including but not limited to, any claims for nuisance or health hazards;

16.1.5 That construction is an industry inherently subject to variations and imperfections, and items that do not materially affect safety or structural integrity shall be deemed “**Expected Minor Flaws**” (including, but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch-up painting; minor flaws or corrective work; and like items) and not constructional defects; and that and each Owner hereby waives and releases Grantor from any and all claims arising from or relating to such Expected Minor Flaws; and

16.1.6 That creation of the Project shall not create any presumption, or duty whatsoever of Grantor with regard to security or protection of Person or property within or adjacent to the Project; and each Owner hereby waives and releases Grantor from any and all claims arising from or related to such security or protection, or lack thereof.

## **SECTION 17 RESOLUTION OF DISPUTES**

**17.1 Agreement to Avoid Litigation.** Grantor, the Association and the Owners agree that it is in their best interests to provide a fair, impartial, and expeditious procedure for the resolution of disputes related to the Condominium Documents instead of costly, lengthy, and unpredictable litigation. Accordingly, Grantor, the Association (including its Board, officers, and committee members), each Owner and any party claiming a right or interest under the Condominium Documents (each, a “**Bound Party**”) agree to encourage the efficient resolution of disputes within the Project without the emotional and financial costs of litigation. Each Bound Party therefore covenants and agrees that all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Condominium Documents or the rights, obligations, or duties of any Bound Party under the Condominium Documents (“**Claims**”) shall be subject to the provisions of Section 17.3 unless exempt under Section 17.2. All Claims shall be subject to resolution pursuant to this Section 17 as a condition precedent to the institution or continuation of any legal or equitable proceeding; provided, however, any Bound Party may proceed in accordance with applicable law to comply with any notice or filing deadlines prior to resolution of the Claim

**17.2 Exemptions.** None of the following Claims shall be subject to this Section 17 unless all Bound Parties thereto agree in writing to submit such Claim to the dispute resolution procedures set forth in this Section 17:

17.2.1 Any Claim by the Association against any Bound Party to enforce the obligation to pay any Assessment to the Association under the Condominium Documents;

17.2.2 Any Claim by Grantor or the Association to obtain injunction or equitable relief to enforce any provision of the Condominium Documents;

17.2.3 Any Claim between Owners where the Grantor or the Association are not a party thereto, which Claim would constitute a cause of action independent of the Condominium Documents;

17.2.4 Any Claim in which any indispensable party is not a Bound Party;

17.2.5 Any Claim against a Released Party that would be barred by Section 8.9;

17.2.6 Any Claim which otherwise would be barred by Applicable Law (such as, for example, the applicable statute of limitations); or

17.2.7 Any Claim arising out of or relating to the interpretation, application or enforcement of any purchase, sale or construction agreement with Grantor or any builder related to the construction of improvements within the Project, or the rights, obligations, or duties of any

Bound Party under such agreements, it being understood that Applicable Law and the provisions of such agreements shall control the resolution of any claims or disputes related thereto.

### **17.3 Dispute Resolution.**

17.3.1 Direct Discussions. Any Bound Party having a Claim against any other Bound Party shall notify such party(ies) of the Claim in writing, stating plainly and concisely the following: (a) the nature of the Claim; (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); (c) the basic facts supporting the allegations in the Claim; (d) the other Persons involved in the Claim or with personal knowledge of the facts alleged; and (e) the claimant's proposed remedy, including the specific monetary amounts (if any) demanded. The Bound Parties to the Claim shall make reasonable efforts to meet in person to resolve the Claim by good faith discussions and negotiations – it being understood that the best opportunity to achieve a fair and satisfactory resolution to a Claim is ordinarily through early discussions and negotiations held in good faith.

17.3.2 Dispute Resolution. If the Bound Parties to a Claim are unable to resolve the Claim through direct discussions within a reasonable time, either Bound Party may submit the Claim to the Board for assistance in resolving the Claim. In such event, the Board may, by notice to each Bound Party to the Claim within thirty (30) days of its receipt of a request for assistance:

17.3.2.1 Order the Bound Parties to continue direct discussions and negotiations for a period of up to thirty (30) days. If the Claim is not resolved in such period, any Bound Party may request the Board's further assistance to resolve the Claim;

17.3.2.2 Order the Bound Parties to mediate the Claim with an independent real estate attorney, real estate professional, or judge selected by the Board. The mediator shall set the rules of the mediation. Any party to the mediation can invite additional parties to the mediation if the presence of such additional party is required for a complete resolution of any Claim. The parties shall share the mediator's fee and any filing fees equally. Unless otherwise agreed, the mediation shall be held within thirty (30) days of the order for mediation and shall be held in a neutral location near the Project selected by the mediator. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the mediation does not resolve the Claim, the Bound Parties may proceed to litigation of the Claim in any court of competent jurisdiction;

17.3.2.3 Order the Bound Parties to settle the Claim through arbitration by a single arbitrator conducted in accordance with the Idaho Uniform Arbitration Act (Idaho Code, Title 7, Chapter 9) except as otherwise provided herein. The arbitrator shall be any independent real estate attorney or judge appointed by the Board. The arbitrator shall set the rules of the arbitration. The arbitrator may, in its discretion, order parties to produce documents relevant to the dispute and may order written discovery and depositions (but with care to avoid burdensome discovery or depositions). The arbitrator shall endeavor to hold the arbitration at mutually convenient times and locations; provided, however, the arbitrator shall endeavor to complete the arbitration within forty-five (45) days after appointment of the arbitrator. The parties shall bear their own attorneys' fees (if any) and share the arbitrator's fees equally; provided, however, the arbitrator may award costs, arbitrator's fees and attorneys' fees to the substantially prevailing

party. The arbitrator's award shall be final, and judgment may be entered upon it in accordance with Applicable Law in any court having jurisdiction thereof

17.3.2.4 If the Claim is within the jurisdiction of the Small Claims Department of the Magistrate Division (currently, monetary claims for \$5,000 or less), order a Bound Parties to file such Claim exclusively therein;

17.3.2.5 Elect to exempt the Claim from this Section 17, at which time the Bound Parties are free to exercise any right or remedy in accordance with Applicable Law.

If the Board fails to notify the Bound Parties within thirty (30) days of its receipt of a request for assistance, the Board shall be deemed to have elected to exempt the Claim from this Section 17.

17.3.3 Enforcing Resolutions. If the Bound Parties resolve any Claim through mediation or arbitration pursuant to this Section 17 and any Bound Party thereafter fails to abide by the terms of such resolution (i.e., settlement agreement or arbitrator's award), then any other Bound Party may take any legal or other action to enforce such settlement agreement or arbitrator's award without the need to comply again with the procedures set forth in this Section 17. In such event, the Bound Party taking action to enforce the resolution shall be entitled to recover from any non-complying Bound Party all costs and attorneys' fees reasonably incurred in such enforcement.

## **SECTION 18 INITIAL DEVELOPMENT PERIOD**

**18.1 Project Management**. Each Owner recognizes that the Project will require a high level of knowledge, effort, judgment, diligence, and attention during the Initial Development Period, and that level is beyond what can reasonably be expected from Project volunteers. Accordingly, each Owner agrees that it is in the best interest of the Project for Grantor to have full management authority for the Project during the Initial Development Period, including the sole and exclusive right to appoint, remove, and replace directors of the Board, and to fill vacancies on the Board, at any time and from time-to-time in Grantor's sole discretion by virtue of its voting rights as the Class B Member.

**18.2 Grantor Exemptions**. Grantor may, from time-to-time in Grantor's discretion and without first seeking or obtaining the approval of Association:

18.2.1 Make modifications or improvements to the Common Area as Grantor deems appropriate, and may also may modifications or improvements to any Unit prior to the conveyance thereof as Grantor deems appropriate;

18.2.2 Place or authorize signs of such size, design, and number as Grantor deems appropriate for the initial development of the Project, including signs to identify the Project, display information pertaining to the Project, display information or instructions to builders, advertise Condominiums for sale (including sale events and open houses), and to advertise Project elements or events;

18.2.3 Use or allow any third party to use any Condominium as a model home, sales office, or construction office;

18.2.4 Place or authorize portable or temporary structures upon the Common Area of the Project, and otherwise allow the Common Area to be used as a construction storage yard; and

18.2.5 Establish or reserve such additional covenants, conditions, restrictions, or easements on any Condominium prior to conveyance thereof as Grantor deems necessary or convenient for the development of the Condominium or Project.

**18.3 Water Rights Appurtenant to Project.** Grantor owns or may own certain water rights which are appurtenant to the Project. Grantor hereby reserves unto itself any and all water rights appurtenant to the Project, and Owners of any and all Condominiums accordingly shall have no right, title, or interest in any of said water or water rights.

**18.4 Grantor's Exemption from Assessments.** If Grantor owns any Condominiums during the first two (2) years following the date Assessments are first assessed against the Owners of Condominiums, Grantor shall not be assessed any Regular Assessments or Special Assessments for any Condominiums owned by Grantor. If Grantor owns at least one Condominium during such period, Grantor shall pay the shortfall, if any, in the operating Expenses of the Association; provided, however, such obligation shall not exceed the amount that the Regular Assessments and Special Assessments that Grantor would otherwise be assessed as an Owner multiplied by the total number of Condominiums owned by Grantor on the date Regular Assessments or Special Assessments are assessed against the Owners of Condominiums. After the foregoing period, Grantor shall be assessed Regular Assessments and Special Assessments for each Condominium owned by Grantor.

**18.5 Assignment of Grantor's Rights.** Grantor may assign any or all of its rights under the Condominium Documents to any Person in a written instrument(s) that contains the assignee's acceptance of such assignment and agreement to assume any of Grantor's obligations pertaining to the rights assigned, which acceptance and assumption shall be effective upon the recordation of such written instrument(s) recorded in the real property records of Blaine County, Idaho. Grantor shall promptly provide a copy of the recorded instrument to the Association and, thereupon, be released from Grantor's obligations pertaining to the rights assigned and the obligations assumed.

## **SECTION 19 TERM**

The easements created by this Declaration shall be perpetual, subject only to extinguishment by the holders of such easements as provided by Applicable Law. The remainder of this Declaration shall for a period of thirty (30) years commencing on the Effective Date, unless earlier amended or terminated in accordance with Section 20.1, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless earlier amended or terminated in accordance with Section 20.1.

## **SECTION 20 MISCELLANEOUS**

### **20.1 Amendment.**

20.1.1 Amendment. During the Initial Development Period, Grantor shall have the exclusive right to amend or terminate this Declaration by executing a written instrument setting



forth such amendment or termination and the same shall be effective upon the recordation thereof with the Blaine County Recorder's Office. After the expiration of the Initial Development Period, any amendment to this Declaration or termination hereof shall be by a written instrument setting forth such amendment or termination, signed and acknowledged by the president and secretary of the Association certifying and attesting that such amendment or termination has been approved by the vote or written consent of Members representing more than sixty-five percent (65%) of the total voting power in the Association, and the same shall be effective upon the recordation thereof with the Blaine County Recorder's Office.

20.1.2 Effect of Amendment. Any amendment or termination of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners notwithstanding that such Owners may not have voted for or consented to such amendment or termination. Such amendment may add to and increase the covenants, conditions, restrictions, and easements applicable to the Project but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's Condominium which existed prior to the said amendment.

20.1.3 Mortgagee Protection. Notwithstanding anything to the contrary in this Declaration, any amendment that may be of a material adverse nature to first-lien Mortgages must be approved by first-lien Mortgagees that represent at least fifty-one percent (51%) of the voting power of Units that are subject to first-lien Mortgages (where each first-lien Mortgagee has one vote per first-lien Mortgage owned). Any Mortgagee will be deemed to have given its implied approval of any amendment proposal if the Mortgagee fails to submit a response to any written proposal for an amendment within sixty (60) days after the Mortgagee receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

**20.2 Mortgage Protection.** Upon written request to the Association from any holder, insurer, or guarantor of any first Mortgage stating its name, address and the Unit number or address of the Unit on which it has its first Mortgage, said holder, insurer, or guarantor of a first Mortgage encumbering a Unit shall be entitled to notice of the following:

20.2.1 Any condemnation or casualty loss that affects either a material portion of a Building or a Unit encumbered by such first Mortgage;

20.2.2 Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a first Mortgage;

20.2.3 A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and

20.2.4 Any proposed action that requires the consent of a specified percentage of eligible Mortgage holders.

**20.3 Enforcement and Non-Waiver.**

20.3.1 Right of Enforcement. Except as otherwise provided herein, any Owner, the Association, and Grantor shall each have the right to enforce any or all of the provisions of this Declaration against any Condominium or any part or portion of the Project and against the Owners thereof. The failure of any Owner or Occupant to comply with Applicable Law pertaining to the

ownership, use, or occupancy of any Condominium or other portion of the Project, or to comply with any provision of the Condominium Documents, is hereby declared a nuisance and gives rise to a cause of action (subject to Section 17) in Grantor, the Association (on its own and/or on behalf of any consenting Owners) and any affected Owner for recovery of damages or for negative or affirmative injunctive relief or both enforce the provisions hereof only as set forth in this Declaration. Each remedy provided herein is cumulative and not exclusive. If any party initiates or defends any legal action or proceeding to interpret or enforce any of the terms of this Declaration, the substantially prevailing party shall be entitled to recover any costs and attorneys' fees reasonably incurred therein

20.3.2 Non-Waiver. Failure of the Grantor or the Board to insist upon strict compliance with this Declaration or other Condominium Documents, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment of the right to insist on compliance in the future with any term, covenant, condition or restriction. The receipt by the Board of payment of an Assessment from an Owner, with knowledge of a breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed for by the Board.

**20.4 Registration of Mailing Address**. Each Owner shall register such Owner's email address mailing address with the Association and all notices or demands intended to be served upon any Owner shall be sent by United States Mail postage prepaid, addressed in the name of the Owner at such registered mailing address. If an Owner fails to provide the Association with a valid address, all notices shall be sent to that Owner's address on record with the Blaine County Assessor's office. All notices or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association's registered agent on file with the Idaho Secretary of State. All notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall not be entitled to receive any of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

**20.5 Interpretation**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Project. This Declaration shall be construed and governed under the laws of the State of Idaho without regard to its conflicts of law principles, and the following:

20.5.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Project as set forth in the recitals to this Declaration.

20.5.2 Restrictions Severable. Notwithstanding the provisions of the foregoing Section 20.5.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

20.5.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter. As used herein, the word “including” shall be deemed to be followed by “but not limited to” unless otherwise indicated.

20.5.4 Captions. All captions, titles and the table of contents used in this Declaration are intended solely for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

20.5.5 Board Interpretation. In the event that any provision of this Declaration is deemed ambiguous on any matter, the Board’s interpretation such provision shall be given deference so long as the interpretation is not arbitrary or capricious.

**20.6 Owner’s Obligations Continue.** All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have leased, rented or entered a contract of sale of his interest as provided herein, but the Owner of a Condominium shall have no obligation for Assessments or other obligations accruing after the Owner conveys such Condominium.

**20.7 Exhibits.** All exhibits attached hereto are incorporated herein as if set forth in full herein. However, in the event of any conflict between such exhibits and the text of the Declaration, the Declaration shall control.

**20.8 Acknowledgement and Waivers.** All Owners expressly acknowledge that there are no understandings, representations, warranties or promises of any kind that have been made to induce the Owners from owning Units in the Project except as set forth in this Declaration or any other written valid and binding agreement between the Grantor and the Owners, that this Declaration or any other written valid and binding agreement (including without limitation the other Condominium Documents) between the Grantor and the Owners sets forth in full the entire agreement between the parties and governing the Project, and the Owners have not relied on any verbal agreement, statement, representation, warranty or other promises that is not expressed in writing in this Declaration or any other written valid and binding agreement between the Grantor and the Owners. Except as may be set forth in any written agreement between Owner and Grantor, each Owner has acquired and accepted its Condominium Unit “as is, where is” with all faults.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS.]*

IN WITNESS WHEREOF, Grantor has executed this Declaration effective as of the Effective Date.

**GRANTOR:**

SV Ventures LLC,  
an Idaho limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

This record was acknowledged before me on \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as [manager/member] of SV Ventures LLC.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_

The undersigned, holder of a recorded security interest in the Property, hereby consents to the recordation of the Plat and this Declaration.

\_\_\_\_\_ **Bank,**  
a national banking association

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

This record was acknowledged before me on \_\_\_\_\_, 2021, by \_\_\_\_\_  
\_\_\_\_\_, as [capacity] of [Bank Name].

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of the Property**

**EXHIBIT B**

**Plat of The IDA Building**

**EXHIBIT C**

**Articles of Incorporation**



**EXHIBIT D**

**Proportionate Interest in Common Area**

<b><u>Unit #</u></b>	<b><u>S.F.</u></b>	<b><u>% Ownership in Common Area</u></b>
Unit 101		%
Unit 201		%
Unit 202		%
Unit 301		%
<b>Total</b>		<b>100.00%</b>

**Attachment D:  
Draft Findings of Fact,  
Conclusions of Law, and  
Decision – Design Review**



City of Ketchum  
Planning & Building

IN RE: )  
)  
760 N Washington Mixed Use ) KETCHUM PLANNING AND ZONING COMMISSION  
Design Review ) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
Date: October 26, 2021 ) DECISION  
)  
File Number: P21-077 )

**PROJECT:** 760 N Washington Mixed Use

**APPLICATION TYPE:** Design Review

**FILE NUMBER:** P21-077

**ASSOCIATED APPLICATIONS:** Condominium Subdivision Preliminary Plat (P21-044)

**REPRESENTATIVE:** Daniel Hollis, Hollis Partners Architects (Architect)

**OWNER:** SV Ventures, LLC

**LOCATION:** 760 N Washington Ave – Lot 6 Block 13, Ketchum Townsite

**ZONING:** Community Core – Subdistrict 2 – Mixed Use (CC-2)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The City of Ketchum received the application for Preapplication Design Review of the project on September 23, 2021. The application was deemed complete on September 29, 2021, after one review for completeness. Following receipt of the complete application, staff routed the application materials to all city departments for review. Department comments were provided to the applicant on October 8, 2021.

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on October 6, 2021. The public hearing notice was published in the Idaho Mountain Express and on the city's website the on October 6, 2021. A notice was posted on the project site on October 19, 2021.

The Planning and Zoning Commission (the “Commission”) considered the 760 N Washington Mixed-Use Design Review (Application No. P21-077) and the Condominium Subdivision Preliminary Plat (Application No. P21-044) applications during a special meeting on October 26, 2021. The development applications were considered concurrently, and the associated public hearings were combined in accordance with Idaho Code §67-6522. After considering Staff’s analysis, the applicant’s presentation, and public comment, the Commission unanimously approved the 760 N Washington Mixed-Use Design Review and unanimously recommended approval of the Condominium Subdivision Preliminary Plat application to the City Council.

**BACKGROUND**

The Applicant is proposing an 11,319 square foot three-story mixed-use development (the “project”), located at 760 N Washington Avenue (the “subject property”). The subject property is a mid-block interior lot zoned Community Core -Subdistrict 2 - Mixed Use (CC-2) with a one-story cabin on site. The existing building was built in 1940. The building is not on the Historic Buildings/Site List being reviewed by the Historic Preservation Commission and has not otherwise been identified as one which gives historical or cultural importance to the neighborhood or community.

Adjacent to the property is a two-story office building to the north and a vacant parking lot to the south. To the west, the block between 7th St and 8th St consists of one and two-story single-family residences. As proposed, the project proposes to demolish the existing structure and build a three-story mixed-use building with ground floor commercial, two residential dwelling units on the second floor, and one residential dwelling unit on the third floor. Two of the dwelling units are less than 2,000 square feet, the remaining unit is more than 2,000 square feet. A total of seven parking spaces are required for the project, six standard parking spaces and one ADA parking space. The project proposes a total of six off-street parking spaces.

The project will construct improvements to the right-of-way per the City of Ketchum improvement standards including, asphalt, curb and gutter, and sidewalks. All improvements to the right-of-way will be reviewed and approved by the City Engineer and Streets Department prior to issuance of a building permit.

**FINDINGS OF FACT**

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

**FINDINGS REGARDING COMPLIANCE WITH ZONING REGULATIONS**

<b>17.12.020 – District Use Matrix</b>	<b>Conformance</b>
<i>Zone District: Community Core Subdistrict 2 – Mixed-Use (CC-2)</i>	YES
<p><b>Finding:</b> The multi-story mixed-use building includes one commercial unit on the first floor and three residential multi-family units on the second and third floors. The commercial unit is proposed to be office space for an interior design firm. <u>KMC 17.12.020</u> outlines permissible uses in the CC-2 zone district. “Dwelling - Multi-family”, “Office,business” and</p>	

“Office,contractor related business” are all listed as permitted uses in the CC-2 zone district.

17.12.040 – Dimensional Standards. CC District Matrix	Conformance
<i>Minimum Lot Size</i>	YES
<p><b>Finding:</b>  <u>Required:</u> Minimum lot size of 5,500 square feet required in the CC-2 zone district</p> <p><u>Proposed:</u> The subject property is 5,501 square feet.</p>	

17.12.040 – Dimensional Standards. CC District Matrix	Conformance
<i>Minimum Lot Width</i>	YES
<p><b>Finding:</b>  <u>Required:</u> Minimum lot width of an average of 55 feet is required in the CC-2 zone district.</p> <p><u>Proposed:</u> The subject property is 55 feet wide as shown on the survey included in the project plans.</p>	

17.12.040 – Dimensional Standards. CC District Matrix	Conformance
<i>Minimum Building Setbacks</i>	YES
<p><b>Finding:</b>  <u>Required:</u>            Front (N Washington Ave/west): 5 feet average            Side (Interior Lot Line/north): 0 feet            Side (Interior Lot Line/south): 0 feet            Rear (Alley/east): 3 feet</p> <p>Non-habitable structures, fixed amenities, solar and mechanical equipment affixed to a roof must be set back 10 feet from all building facades.</p> <p>Cantilevered decks and overhangs are permitted a 0-foot setback on all sides.</p> <p><u>Proposed:</u>            Front (N Washington Ave/west): 5 feet with an additional 3+ feet on the north and south corners of the building.            Side (Interior Lot Line/north): 0 feet with portions set back 2.5 feet            Side (Interior Lot Line/south): 0 feet with portions set back between 2.5-8 feet            Rear (Alley/east): 3 feet</p> <p>Setback of non-habitable structures: Sheets A3.1 and A3.2 of the project plans show elevations of screening proposed for rooftop mechanical equipment. Sheet A2.7 shows the</p>	

location of the perforated metal screens proposed, set back more than 10 feet from the building façade.

Cantilevered Decks/Overhangs: Second and third floor cantilevered decks are proposed in the front and rear of the building. All decks are proposed with a 0-foot setback from the front and rear property lines. This is permitted per KMC 17.12.040.

17.12.040 – Dimensional Standards. CC District Matrix	Conformance
<i>Maximum Building Heights</i>	YES
<p><b>Finding:</b> <u>Permitted:</u> 42 feet in the CC-2 zone district</p> <p>Definition - Height of building/CC District: The greatest vertical distance of a building in the community core district measured by determining the average elevation of the front property line and rear property line. Draw a line from the average front or rear elevation up to the maximum building height allowed, and then draw a line at that height parallel to the front or rear property line. The resulting line establishes the highest elevation of the front or rear facade. The front or rear facade shall not extend above this line. Side facades may be stepped up or down to transition from the highest elevation of the front facade height to the highest elevation of the rear facade. One or multiple steps along the side facades are allowed, except no step shall occur within 40 feet of the front elevation or within 35 feet of the rear facade. The City shall establish the elevation points used to calculate the average elevation of the front and rear property lines (see illustration A on file in the office of the City Clerk).</p> <p>Cantilevered Decks and Overhangs: 8 feet above grade and/or walking surface.</p> <p>Non-habitable Structures Located on Building Rooftops: maximum of 10 feet</p> <p>Perimeter walls enclosing roof top deck or structures: 4 feet above roof surface height. Perimeter roof top walls are required to be at least 75% transparent</p> <p>Roof top solar and mechanical equipment above roof surface: maximum of 5 feet</p> <p><u>Proposed:</u> The subject property is mostly flat with only one foot of topographic relief across the site. As shown on Sheets A3.1 and A3.2 of the project plans, the proposed height of the project to the proposed grade is 37 feet 7 inches. When measured to the existing grade, per the definition of building height, the total building height is 38 feet 5 inches, below the maximum height limit of 42 feet.</p>	

The project includes cantilevered decks on the second and third floors of the project. As shown on Sheets A3.1 and A3.2, all cantilevered decks are more than 8 feet above grade or walking surface.

The project includes roof top mechanical equipment and an elevator shaft. As shown on Sheets A3.1 and A3.2, the equipment does not exceed 3 feet in height and is screened with a 3-foot-high perforated metal screen.

The project does not propose any enclosed rooftop deck or structures.

17.124.040 – Floor Area Ratios and Community Housing	Conformance
<i>An increased FAR may be permitted subject to design review approval, and provided, that all conditions in KMC 17.124.040.B.2 are met.</i>	YES Condition #1
<p><b>Finding:</b>            Permitted FAR: 1.0            Permitted FAR with Community Housing: 2.25</p> <p>Proposed:            Gross Square Footage – 11,319 SF (Per Sheet A0.0 of the project plans)            Total Lot Area – 5,501 SF            FAR – 2.06</p> <p>Community Housing Mitigation Calculation:            Permitted Gross Square Feet (1.0 FAR): 5,501 SF            Proposed Gross Square Feet: 11,319 SF            Increase Above Permitted FAR: 5,818 SF            20% of Increase: 1,164 SF            Net Livable (15% Reduction): 989 SF</p> <p>The applicant proposes to contribute a cash-in-lieu for the 989 SF of community housing. The required payment-in-lieu is \$238 per square foot for a total of \$235,382.</p>	

17.125.030 – Off Street Parking and Loading	Conformance
<i>Per KMC 17.125.020 all new development must comply with the off street vehicle parking requirements of the chapter.</i>	YES
<p><b>Finding:</b>  <u>Required per KMC 17.125.030:</u></p> <ul style="list-style-type: none"> <li>- Parking space dimensions of 9x18 feet</li> <li>- Unobstructed access to and from streets</li> <li>- Located in the rear of a building or lot</li> <li>- Lighting and Screening</li> <li>- Requirements for alleys</li> </ul>	

Proposed: As shown on Sheet A1.1 of the project plans, all surface parking spaces meet the minimum 9x18 feet dimensional requirements with 9x21 feet parking spaces. Each parking space is accessed directly from the alley at the rear of the building and lot. Garage spaces adjacent to surface spaces are deeded to the same residential unit so there are no conflicts on accessing parking for individual units. The surface parking area is screened by a perforated metal screen on each side and lit by overhead lighting. Surface parking spaces do not encroach into the alley and are paved with asphalt.

<b>17.125.040 – Off Street Parking and Loading Calculations</b> <b>17.125.050 – Community Core District Off Street Parking and Loading Calculations</b>	<b>Conformance</b>
<i>Minimum amount of parking spaces required per use.</i>	<b>YES</b>
<p><b>Finding:</b>  <u>Required:</u>            For residential multi-family dwelling units in the Community Core:            Units 750 square feet or less – 0 spaces            Units 751 SF to 2,000 SF – minimum of 1 space            Units 2,001 SF and above – minimum of 2 spaces</p> <p>For nonresidential (commercial) use in the Community Core:            1 parking space per 1,000 gross square feet – exemptions apply for community house, food service, and a portion of space for retail and assembly uses. Where off street parking requirements total more than four spaces, four on street parking spaces per 5,500 square feet of lot area may be credited toward the required parking demand for non-residential uses after the required four space minimum on site is satisfied (KMC 17.125.050.D).</p> <p>The project proposes a total of one 1,526 square foot commercial unit, two residential units less than 2,000 square feet, and one residential unit more than 2,001 square feet. Based on the project scope, the total required parking for the project is six (6) spaces.</p> <p><u>Proposed:</u>            As shown on Sheet A2.1 of the project plans, the project proposes three standard surface parking spaces, one accessible space, and two garage spaces. Per the Preliminary Plat submittal, the project is proposed to be subdivided into a condominium in such a way that each dwelling unit will have one or two parking spaces per the requirements of the KMC. The commercial unit on the ground floor requires two parking spaces. Since the project is providing the minimum of four required parking spaces on-site, and the lot is 5,500 square feet, the two required parking spaces for the commercial unit are satisfied with on-street parking adjacent to the subject property. As shown on Sheet C1.0 of the project plans, three parallel parking spaces will be formalized as part of right-of-way improvements.</p>	



17.125.060 – Bicycle Parking	Conformance
<i>Requirements</i>	YES Condition #2
<p><b>Finding:</b>  <u>Required:</u> 1 bicycle rack, accommodating at least two bicycles, for every four parking spaces required.</p> <p><u>Proposed:</u> The project plans show only one bicycle rack, however, two are required as the total number of parking spaces required is six. Per condition of approval #2, the project plans shall be revised prior to building permit application to address the deficiency.</p>	

17.127 – Signage	Conformance
<i>Master Signage Plan for New Construction</i>	YES
<p><b>Finding:</b> The master signage plan for the project is shown on the elevations on Sheets A3.1-A3.2. The project proposes one address marker for the building and one 2.5 X 4-foot sign for the commercial unit on the ground floor, in the center of the façade.</p>	

17.132 – Dark Skies	Conformance
	YES
<p><b>Finding:</b> As shown on Sheets E1.0-1.3, the photometric analysis of the project shows zero light trespass across the subject property’s boundaries. Additionally, the proposed light fixtures all meet the city’s requirement of a maximum of 2700 K light temperature. One streetlight is required for the project. Per the photometric study provided by the street light vendor, illumination of the sidewalk meets the city’s requirement for maximum and average foot candles.</p>	

**FINDINGS REGARDING DESIGN REVIEW STANDARDS**

17.96.060.A.1 - Streets	Conformance
<i>The applicant shall be responsible for all costs associated with providing a connection from an existing City street to their development.</i>	YES
<p><b>Finding:</b> The project is adjacent to N Washington Ave and the alley between N Washington Avenue and Warm Springs Rd. The project proposes to expand the asphalt, provide curb and gutter, and sidewalks within the right-of-way of N Washington Ave adjacent to the subject property. The project also proposes to replace the existing asphalt in the alley, for the full width of alley adjacent to the subject property. The project proposes walkways from the sidewalk in the right-of-way to the commercial unit on the ground floor and to a common entrance for the residential units. All improvements to the right-of-way and walkways to the right-of-way improvements are at the expense of the applicant.</p>	

17.96.060.A.2 - Streets	Conformance
<i>All street designs shall be approved by the City Engineer.</i>	YES Condition #3
<p><b>Finding:</b> No new streets are proposed for the project, however, all improvements to the right-of-way as shown on the project plans has been reviewed by the City Engineer. Final review of all improvements to the right-of-way will be completed prior to issuance of a building permit for the project per condition of approval #3.</p>	

17.96.060.B.1 - Sidewalks	Conformance
<i>All projects under subsection 17.96.010.A of this chapter that qualify as a "substantial improvement" shall install sidewalks as required by the Public Works Department.</i>	YES
<p><b>Finding:</b> KMC 17.124.140 outlines the zone districts where sidewalks are required when substantial improvements are made, which include the CC, all tourist zone districts, and all light industrial districts. As the project is within the CC-2 zone district, sidewalks are required and proposed.</p>	

17.96.060.B.2 - Sidewalks	Conformance
<i>Sidewalk width shall conform to the City's right-of-way standards, however the City Engineer may reduce or increase the sidewalk width and design standard requirements at their discretion.</i>	YES Condition #3
<p><b>Finding:</b> The project plans provided the details of the sidewalks for review by the City Engineer. Preliminary review of the project plans indicates that all city right-of-way standards for width and construction are met. Final review of all improvements to the right-of-way will be completed prior to issuance of a building permit for the project per condition of approval #3.</p>	

17.96.060.B.3 - Sidewalks	Conformance
<p><i>Sidewalks may be waived if one of the following criteria is met:</i></p> <ul style="list-style-type: none"> <li><i>a) The project comprises an addition of less than 250 square feet of conditioned space.</i></li> <li><i>b) The City Engineer finds that sidewalks are not necessary because of existing geographic limitations, pedestrian traffic on the street does not warrant a sidewalk, or if a sidewalk would not be beneficial to the general welfare and safety of the public.</i></li> </ul>	N/A
<p><b>Finding:</b> The applicant has not requested, nor has the City Engineer granted a waiver to the sidewalk requirement for the project.</p>	

17.96.060.B.4 - Sidewalks	Conformance
<i>The length of sidewalk improvements constructed shall be equal to the length of the subject property line(s) adjacent to any public street or private street.</i>	YES
<b>Finding:</b> As shown on Sheet C1.0 of the project plans, the project proposes a new sidewalk be placed the full length of the subject property along N Washington Ave.	

17.96.060.B.5 – Sidewalks	Conformance
<i>New sidewalks shall be planned to provide pedestrian connections to any existing or future sidewalks adjacent to the site. In addition, sidewalks shall be constructed to provide safe pedestrian access to and around a building.</i>	YES
<b>Finding:</b> The new sidewalk adjacent to N Washington Ave will connect to the sidewalk to the north. There are no sidewalk connections to the south of the project. The project proposes internal pathways that directly access the sidewalk from the ground floor commercial unit and the main entry to the residential units. There are internal pathways connecting the rear parking units to the rear entry of the building.	

17.96.060.B.6 - Sidewalks	Conformance
<i>The City may approve and accept voluntary cash contributions in lieu of the above described improvements, which contributions must be segregated by the City and not used for any purpose other than the provision of these improvements. The contribution amount shall be 110 percent of the estimated costs of concrete sidewalk and drainage improvements provided by a qualified contractor, plus associated engineering costs, as approved by the City Engineer. Any approved in lieu contribution shall be paid before the City issues a certificate of occupancy.</i>	N/A
<b>Finding:</b> The applicant has not request relief from the requirement to construct sidewalks nor has the City granted any such request.	

17.96.060.C.1 - Drainage	Conformance
<i>All stormwater shall be retained on site.</i>	YES
<b>Finding:</b> The project proposes a series of roof drains, drywells, and catch basins to manage onsite stormwater. Per Sheet C1.0 of the project plans, all stormwater is being retained on site.	

17.96.060.C.2 - Drainage	Conformance
<i>Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.</i>	YES Condition #3
<p><b>Finding:</b> As shown on Sheet C1.0, all stormwater is retained on-site. The project proposes to construct right-of-way improvements the length of the subject property, including curb and gutter, along N Washington Ave. The project also proposes drainage infrastructure in the alley behind the subject property for the full length of the subject property. Final design of drainage infrastructure will be reviewed and approved by the City Engineer prior to building permit issuance per condition #3.</p>	

17.96.060.C.3 - Drainage	Conformance
<i>The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.</i>	N/A
<p><b>Finding:</b> The City Engineer did not identify any additional drainage improvements during department review.</p>	

17.96.060.C.4 - Drainage	Conformance
<i>Drainage facilities shall be constructed per City standards.</i>	YES Condition #3
<p><b>Finding:</b> Based on review of the project plans by the City Engineer during department review, all drainage facilities meet city standards. Final design of drainage facilities will be reviewed and approved by the city engineer prior to issuance of a building permit per condition #3.</p>	

17.96.060.D.1 - Utilities	Conformance
<i>All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.</i>	YES
<p><b>Finding:</b> All project costs associated with the development, including installation of utilities, are the responsibility of the applicant. The applicant has not made requests for funding to the City, and no funds have been provided by the city for the project.</p>	

17.96.060.D.2 - Utilities	Conformance
<i>Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.</i>	YES
<p><b>Finding:</b> All new utilities are to be underground as noted on Sheet C1.0 of the project plans. Prior to purchase of the subject property by SV Ventures, the previous property owner worked with Idaho Power, Cox, Centurylink, the City of Ketchum, and the Ketchum Urban Renewal Authority to underground above-ground power and communication lines located in</p>	

the alley between N Washington Ave and Warm Springs and 7<sup>th</sup> and 8<sup>th</sup> Streets. Two encroachment agreements were executed, one between the City of Ketchum and Idaho Power and the second between the City of Ketchum and Cox/Centurylink. In conjunction with this work, easements for the location of communication equipment and transformers at the southeast corner of the property were negotiated and recorded. As of the date of these findings, the underground of all power lines by Idaho Power is complete. The remaining work to underground the communication lines will be complete late October/early November 2021. Per Sheets A3.1 and A3.2 of the project plans, the communication boxes and transformer will be screened from public view with perforated metal screen that matches the screening proposed for the parking area.

17.96.060.D.3 - Utilities	Conformance
<i>When extension of utilities is necessary all developers will be required to pay for and install two-inch SDR11 fiber optical conduit. The placement and construction of the fiber optical conduit shall be done in accordance with City of Ketchum standards and at the discretion of the City Engineer.</i>	N/A
<b>Finding:</b> The location of the subject property is already served by fiber optical and therefore no conduit is required in this location.	

17.96.060.E.1 – Compatibility of Design	Conformance
<i>The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.</i>	YES
<b>Finding:</b> Adjacent to the property is a two-story office building to the north and a vacant parking lot to the south. To the west, the block between 7th St and 8th St consists of one and two-story single-family residences. As shown on Sheets A0.6 and A3.1-3.2, the project proposes a variety of materials including vertical wood siding, block siding, corrugated metal, black metal trim for the windows and railings. The materials do not mimic that of the structure to the north, primarily wood trim for windows and railings and a stucco façade, the proposed materials are seen on buildings to the north and south within a one to two block radius.	

17.96.060.E.2 – Compatibility of Design	Conformance
<i>Preservation of significant landmarks shall be encouraged and protected, where applicable. A significant landmark is one which gives historical and/or cultural importance to the neighborhood and/or community.</i>	YES
<b>Finding:</b> The subject property contains an existing log cabin over 50 years old. The building is not on the City of Ketchum Historic Building/Site List, nor was the building identified as one to be considered for listing. The building has not otherwise been identified as one which gives historical or cultural importance to the neighborhood or community.	

17.96.060.E.3 – Compatibility of Design	Conformance
<i>Additions to existing buildings, built prior to 1940, shall be complementary in design and use similar material and finishes of the building being added to.</i>	N/A
<b>Finding:</b> The project does not propose an addition to the existing building, but a full demolition of the building. As mentioned above, the building is not listed on the Historic Building/Site List nor has it otherwise been identified as one which gives historical or cultural importance to the neighborhood or community.	

17.96.060.F.1 – Architectural	Conformance
<i>Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.</i>	YES
<b>Finding:</b> The project proposes a paver patio and walkway from the ground floor commercial unit to the new sidewalk along N Washington Ave. Entrance to the main building, with access to the upper floors, is to the right of the commercial unit and clearly defined with columns, pathway lighting, and signage.	

17.96.060.F.2 – Architectural	Conformance
<i>The building character shall be clearly defined by use of architectural features.</i>	YES
<b>Finding:</b> The building character is that of a mountain modern approach defined by architectural features such as horizontal blocking of cantilevered decks and roof forms, vertical integration of all stories through center window features, and dark materials.	

17.96.060.F.3 – Architectural	Conformance
<i>There shall be continuity of materials, colors and signing within the project.</i>	YES
<b>Finding:</b> The project uses a consistent set of materials including wood siding, block siding, corrugated metal and black metal for window trim, railings, and awnings. The full set of materials are utilized on each façade in different ways, connecting all facades with a continuous pattern and rhythm. The minimalist nature of the design will be carried through to the signage, which includes one address marker and a small sign for the commercial tenant in the front of the building.	

17.96.060.F.4 – Architectural	Conformance
<i>Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.</i>	YES

**Finding:** No accessory structures are proposed; however, the project contains a landscape planter in the front of the building facing N Washington St and a perforated metal screen in the rear of the building. The landscape planter will be constructed of finish concrete, which is lighter in the color with the façade materials, but blends well between the façade and the pavers used in the patio and walkway fronting N Washington St. The perforated metal screen is of a darker brown/brushed metal that compliments the tone of the vertical wood siding and the black metal railings and window trim.

17.96.060.F.5 – Architectural	Conformance
<i>Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.</i>	YES
<p><b>Finding:</b> The project provides adequate undulation on all four sides of the building, reducing the appearance of bulk and flatness. The front façade uses horizontal cantilevered decks with railings and a center vertical window accent to break up the height of the building. The south façade utilizes lighter colors, and almost half of the façade is stepped back from the property boundary to reduce the perceived size of the structure. These design efforts are helpful in reducing the appearance of the bulk and flatness of the structure as the adjacent property is vacant.</p>	

17.96.060.F.6 – Architectural	Conformance
<i>Building(s) shall orient toward their primary street frontage.</i>	YES
<p><b>Finding:</b> The main entrance to the ground floor commercial unit and the residential units above are both off N Washington Ave, the primary street frontage of the property.</p>	

17.96.060.F.7 – Architectural	Conformance
<i>Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.</i>	YES
<p><b>Finding:</b> As shown on Sheet A1.1 of the project plans, the garbage area is in the rear of the building, off the alley. The garbage area is along the southern property boundary and is screened by a perforated metal screen approximately five feet tall.</p>	

17.96.060.F.8 – Architectural	Conformance
<i>Building design shall include weather protection which prevents water to drip or snow to slide on areas where pedestrians gather and circulate or onto adjacent properties.</i>	YES
<p><b>Finding:</b> As shown on Sheet A2.7, the roof plan for the project includes flat roofs at an angle that causes water to drain toward a series of roof drains along the interior of the roof. Cantilevered decks integrate with roof drain systems for any water or snow accumulation.</p>	

Based on the design of drainage facilities and roof design, no water or snow will enter onto adjacent properties.

17.96.060.G.1 – Circulation Design	Conformance
<i>Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.</i>	YES
<b>Finding:</b> The project is fully connected with the existing sidewalk system leading to the regional bike path system at N 1 <sup>st</sup> Ave and 8 <sup>th</sup> Street, one block to the west. No additional easements or pathways have been identified necessitating connection from the project.	

17.96.060.G.2 – Circulation Design	Conformance
<i>Awnings extending over public sidewalks shall extend five feet or more across the public sidewalk but shall not extend within two feet of parking or travel lanes within the right-of-way.</i>	N/A
<b>Finding:</b> The project does not include any awnings that extend over the public sidewalk.	

17.96.060.G.3 – Circulation Design	Conformance
<i>Traffic shall flow safely within the project and onto adjacent streets. Traffic includes vehicle, bicycle, pedestrian and equestrian use. Consideration shall be given to adequate sight distances and proper signage.</i>	YES
<b>Finding:</b> Vehicle traffic accesses the site from the alley between N Washington Ave and Warms Springs Rd, from either 8 <sup>th</sup> Street or 7 <sup>th</sup> Street. Both access points to the alley are adequate to enter or exit the project safely. Bicycle and pedestrian circulation will primarily be in and out of the front of the project along N Washington Ave. The subject property does not currently have a sidewalk connection, which will be provided by the project.	

17.96.060.G.4 – Circulation Design	Conformance
<i>Curb cuts and driveway entrances shall be no closer than 20 feet to the nearest intersection of two or more streets, as measured along the property line adjacent to the right-of-way. Due to site conditions or current/projected traffic levels or speed, the City Engineer may increase the minimum distance requirements.</i>	N/A
<b>Finding:</b> The subject property is an interior lot and not adjacent to an intersection of two streets. There are no curb cuts or driveway entrances proposed on N Washington Ave.	



17.96.060.G.5 – Circulation Design	Conformance
<i>Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.</i>	YES
<b>Finding:</b> With the right-of-way improvements proposed for N Washington Ave and the alley, access for emergency vehicles, snowplows, and garbage trucks will be enhanced as access to the property will be achievable from the east and west side. The design of the parking area is such that parked vehicles will not overhang into the alley and there is direct access to the building from the alley in case of emergencies.	

17.96.060.H.1 – Snow Storage	Conformance
<i>Snow storage areas shall not be less than 30 percent of the improved parking and pedestrian circulation areas.</i>	N/A
<b>Finding:</b> The project proposes heated pavers for the patio and walkway areas of the project per Sheet L2 of the project plans, therefore, no on-site snow storage is required.	

17.96.060.H.2 – Snow Storage	Conformance
<i>Snow storage areas shall be provided on site.</i>	N/A
<b>Finding:</b> As discussed above, no on-site snow storage is required as snowmelt is proposed.	

17.96.060.H.3 – Snow Storage	Conformance
<i>A designated snow storage area shall not have any dimension less than five feet and shall be a minimum of 25 square feet.</i>	N/A
<b>Finding:</b> As discussed above, no on-site snow storage is required as snowmelt is proposed.	

17.96.060.H.4 – Snow Storage	Conformance
<i>In lieu of providing snow storage areas, snowmelt and hauling of snow may be allowed.</i>	YES
<b>Finding:</b> The project proposes snow melt for the heated paver and walkway in the front of the building adjacent to the sidewalk along N Washington Ave. No heated pavers are proposed for the parking area, however, the parking is fully covered, so snow management will be minimal. The applicant is responsible for the maintenance of the alley, including snow plowing, so the parking area will be maintained at the same time.	

17.96.060.I.1 – Landscaping	Conformance
<i>Landscaping is required for all projects.</i>	YES

**Finding:** Sheet L2 of the project plans is the landscape plan for the project.

17.96.060.1.2 – Landscaping	Conformance
<i>Landscape materials and vegetation types specified shall be readily adaptable to a site's microclimate, soil conditions, orientation and aspect, and shall serve to enhance and complement the neighborhood and townscape.</i>	YES
<b>Finding:</b> The landscape plan includes trees, deciduous shrubs, grasses, and ornamental flowers primarily on the west and south facing sides of the building. The landscape plan adds interest to the street by providing maples and aspens that will reflect a variety of colors through the seasons. These vegetation types are found in many properties in the northern portion of the CC-2 district and will complement that neighborhood well.	

17.96.060.1.3 – Landscaping	Conformance
<i>All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.</i>	YES
<b>Finding:</b> Trees proposed include maple and Swedish aspens, both found in the surrounding area. Ornamental grasses are also drought tolerant and common.	

17.96.060.1.4 – Landscaping	Conformance
<i>Landscaping shall provide a substantial buffer between land uses, including, but not limited to, structures, streets and parking lots. The development of landscaped public courtyards, including trees and shrubs where appropriate, shall be encouraged.</i>	YES
<b>Finding:</b> The project provides a strong landscape buffer between the proposed building and the vacant lot to the south. The south façade will be lined with deciduous shrubs and aspens which provide a landscape buffer between the vacant lot and the entrance to the residential units in the new building. To the north, less landscaping is proposed, however, various landscape elements exist that buffer the two buildings. Limited buffer is necessary as the building to the north has similar uses to the proposed building with ground floor commercial and residential units on the upper floor.	

17.96.060.J.1 – Public Amenities	Conformance
<i>Where sidewalks are required, pedestrian amenities shall be installed. Amenities may include, but are not limited to, benches and other seating, kiosks, bus shelters, trash receptacles, restrooms, fountains, art, etc. All public amenities shall receive approval from the Public Works Department prior to design review approval from the Commission.</i>	YES

**Finding:** Per direction of the Public Works Department, all public amenities proposed are to be located within the boundaries of the subject property. The project proposes a bike rack and a seat wall around the landscape feature.

17.96.060.K.1 – Underground Encroachments	Conformance
<i>Encroachments of below grade structures into required setbacks are subject to subsection 17.128.020.K of this title and shall not conflict with any applicable easements, existing underground structures, sensitive ecological areas, soil stability, drainage, other sections of this Code or other regulating codes such as adopted International Code Council Codes, or other site features concerning health, safety, and welfare.</i>	N/A
<b>Finding:</b> The project does not propose any below grade structures.	

17.96.060.K.2 – Underground Encroachments	Conformance
<i>No below grade structure shall be permitted to encroach into the riparian setback.</i>	N/A
<b>Finding:</b> The subject property is not adjacent to any bodies of water; therefore no riparian setback exists for the property. Additionally, the project does not propose any below grade structures.	

**FINDINGS REGARDING DESIGN REVIEW STANDARDS – COMMUNITY CORE**

17.96.070.A.1 – Streets	Conformance
<i>Street trees, streetlights, street furnishings, and all other street improvements shall be installed or constructed as determined by the Public Works Department.</i>	YES
<b>Finding:</b> Per direction from the Public Works Department, all trees and furnishings are required to be within the boundaries of the subject property. A streetlight is required and is proposed to illuminate the sidewalk along N Washington Ave.	

17.96.070.A.2 – Streets	Conformance
<i>Street trees with a minimum caliper size of three inches, shall be placed in tree grates.</i>	N/A
<b>Finding:</b> This standard only applies to street trees within the public right-of-way. No trees are proposed in the public right-of-way therefore this standard does not apply.	

17.96.070.A.3 – Streets	Conformance
<i>Due to site constraints, the requirements of this subsection A may be modified by the Public Works Department.</i>	N/A
<b>Finding:</b> No modifications to these requirements have been made. The Public Works Department has provided directions as to the location of improvements in the right-of-way.	

17.96.070.B.1 - Architectural	Conformance
<i>Facades facing a street or alley or located more than five feet from an interior side property line shall be designed with both solid surfaces and window openings to avoid the creation of blank walls and employ similar architectural elements, materials, and colors as the front facade.</i>	YES
<b>Finding:</b> As discussed above, the project proposes a variety of materials and successfully designed the facades of the building to undulate, reducing the appearance of bulk or flatness. Specifically, the south façade of the project includes the use of two materials, a step back of the façade, and numerous windows. The facades facing the street and alley include cantilevered decks, large windows, and various materials to avoid the creation of blank walls from all vantage points.	

17.96.070.B.2 - Architectural	Conformance
<i>For nonresidential portions of buildings, front building facades and facades fronting a pedestrian walkway shall be designed with ground floor storefront windows and doors with clear transparent glass. Landscaping planters shall be incorporated into facades fronting pedestrian walkways.</i>	YES
<b>Finding:</b> The project includes a ground floor commercial space with two entrances on each side of the center vertical window accent. As shown on Sheets A3.1-3.2, the commercial space has glass doors and framing windows for the full height of the door. Above, there are additional horizontal windows that provide an open view into the commercial space. The project proposes a landscape planter in front of the center window accent area at a height suitable for sitting.	

17.96.070.B.3 - Architectural	Conformance
<i>For nonresidential portions of buildings, front facades shall be designed to not obscure views into windows.</i>	YES
<b>Finding:</b> All windows and doors have full views into the commercial space. The planting proposed for the landscape planters are ornamental grasses and decorative flowers that are low lying and will not obscure views into the windows.	

17.96.070.B.4 - Architectural	Conformance
<i>Roofing forms and materials shall be compatible with the overall style and character of the structure. Reflective materials are prohibited.</i>	YES
<p><b>Finding:</b> The roof form and material is like that of the rest of the building. The roof form is flat, compatible with the horizontal cantilevered decks. The roof soffit will be the same wood siding as portions of the façade with a dark metal fascia. The metal trellis is like the railing proposed for the cantilevered decks and awning treatments on the front façade at each story. No reflective materials are proposed.</p>	

17.96.070.B.5 - Architectural	Conformance
<i>All pitched roofs shall be designed to sufficiently hold all snow with snow clips, gutters, and downspouts.</i>	N/A
<p><b>Finding:</b> The project does not include pitched roofs.</p>	

17.96.070.B.6 - Architectural	Conformance
<i>Roof overhangs shall not extend more than three feet over a public sidewalk. Roof overhangs that extend over the public sidewalk shall be approved by the Public Works Department.</i>	N/A
<p><b>Finding:</b> There are no roof overhangs that extend past the property boundary on any side of the proposed building.</p>	

17.96.070.B.7 - Architectural	Conformance
<i>Front porches and stoops shall not be enclosed on the ground floor by permanent or temporary walls, windows, window screens, or plastic or fabric materials.</i>	N/A
<p><b>Finding:</b> The project does not contain ground floor residential units or elevated commercial space with front porches or stoops.</p>	

17.96.070.C.1 – Service Areas and Mechanical/Electrical Equipment	Conformance
<i>Trash disposal areas and shipping and receiving areas shall be located within parking garages or to the rear of buildings. Trash disposal areas shall not be located within the public right-of-way and shall be screened from public views.</i>	YES
<p><b>Finding:</b> The trash disposal area for the project is located in the rear of the building, on the south side of the lot, adjacent to the parking area. The project includes a designated trash disposal area not within the public right-of-way, screened by a metal perforated screen.</p>	

17.96.070.C.2 – Service Areas and Mechanical/Electrical Equipment	Conformance
<i>Roof and ground mounted mechanical and electrical equipment shall be fully screened from public view. Screening shall be compatible with the overall building design.</i>	YES
<b>Finding:</b> As shown on Sheet A3.1-3.2 of the project plans, there will be rooftop mechanical equipment screened by a 3-foot-high perforated metal screen like what is screening the ground mounted power and communications equipment in the alley. The screening material is compatible with the other building materials as it is a dark brushed metal material.	

17.96.070.D.1 - Landscaping	Conformance
<i>When a healthy and mature tree is removed from a site, it shall be replaced with a new tree. Replacement trees may occur on or off site.</i>	YES
<b>Finding:</b> Sheet L1 of the project plans indicate the removal of three trees from the property. Based on a site visit with the City Arborist, two of the three trees were deemed healthy and mature. The project proposes to replace those trees with two Autumn Blaze Maple trees on-site.	

17.96.070.D.2 - Landscaping	Conformance
<i>Trees that are placed within a courtyard, plaza, or pedestrian walkway shall be placed within tree wells that are covered by tree grates.</i>	YES
<b>Finding:</b> Trees proposed in the landscape plan are not within pedestrian path areas, but on the outer bounds of the plaza and walkway areas adjacent to N Washington Ave, therefore tree grates are not required. The project proposes organic cover of bark or mulch.	

17.96.070.D.3 - Landscaping	Conformance
<i>The City arborist shall approve all parking lot and replacement trees.</i>	YES
<b>Finding:</b> A site visit with the City Arborist was conducted on June 24, 2021 to verify existing tree health and approve plans for replacement.	

17.96.070.E.1 – Surface Parking Lots	Conformance
<i>Surface parking lots shall be accessed from off the alley and shall be fully screened from the street.</i>	YES
<b>Finding:</b> The surface parking area is accessed directly from the alley. Perforated metal screening is provided on the north and south side of the parking area to screen from adjacent properties. The surface parking area is not visible from N Washington Ave or 8 <sup>th</sup> Street.	

17.96.070.E.2 – Surface Parking Lots	Conformance
<i>Surface parking lots shall incorporate at least one tree and one additional tree per ten on site parking spaces. Trees shall be planted in landscaped planters, tree wells and/or diamond shaped planter boxes located between parking rows. Planter boxes shall be designed so as not to impair vision or site distance of the traveling public.</i>	N/A
<b>Finding:</b> The surface parking area is located under the second-floor overhang of the structure and is not an open-air surface parking lot. These standards are more applicable to parking lots that contain 10 or more parking spaces in an open-air manner, therefore these standards do not apply to this project.	

17.96.070.E.3 – Surface Parking Lots	Conformance
<i>Ground cover, low lying shrubs, and trees shall be planted within the planters and planter boxes. Tree grates or landscaping may be used in tree wells located within pedestrian walkways.</i>	N/A
<b>Finding:</b> As the parking for the project is not within an open are surface parking area, these standards do not apply.	

17.96.070.F.1 – Bicycle Parking	Conformance
<i>One bicycle rack, able to accommodate at least two bicycles, shall be provided for every four parking spaces as required by the proposed use. At a minimum, one bicycle rack shall be required per development.</i>	YES Condition #2
<b>Finding:</b> The total number of required parking spaces is six. Requiring 1.5 bike racks, therefore two racks are required. The project shall provide the required bicycle parking per condition of approval #2.	

17.96.070.F.2 – Bicycle Parking	Conformance
<i>When the calculation of the required number of bicycle racks called for in this section results in a fractional number, a fraction equal to or greater than one-half shall be adjusted to the next highest whole number.</i>	YES Condition #2
<b>Finding:</b> The total number of required parking spaces is six. Requiring 1.5 bike racks, therefore two racks are required. The project shall provide the required bicycle parking per condition of approval #2.	

17.96.070.F.3 – Bicycle Parking	Conformance
<i>Bicycle racks shall be clearly visible from the building entrance they serve and not mounted less than 50 feet from said entrance or as close as the nearest non-ADA parking space, whichever is closest. Bicycle racks shall be</i>	YES Condition #2

<i>located to achieve unobstructed access from the public right-of-way and not in areas requiring access via stairways or other major obstacles.</i>	
<b>Finding:</b> The project proposes one bicycle rack within 20 feet of the entrance to the ground floor commercial unit. Per condition #2, the project shall place one additional bicycle rack within 50 feet of the entrance to the residential units on the property.	

**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 Municipal 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 Design Review application for the development and use of the project site.
  
2. The Planning and Zoning Commission has authority to hear the applicant’s Design Review Application pursuant to Chapter 17.96 of Ketchum Municipal Code Title 17.
  
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §17.96.080.
  
4. The Design Review application is governed under Ketchum Municipal Code Chapters 17.96, 17.124, 17.08, 17.12, 17.18, and 17.128.
  
5. The 760 N Washington Mixed-Use Design Review application meets all applicable standards specified in Title 17 of Ketchum Municipal Code.

**DECISION**

**THEREFORE**, the Commission **approves** this Design Review Application File No. P21-077 this Tuesday, October 26, 2021, subject to the following conditions of approval.

**CONDITIONS OF APPROVAL**

1. In exchange for an increase in FAR, a voluntary community housing contribution of 989 square feet is required. A Floor Area Ratio Exceedance Agreement between the applicant and the City to memorialize the community housing contribution shall be signed prior to issuance of a Building Permit for the project. Payment-in-lieu contributions for community housing are required prior to issuance of a building permit for the project.
  
2. The project plans shall be revised, prior to building permit application, to reflect either one bicycle rack that accommodates four bicycles, or two racks that accommodate two bicycles



each. The bicycle rack(s) shall be located no further than 50 feet from the entrance to the commercial unit or the main front entrance to the residential units.

3. Final civil drawings prepared by an engineer registered in the State of Idaho which include specifications for right-of-way, utilities, and drainage improvements shall be submitted for review and approval by the City Engineer, Streets, and Utilities departments prior to issuance of a building permit for the project.
4. Until such date when the full length of the alley located between N Washington Ave and Warm Springs Road from 7<sup>th</sup> Street to 8<sup>th</sup> Street is improved to meet the minimum improvements requirements of the City of Ketchum, the applicant, successors, and assigns shall be responsible for the maintenance and upkeep of the alley adjacent to the subject property, 760 N Washington Ave.
5. The term of Design Review approval shall be twelve (12) months from the date that the Findings of Fact, Conclusions of Law, and Decision are adopted by the Commission or upon appeal, the date the approval is granted by the Council subject to changes in zoning regulations.
6. In addition to the requirements set forth in this Design Review approval, this project shall comply with all applicable local, state, and federal laws.

Findings of Fact **adopted** this 26<sup>th</sup> day of October 2021.

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Neil Morrow, Chair

City of Ketchum

Planning and Zoning Commission

**Attachment E:**  
**Draft Findings of Fact,**  
**Conclusions of Law, and**  
**Decision – Prelim Plat**



**City of Ketchum  
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IN RE:	)	
	)	
760 N Washington Ave Mixed Use	)	KETCHUM PLANNING AND ZONING COMMISSION
Condominium Subdivision – Preliminary Plat	)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: October 26, 2021	)	DECISION
	)	
File Number: 21-044	)	

**PROJECT:** 760 N Washington Ave Mixed Use

**APPLICATION TYPE:** Condominium Subdivision – Preliminary Plat

**FILE NUMBER:** P21-044

**ASSOCIATED APPLICATIONS:** Design Review (P21-077)

**REPRESENTATIVE:** Sam Stahlnecker, Galena Engineering (engineer)

**OWNER:** SV Ventures, LLC

**LOCATION:** 760 N Washington Ave – Lot 6, Block 13, Ketchum Townsite

**ZONING:** Community Core – Subdistrict 2 – Mixed Use (CC-2)

**OVERLAY:** None

**RECORD OF PROCEEDINGS**

The City of Ketchum received the application for Preapplication Design Review of the project on September 23, 2021. The application was deemed complete on September 29, 2021, after one review for completeness. Following receipt of the complete application, staff routed the application materials to all city departments for review. Department comments were provided to the applicant on October 8, 2021.

A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on October 6, 2021. The public hearing notice was published in the Idaho Mountain Express and on the city’s website the on October 6, 2021. A notice was posted on the project site on October 19, 2021.

The Planning and Zoning Commission (the “Commission”) considered the 760 N Washington Mixed-Use Design Review (Application No. P21-077) and the Condominium Subdivision Preliminary Plat (Application No. P21-044) applications during a special meeting on October 26, 2021. The development applications were considered concurrently, and the associated public hearings were combined in accordance with Idaho Code §67-6522.



**City of Ketchum  
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After considering Staff’s analysis, the applicant’s presentation, and public comment, the Commission unanimously approved the 760 N Washington Mixed-Use Design Review and unanimously recommended approval of the Condominium Subdivision Preliminary Plat application to the City Council.

**BACKGROUND**

The Applicant is proposing an 11,319 square foot three-story mixed-use development (the “project”), located at 760 N Washington Avenue (the “subject property”). The subject property is a mid-block interior lot zoned Community Core -Subdistrict 2 - Mixed Use (CC-2) with a one-story cabin on site. The existing building was built in 1940. The building is not on the Historic Buildings/Site List being reviewed by the Historic Preservation Commission and has not otherwise been identified as one which gives historical or cultural importance to the neighborhood or community.

Adjacent to the property is a two-story office building to the north and a vacant parking lot to the south. To the west, the block between 7th St and 8th St consists of one and two-story single-family residences. As proposed, the project proposes to demolish the existing structure and build a three-story mixed-use building with ground floor commercial, two residential dwelling units on the second floor, and one residential dwelling unit on the third floor. Two of the dwelling units are less than 2,000 square feet, the remaining unit is more than 2,000 square feet. A total of seven parking spaces are required for the project, six standard parking spaces and one ADA parking space. The project proposes a total of six off-street parking spaces. The project will construct improvements to the right-of-way per the City of Ketchum improvement standards including, asphalt, curb and gutter, and sidewalks. All improvements to the right-of-way will be reviewed and approved by the City Engineer and Streets Department prior to issuance of a building permit.

**FINDINGS OF FACT**

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

**FINDINGS REGARDING COMPLIANCE WITH PRELIMINARY PLAT SUBDIVISION REQUIREMENTS**

Preliminary Plat Requirements				
Compliant			City Code	City Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C.1	The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this chapter.
			<i>Findings</i>	The City of Ketchum Planning and Building Department received the subdivision application and all applicable application materials on April 27, 2021.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Contents Of Preliminary Plat: The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application.



City of Ketchum  
Planning & Building

			<i>Findings</i>	The subdivision application was deemed complete on September 29, 2021.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .1	<b>The preliminary plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100') and shall show the following:</b>  <b>The scale, north point and date.</b>
			<i>Findings</i>	This standard is met as shown on Sheet 1 of the preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .2	<b>The name of the proposed subdivision, which shall not be the same or confused with the name of any other subdivision in Blaine County, Idaho.</b>
			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat, the subdivision is named "The Lofts at 760 Washington Avenue" which is not the same as any other subdivision in Blaine County, Idaho.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .3	<b>The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat.</b>
			<i>Findings</i>	As shown on Sheets 1 and 2, the owner and subdivider is SV Ventures, LLC. The plat was prepared by Mark E. Phillips of Galena Engineering.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .4	<b>Legal description of the area platted.</b>
			<i>Findings</i>	The legal description of the area platted is shown in the Certificate of Ownership on Sheet 3 of the preliminary plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .5	<b>The names and the intersecting boundary lines of adjoining subdivisions and parcels of property.</b>
			<i>Findings</i>	Sheet 1 of the preliminary plat indicates the boundary lines of the adjoining Ketchum Townsite lots to the east, north, and south.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .6	<b>A contour map of the subdivision with contour lines and a maximum interval of five feet (5') to show the configuration of the land based upon the United States geodetic survey data, or other data approved by the city engineer.</b>
			<i>Findings</i>	Sheet 1 of the preliminary plat shows the contour lines for the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .7	<b>The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways and easements, public and private.</b>
			<i>Findings</i>	The topographic survey included in the project plans shows the location of the existing building on the subject property, the building on the property to the north, and all adjacent streets and easements.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .8	<b>Boundary description and the area of the tract.</b>
			<i>Findings</i>	Sheet 1 provides the boundary description of the area and includes square footage and acreage of the lot. Sheet 2 indicates the area of each residential unit as will be platted for sale.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .9	<b>Existing zoning of the tract.</b>
			<i>Findings</i>	Plat note #9 on Sheet 1 of the preliminary plat lists the existing zoning of the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .10	<b>The proposed location of street rights of way, lots, and lot lines, easements, including all approximate dimensions, and including all proposed lot and block numbering and proposed street names.</b>



City of Ketchum  
Planning & Building

			<i>Findings</i>	Sheets 1 and 2 of the preliminary plat shows the locations and lot lines for the master lot and lot lines of condominium units. No new streets or blocks are being proposed with this application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .11	<b>The location, approximate size and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision.</b>
			<i>Findings</i>	This standard is not applicable as there is no requirement or proposal for land dedicated for public or common use.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .12	<b>The location, size and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers, water mains, and storage facilities, street improvements, street lighting, curbs, and gutters and all proposed utilities.</b>
			<i>Findings</i>	Sheet 1 of the preliminary plat shows all existing and proposed water mains, sanitary sewer mains.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .13	<b>The direction of drainage, flow and approximate grade of all streets.</b>
			<i>Findings</i>	This standard does not apply as no new streets are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .14	<b>The location of all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements, whether they are located within or outside of the proposed plat.</b>
			<i>Findings</i>	This standard does not apply as no new drainage canals or structures are proposed.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .15	<b>All percolation tests and/or exploratory pit excavations required by state health authorities.</b>
			<i>Findings</i>	This standard does not apply as no addition tests are required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .16	<b>A copy of the provisions of the articles of incorporation and bylaws of homeowners' association and/or condominium declarations to be filed with the final plat of the subdivision.</b>
			<i>Findings</i>	The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .17	<b>Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterials and collector streets.</b>
			<i>Findings</i>	The cover sheet to the project plans includes a vicinity map that satisfies this requirement.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .18	<b>The boundaries of the floodplain, floodway and avalanche zoning district shall also be clearly delineated and marked on the preliminary plat.</b>
			<i>Findings</i>	The subject property is not within a floodplain, floodway, or avalanche zone district.



City of Ketchum  
Planning & Building

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.I .19	Building envelopes shall be shown on each lot, all or part of which is within a floodway, floodplain, or avalanche zone; or any lot that is adjacent to the Big Wood River, Trail Creek, or Warm Springs Creek; or any lot, a portion of which has a slope of twenty five percent (25%) or greater; or upon any lot which will be created adjacent to the intersection of two (2) or more streets.
			<i>Findings</i>	A building envelope is not required as the subject property is not within the floodway, floodplain, or avalanche zone. The subject property is not adjacent to the Big Wood River, Trail Creek or Warm Springs. The subject property does not contain slopes greater than 25% and is not adjacent to an intersection.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .20	Lot area of each lot.
			<i>Findings</i>	Sheets 1 and 2 of the preliminary plat shows the area of the overall lot and area of each individual unit.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .21	Existing mature trees and established shrub masses.
			<i>Findings</i>	Sheet L1 and the topographic survey of the project plans outlines the existing vegetation on the subject property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .22	A current title report shall be provided at the time that the preliminary plat is filed with the administrator, together with a copy of the owner's recorded deed to such property.
			<i>Findings</i>	The applicant provided a title commitment issued by Sun Valley Title dated December 2, 2020, and a warranty deed recorded at Instrument Number 680742 with the initial application.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I .23	Three (3) copies of the preliminary plat shall be filed with the administrator.
			<i>Findings</i>	The City of Ketchum received hard and digital copies of the preliminary plat at the time of application.
<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. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, watercourses, rock outcroppings, established shrub masses and historic areas, shall be preserved through design of the subdivision.
			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat, all proposed improvements to the public right-of-way are shown. The applicant also submitted a set of preliminary construction design plans for review by the City Engineer. Final review and approval of the right-of-way improvements will be conducted during building permit review. The subject property does not include any watercourses, rock outcroppings, shrub masses or historic areas.



City of Ketchum  
Planning & Building

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.C	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 conditions or other factors beyond the control of the subdivider, 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 one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.D	As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.
			<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
			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:





City of Ketchum  
Planning & Building

			<ol style="list-style-type: none"> <li>1. All angle points in the exterior boundary of the plat.</li> <li>2. All street intersections, points within and adjacent to the final plat.</li> <li>3. All street corner lines ending at boundary line of final plat.</li> <li>4. All angle points and points of curves on all streets.</li> <li>5. The point of beginning of the subdivision plat description.</li> </ol>
		<i>Findings</i>	This standard does not apply as this is a preliminary plat application, not a final plat application.
		16.04.040.F	<p><b>Lot Requirements:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>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. 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:             <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol> </li> <li>3. Corner lots 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.</li> <li>4. Side lot lines shall be within twenty degrees (20°) to a right angle or radial line to the street line.</li> <li>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.</li> </ol>



City of Ketchum  
Planning & Building

				<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.</p>
			<i>Findings</i>	This standard is not applicable as no new lots are being created.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.G	<p><b>G. Block Requirements:</b> The length, width and shape of blocks within a proposed subdivision shall conform to the following requirements:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. Blocks shall be laid out in such a manner as to comply with the lot requirements.</li> <li>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.</li> <li>4. Corner lots shall contain a building envelope outside of a seventy five foot (75') radius from the intersection of the streets.</li> </ol>
			<i>Findings</i>	This standard is not applicable as no new lots are being created.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.H	<p><b>Street Improvement Requirements:</b></p> <ol style="list-style-type: none"> <li>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;</li> <li>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;</li> <li>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;</li> <li>4. Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;</li> <li>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;</li> <li>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;</li> </ol>



City of Ketchum  
Planning & Building

				<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 commission 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 may be required by the commission or council where appropriate and 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;</p>
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City of Ketchum  
Planning & Building

				<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 may be a required improvement installed by the subdivider; and</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.</p>
			<i>Findings</i>	No new streets are proposed, however, the project is required to bring the current streets of N Washington Ave into conformance with city street standards for the length of the subject property. Prior to certificate of occupancy, the project will extend asphalt, formalize parking, and install curb, gutter, and sidewalks.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.I	<p><b>Alley Improvement Requirements:</b> Alleys shall be provided in business, 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 prohibited. Improvement of alleys shall be done by the subdivider as required improvement and in conformance with design standards specified in subsection H2 of this section.</p>
			<i>Findings</i>	The alley between N Washington Ave and Warm Springs Rd from 7 <sup>th</sup> Street to 8 <sup>th</sup> Street is not fully paved and not maintained by the City of Ketchum. The applicant proposes to pave the full width of the alley, for the length of the subject property. The applicant will be required to maintain the alley adjacent to the subject property until such time as the full length of the alley is improved to City standards.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.J	<p><b>Required Easements:</b> 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</p>



City of Ketchum  
Planning & Building

				<p>such watercourse and provide access for private maintenance and/or reconstruction of such watercourse.</p> <p>3. All subdivisions which border the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a ten foot (10') fish and nature study easement along the riverbank. Furthermore, the council shall require, in appropriate areas, an easement providing access through the subdivision to the bank as a sportsman's access. These easement requirements are minimum standards, and in appropriate cases where a subdivision abuts a portion of the river adjacent to an existing pedestrian easement, the council may require an extension of that easement along the portion of the riverbank which runs through the proposed subdivision.</p> <p>4. All subdivisions which border on the Big Wood River, Trail Creek and Warm Springs Creek shall dedicate a twenty five foot (25') scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the riverbank and to protect structures from damage or loss due to riverbank erosion.</p> <p>5. No ditch, pipe or structure for irrigation water or irrigation wastewater shall be constructed, rerouted or changed in the course of planning for or constructing required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights. A written copy of such approval shall be filed as part of required improvement construction plans.</p> <p>6. Nonvehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider to provide an adequate nonvehicular transportation system throughout the city.</p>
			<i>Findings</i>	No new easements are required. As shown on Sheet 1 of the preliminary plat, there are two easements in the southeast corner of the property. One for Idaho Power for power equipment and one for Cox Communications for communications equipment.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.K	<p><b>Sanitary Sewage Disposal Improvements:</b> 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</p>



City of Ketchum  
Planning & Building

				requirements which it deems necessary to protect public health, safety and welfare.
			<i>Findings</i>	This standard does not apply as this application does not create a new subdivision and no new sanitary sewer mains are required.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.L	<b>Water System Improvements:</b> A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the city under the supervision of the Ketchum fire department and other regulatory agencies having jurisdiction. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions, and no dead end systems shall be permitted. All water systems shall be connected to the municipal water system and shall meet the standards of the following agencies: Idaho department of public health, Idaho survey and rating bureau, district sanitarian, Idaho state public utilities commission, Idaho department of reclamation, and all requirements of the city.
			<i>Findings</i>	This standard does not apply as this application does not create a new subdivision and no new water mains are required.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.M	<b>Planting Strip Improvements:</b> 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.
			<i>Findings</i>	This standard does not apply as this application does not create a new subdivision. There are no incompatible uses adjacent to the proposed condominium subdivision.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.N	<b>Cuts, Fills, And Grading Improvements:</b> 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: 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: 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.



City of Ketchum  
Planning & Building

				<p>e. Location of all street and utility improvements including driveways to building envelopes.</p> <p>f. Any other information which may reasonably be required by the administrator, commission or council to adequately review the affect of the proposed improvements.</p> <p>3. Grading shall be designed to blend with natural landforms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.</p> <p>4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.</p> <p>5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as such revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.</p> <p>6. Where cuts, fills, or other excavations are necessary, the following development standards shall apply:</p> <ul style="list-style-type: none"> <li>a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.</li> <li>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).</li> <li>c. Cut slopes shall be no steeper than two horizontal to one vertical (2:1). Subsurface drainage shall be provided as necessary for stability.</li> <li>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.</li> <li>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.</li> </ul>
			<p><i>Findings</i></p>	<p>This standard does not apply as this application is a condominium subdivision of an existing lot. On-site grading for the new condominium building meets all grading requirements. Final grading plan will be reviewed and approved by the City Engineer prior to issuance of a building permit.</p>



City of Ketchum  
Planning & Building

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.O	<p><b>Drainage Improvements:</b> The subdivider shall submit with the preliminary plat application such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the city on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways or improved public easements and shall extend across and under the entire improved width including shoulders.</p>
			<i>Findings</i>	The applicant submitted a site grading and drainage plan with the condominium subdivision application showing drainage for the subject property. No common drainage courses are utilized or disturbed. The grading and drainage plan meets all requirements, not impacting adjacent properties.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.P	<p><b>Utilities:</b> In addition to the terms mentioned in this section, all utilities including, but not limited to, electricity, natural gas, telephone and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.</p>
			<i>Findings</i>	As shown on Sheet 1 of the preliminary plat and Sheets C1.0 and C1.2 of the project plans, all utilities will be installed underground.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.040.Q	<p><b>Off Site Improvements:</b> Where the offsite impact of a proposed subdivision is found by the commission or council to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities.</p>
			<i>Findings</i>	The proposed condominium development does not create substantial additional traffic; therefore, no off-site improvements are required.

FINDINGS REGARDING COMPLIANCE WITH CONDOMINIUM SUBDIVISION REQUIREMENTS

Condominium Plat Requirements				
Compliant			City Code	Standards
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.070.B	The subdivider of the condominium project shall submit with the preliminary plat application a copy of the proposed bylaws and condominium declarations of the proposed condominium development. Said documents shall adequately





**City of Ketchum  
Planning & Building**

				<b>provide for the control and maintenance of all common areas, recreational facilities and open space.</b>
			<i>Findings</i>	The applicant provided a draft copy of the articles of incorporation, bylaws, and declarations with the application submittal.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.D</b>	<b>All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. No garage may be condominiumized or sold separate from a condominium unit.</b>
			<i>Findings</i>	As shown on Sheet 2 of the preliminary plat, the garage units are designated as limited common elements and specifically referenced to a unit number.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.E</b>	<b>Adequate storage areas shall be provided for boats, campers and trailers, as well as adequate interior storage space for personal property of the resident of each condominium unit.</b>
			<i>Findings</i>	As shown on Sheet 2 of the preliminary plat, the unit sizes facilitate the storage of personal property within the units. Additional common area storage is provided on the first floor.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.F</b>	<b>A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.</b>
			<i>Findings</i>	The first floor includes two common storage areas for the purpose of general storage and storage of equipment and supplies required for the maintenance of the property.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.G</b>	<b>The subdivider shall dedicate to the common use of the homeowners adequate open space of such shape and area usable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access.</b>
			<i>Findings</i>	Each condominium unit is provided more than one private balconies adjacent to the unit.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>16.04.070.H</b>	<b>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 condominium subdivisions.</b>
			<i>Findings</i>	The project has been reviewed for compliance with all other section of the subdivision standards. The project is in compliance as discussed above.

**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 Municipal 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 Preliminary Plat application for the development and use of the project site.
2. The Commission has authority to review and approve the applicant’s Condominium Subdivision Preliminary Plat Application pursuant to Chapter 16.04 of Ketchum Code Title 16.



**City of Ketchum  
Planning & Building**

3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The Condominium Subdivision Preliminary Plat application is governed under Chapter 16.04 of Ketchum Municipal Code.
5. The 760 N Washington Ave Mixed-Use Condominium Subdivision Preliminary Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

**DECISION**

**THEREFORE**, the Commission **approves** this Condominium Preliminary Plat Application File No. P21-044 this Tuesday, October 26, 2021, subject to the following conditions of approval.

**CONDITIONS OF APPROVAL**

1. The preliminary plat is subject to all conditions of approval associated with Design Review approval 21-077.
2. Failure to record a Final Plat within two (2) years of Council's approval of a Preliminary Plat shall cause the Preliminary Plat to be null and void.

Findings of Fact **adopted** this 26th day of October 2021.

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Neil Morrow, Chair  
City of Ketchum  
Planning and Zoning Commission