



## MEMORANDUM

TO: Planning and Zoning Commission  
FROM: Morgan Landers, AICP – Director of Planning and Building  
DATE: April 10, 2025  
RE: Administrative Appeal Process

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This is a procedural step for the City to process an administrative appeal filed with respect to a determination of the Planning Director.

Under Ketchum Municipal Code §16.07.020.H, the Commission is the appeal authority for administrative determinations made by the Planning Director.

This is an administrative appeal hearing where the Commission will sit in a quasi-judicial role. There will be arguments by the parties, but there is no public hearing and public comments will not be taken. Commission will have full discretion to ask questions of the parties, staff, and/or city attorney as needed.

The process for the hearing is as follows:

- Chair opens the agenda item
- Appellant provides their statement
- The Planning Director provides a statement addressing the appellant's argument
- The Appellant then provides a rebuttal to the Planning Director's statement
- Following all statements, the Commission then enters deliberations and decision

The Commission has the following decision options:

- Continue the hearing and request additional information
- Affirm the Planning Director's Decision
- Overturn the Planning Director's Decision
- Remand the decision back to the Planning Director for reconsideration of specific items

### **Attachments:**

- A. Application for Appeal (including appeal statement)
- B. Planning Director Reply Brief
- C. Appellant Rebuttal Brief



City of Ketchum

# **ATTACHMENT A: Application for Appeal**



**City of Ketchum  
Planning & Building**

OFFICIAL USE ONLY
File Number:
Date Received:
By:
Fee Paid:
Approved Date:
Denied Date:
By:

**Notice of Appeal**

Submit completed application and documentation to [planningandbuilding@ketchumidaho.org](mailto:planningandbuilding@ketchumidaho.org) Or hand deliver to Ketchum City Hall, 191 5<sup>th</sup> St. W. Ketchum, ID 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. You will be contacted and invoiced once your application package is complete.

**Note:** The Appellant shall submit an amount to cover the cost of giving notice, as applicable in the Fee Schedule, and provide a transcript within two (2) days after the Planning and Building Department provides the Appellant with an estimate for the expense of the same. In the event the fee is not paid as required, the appeal shall not be considered filed.

OFFICIAL USE ONLY	
Date Appeal Received:	Date Notice Published:
Appeal Fee:	Transcript Fee:
Date Paid:	Date Paid:
Date Appellant Notified of Estimated Transcript Costs and Notice:	Mailing Fee:
Date of Appeal Hearing:	Date Paid:
Action(s) Taken/Findings:	
APPELLANT	
Name of Appellant: Michael Taylor	Phone Number: (509) 421-8538
Address: 1695 Easy St., Wenatchee WA 98801-9000	Fax Number or Email: <a href="mailto:mike.taylor@stemilt.com">mike.taylor@stemilt.com</a>
REPRESENTATIVE	
Name of Representative: Craig Maxwell	Phone Number: (208)-721-2171
Address: PO BOX 1911, Sun Valley ID 83353	Fax Number or Email: <a href="mailto:craig@maxwellsds.com">craig@maxwellsds.com</a>
APPLICATION	
Application Being Appealed: Planning Administrator Determination: Prospector Condominiums Building 4 Existing Deck	
<p>Explain How You Are an Affected Party:</p> <p>This deck was an important part of the property for our family. The prior determination regarding the deck has created a substantial financial hardship and emotional strain for our family during an already difficult recovery period following the fire, further compounding the impacts of circumstances beyond our control. It has been a space where our family has enjoyed time together for years and was a key reason we purchased the property in 1992.</p> <p>- Taylor family</p>	

Due to no fault of their own, a fire in an adjacent unit severely compromised the structural integrity of the building, destroying the roof diaphragm, floor diaphragm, and wall sheathing. With a severely compromised vertical and lateral force resisting system from the fire, the building was condemned by the City, and demolished. The deck itself was not structurally independent from the building, as it utilized the east wall of the building for both vertical and lateral support, and was consequently demolished with the rest of the structure. During an October 16, 2025 administrative consultation, City staff directed our office (Maxwell Structural Design Studio) to remove the deck from the restoration application.

- Craig Maxwell

Date of Decision or Date Findings of Fact Were Adopted: Administrative Determination date January 13, 2026

**SUBMITTAL INFORMATION**

This Appeal is Based on The Following Factors (set forth all basis for appeal including the particulars regarding any claimed error or abuse of discretion):

- 1) The demolition of the deck was not voluntary. The demolition of the deck was directly related to the fire, which severely compromised both the vertical and the lateral force resisting system of the structure supporting the deck.  
Additionally, City Staff in a meeting on October 16, 2025, instructed the contracted design professionals, Craig Maxwell and River Vorse that the deck would have to be demolished in order for the city to issue a restoration permit for the building.
- 2) There is no clear reason that the portion of the building that encroaches on the riparian setback would be interpreted any differently than the deck under KMC16.01.050.B.3.a as indicated in the administrator’s determination. Neither the deck, nor that portion of the building were directly damaged by the fire. However, both were impacted by the fire. It was fire damage to the vertical and lateral force resisting system outside of the riparian setback that rendered the entire structure unstable, and which triggered code required design modifications due to the structure’s location in the floodplain.
- 3) We believe the complete restoration of the entire extent of the deck that falls outside of the regulatory floodway should be allowed per KMC §16.01.050.B.3.a. It is clear to us that the original intent of this ordinance was to allow for such circumstances in which a calamity outside of the property owner’s control forces structural repairs or restoration on a nonconforming structure. The small portion of the deck that encroaches within the regulatory floodway will not be restored, in compliance with federal flood code and KMC §16.01.050.B.3.a

If you have attached additional pages, please indicate the number of pages attached 8

Signature of Appellant or Representative



Date

~~01/13/2026~~  
01/28/2026

01/28/2026



## CITY OF KETCHUM

### City Hall

office: 208.726.3841

participate@ketchumidaho.org

P.O. Box 2315, 191 5th Street West, Ketchum, ID 83340

ketchumidaho.org

11/17/2025

### PROSPECTOR CONDOMINIUMS

315 Skiway Drive,  
Building 4  
Ketchum, ID 83340

Roy "Bud" Duncan, BSEE  
President, Prospector HOA  
Cell 206-499-2578

Mr. Duncan,

A site walk was performed on October 20, 2025, to inspect the structure in a manner to determine a path to repair or rebuild the structure due to significant structural damage caused by a structure fire event. The building structure has been severely weakened and with the imminent winter weather conditions bringing rain and snow loads, it has been determined that the building is deemed unsafe for entry. The building is uninhabitable due to structural issues according to the 2018 IPMC as described below.

As a result of the findings, it is agreed that the structure is considered an imminent threat to life safety and health and is not occupiable. This structure shall be immediately secured against entry within 30 days of the date on this letter. Any abatement, rehabilitation, restoration or demolition must be permitted under the provisions of the Ketchum Municipal Code (KMC). Any violations to the provisions of the KMC will be enforced through the provisions of the KMC, state or federal law.

## **2018 International Property Maintenance Code**

### **108.1.1 Unsafe structures.**

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. Note: *Only structures with major defects or life-threatening conditions are*

*considered unsafe. Minor defects, such as an inadequate number of electrical outlets or damaged plaster, do not necessarily create an unsafe structure, even though they are violations of the code.*

**108.1.5 Dangerous structure or premises.**

For the purpose of this code, any structure or premises that has any or all of the conditions or defects described as follows shall be considered to be dangerous:

5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

**108.6 Abatement methods.**

The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

**108.7 Record.**

The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

This letter serves as the report to be filed and will also be posted on site.

Respectfully submitted,



Alan Chambers  
Certified Building Official  
City of Ketchum/SAFEbuilt LLC



**CITY OF KETCHUM | PLANNING & BUILDING**

**Morgan Landers, AICP** | Director  
direct: 208.727.5085 | office: 208.726.7801  
mlanders@ketchumidaho.org

P.O. Box 2315, 191 5th Street West, Ketchum, ID 83340  
[ketchumidaho.org](http://ketchumidaho.org)

River Vorse, E.I.T.  
Maxwell Structural Design Studio  
PO Box 1911  
Sun Valley, ID 83353  
*[via email]*

January 13, 2025

Planning Administrator Determination: Prospector Condominiums Building 4 Existing Deck

Dear Mr. Vorse,

This letter serves as an Administrative Determination to your question about whether the existing deck attached to the rear of Prospector Condominiums Building 4 that encroaches in the riparian area and floodway may be maintained. Please see the information below and let me know if you have any questions.

**Request for Determination:** The City received a request for a determination as to whether the existing deck attached to the rear of the Prospector Condominiums Building 4 may be replaced in the pre-existing footprint. Building 4 was destroyed by fire damage and the existing building has since been demolished after a 11/17/25 condemnation was determined. Building 4 is proposed to be replaced and a building and floodplain development permit have been submitted for review on 12/4/2025. The existing building is nonconforming as the rear corner encroaches within the riparian setback area. The entirety of the rear deck is located within the riparian setback and a portion encroaches into the floodway of Warm Springs Creek.

**Applicable Code Provisions:** Pursuant to Ketchum Municipal Code (KMC) §16.07.050.D.3.a.3, no permanent development shall occur in the riparian setback area. KMC §16.02.070.A.2.j.(1)&(2) states that all encroachment, including fill, new construction, substantial improvements, residential structures, or other development within the floodway is prohibited. Pursuant to KMC §16.01.050.B.3.a, "A nonconforming building which has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a building permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the building permit."

**Determination:** The existing nonconforming building was destroyed by fire and was condemned by the building official (11/17/25), therefore it may be restored to its preexisting nonconforming condition per KMC §16.01.050.B.3.a. However, the existing deck was not destroyed by the fire and therefore the restoration provision specified in KMC §16.01.050.B.3.a does not apply to the existing nonconforming deck. There is an exterior door on the building that is to be replaced, which exits to the deck. As this is a formal egress point of the building, and the building is permitted to be replaced to its preexisting condition, building code requires a landing and stairs to exit the building at this location. As there are conflicting regulations between the building code and the zoning code, it is my determination that the only portion of the existing deck that is permitted to be rebuilt is the minimum area or 36” for the landing at the rear exterior door required per building code.\*

The remaining portion of the deck that is not required for the landing must be removed. Additionally, the floodplain development permit required for the building reconstruction must include the landing and stairs for review. Riparian restoration of the area where the deck was removed may be required.

This Determination may be administratively appealed under Ketchum Municipal Code §16.07.020.H. Please be advised, if desired, an appeal of this Determination must be filed within 15 days pursuant to Ketchum Municipal Code §16.07.020.H.2.c.(1).

Sincerely,



Morgan Landers, AICP  
Director of Planning and Building

\*Building Code:

*R311.3 Floors and landings at exterior doors.*

*There shall be a landing or floor on each side of each exterior door. The width of each landing shall be not less than the door served. Landings shall have a dimension of not less than 36 inches (914 mm) measured in the direction of travel. The slope at exterior landings shall not exceed 1/4 unit vertical in 12 units horizontal (2 percent).*

*Exception: Exterior balconies less than 60 square feet (5.6 m<sup>2</sup>) and only accessed from a door are permitted to have a landing that is less than 36 inches (914 mm) measured in the direction of travel.)*

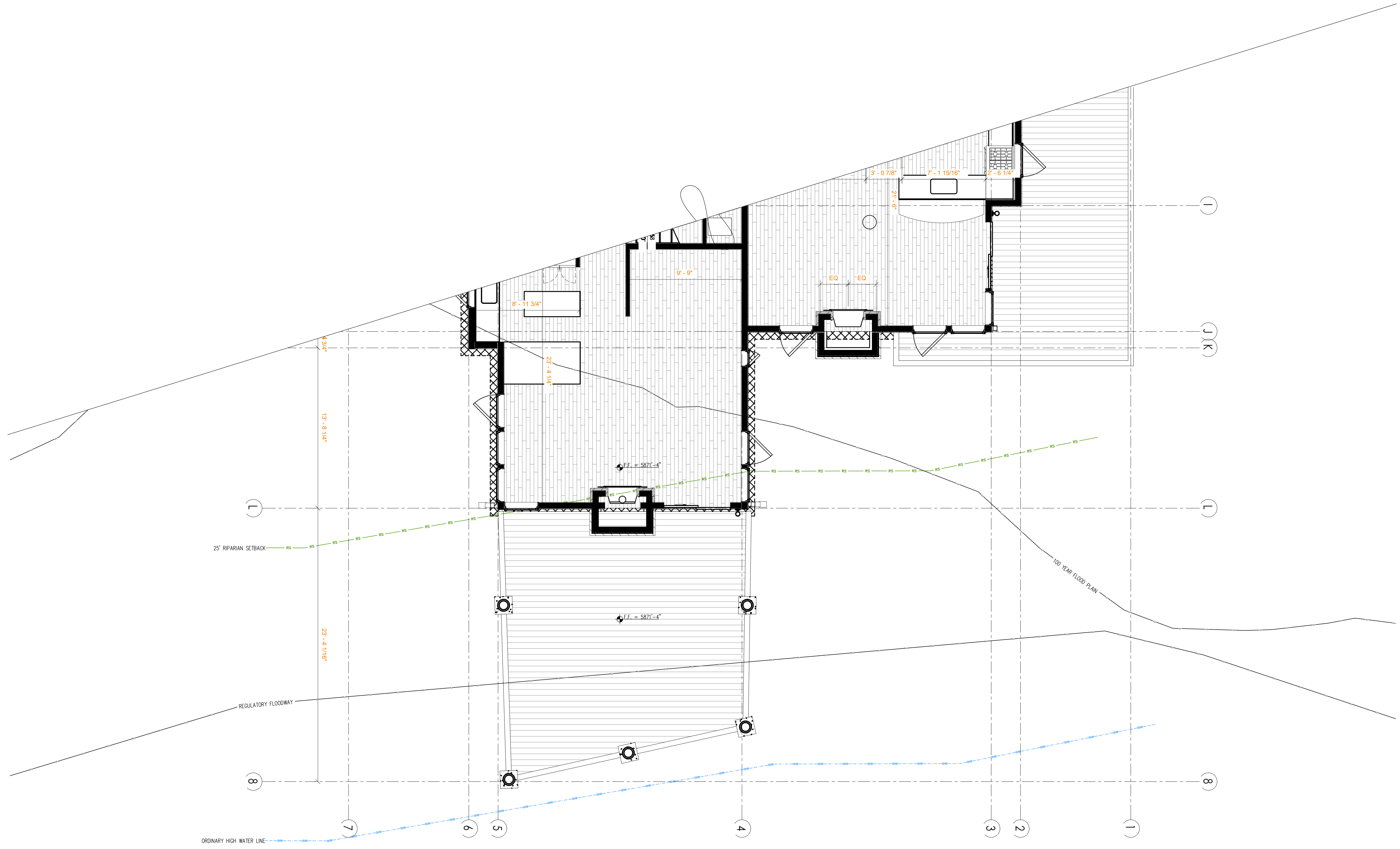
**TAYLOR DECK**  
 315 SKIWAY DR, UNIT 145 KETCHUM, ID 83340

PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

**MAXWELL**  
 STRUCTURAL DESIGN STUDIO  
 CRAIG MAXWELL P.E.  
 105 Lewis Street, Unit 205 :: Ketchum, Idaho 83340  
 P.O. Box 1911 :: Sun Valley, Idaho 83353  
 Craig@maxwelleds.com :: 208.721.2171  
 www.maxwelleds.com

THE CONTENT OF THIS DRAWING IS THE EXCLUSIVE PROPERTY OF MAXWELL STRUCTURAL DESIGN STUDIO AND ARE PROTECTED UNDER FEDERAL COPYRIGHT LAWS. ANY UNAUTHORIZED REPRODUCTION OR USE OF THESE DRAWINGS IN WHOLE OR IN PART IS PROHIBITED WITHOUT THE WRITTEN CONSENT BY MAXWELL STRUCTURAL DESIGN STUDIO, PLLC.

**A1.0**



EXISTING DECK - BEFORE FIRE

1/4" = 1'-0"

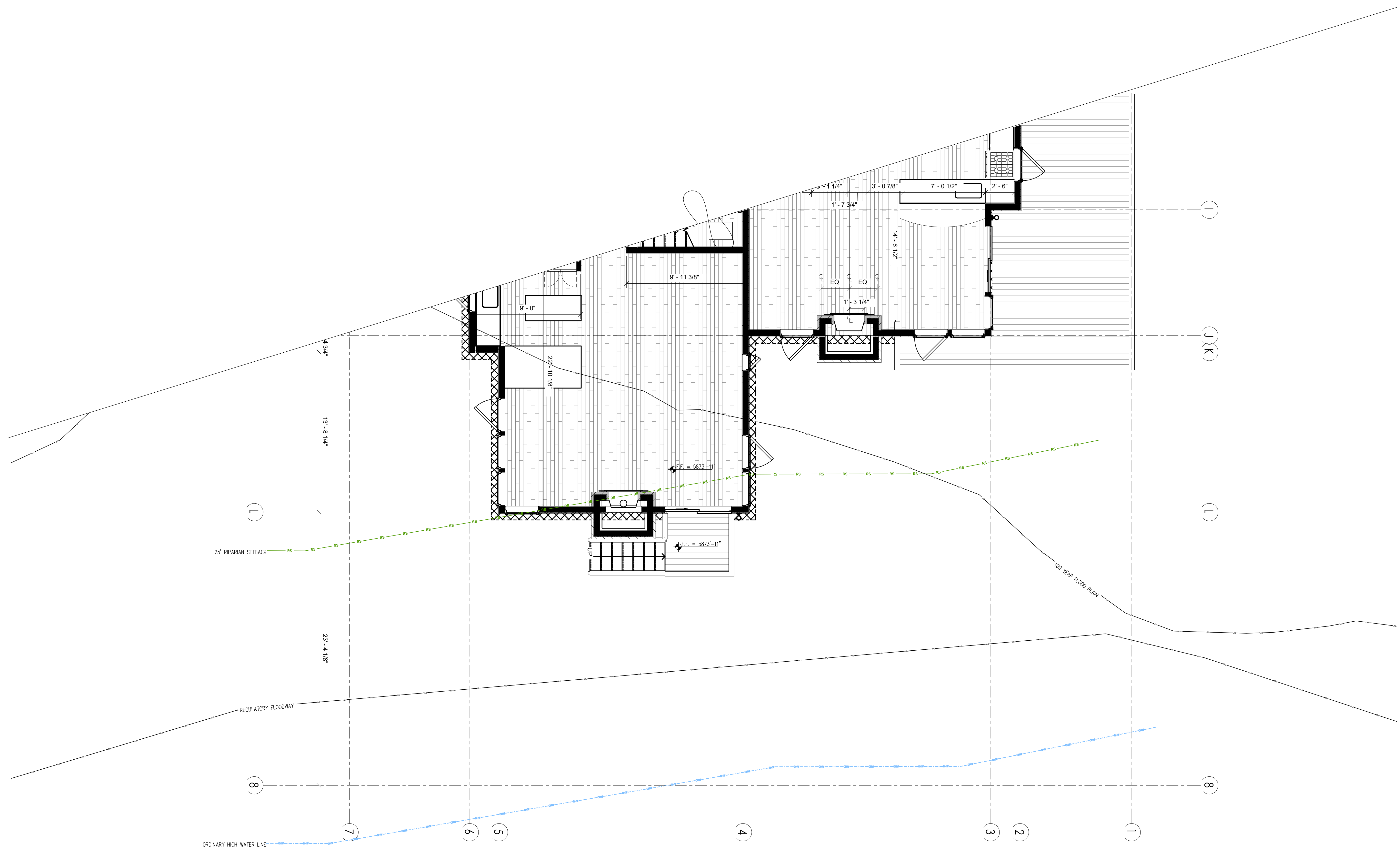
**TAYLOR DECK**  
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**A1.1**



ADMINISTRATIVE DETERMINATION COMPLIANT DECK - RESTORATION PERMIT APPLICATION

1/4" = 1'-0"

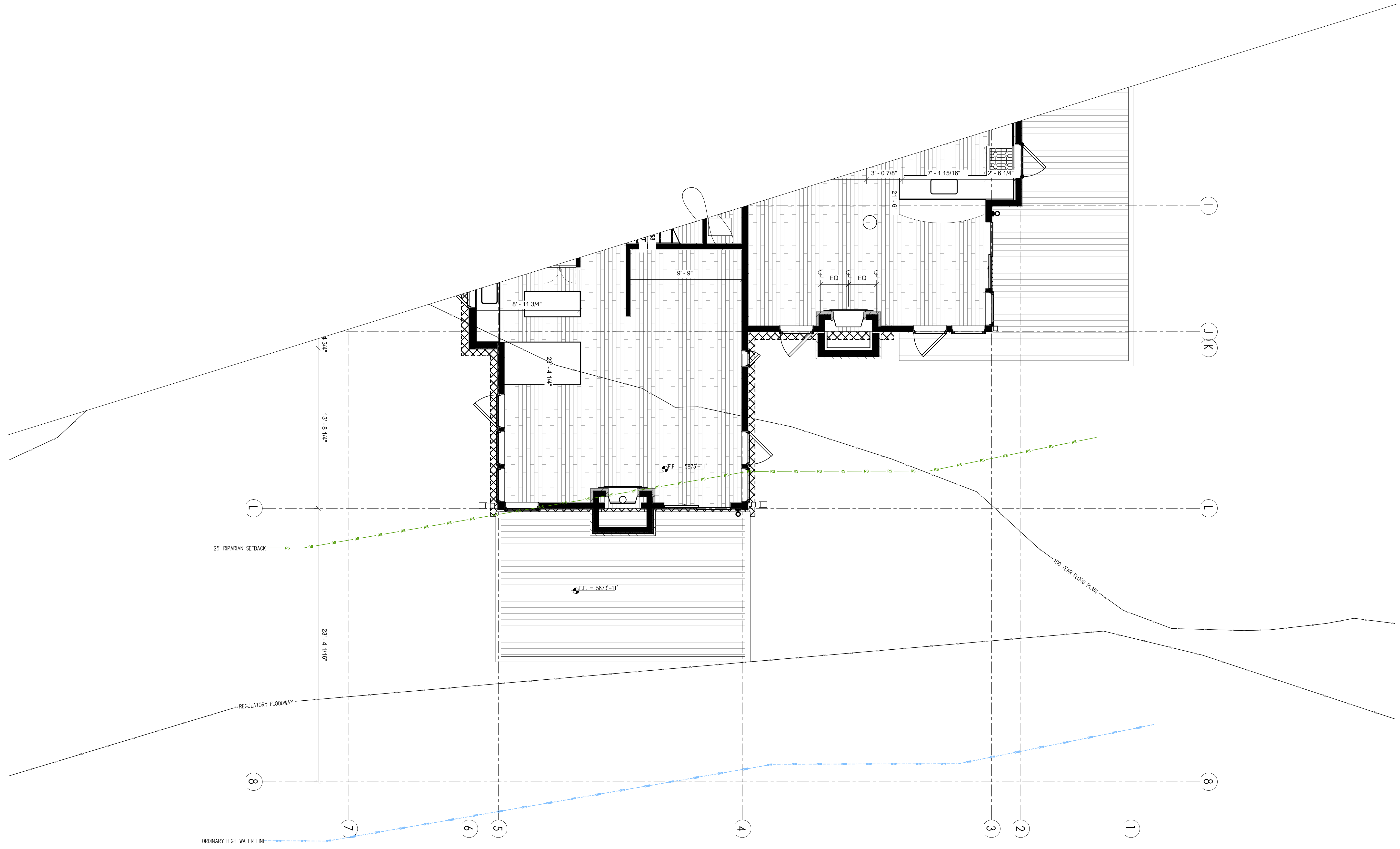
**TAYLOR DECK**  
 315 SKIWAY DR. UNIT 145 KETCHUM, ID 83340

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**A1.2**



PROPOSED DECK - RESTORED OUTSIDE OF FLOODWAY

1/4" = 1'-0"





City of Ketchum

# **ATTACHMENT B:**

## **Planning Director Reply Brief**



## CITY OF KETCHUM | PLANNING & BUILDING

**Morgan Landers, AICP** | Director  
direct: 208.727.5085 | office: 208.726.7801  
mlanders@ketchumidaho.org  
P.O. Box 2315, 191 5th Street West, Ketchum, ID 83340  
[ketchumidaho.org](http://ketchumidaho.org)

### MEMORANDUM

TO: Planning and Zoning Commission  
FROM: Morgan Landers, AICP – Director of Planning and Building  
DATE: April 1, 2026  
RE: Appeal of Administrative Determination

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This memorandum is to serve as a response brief to the appeal filed on January 28, 2026, regarding the replacement of a pre-existing deck located within the riparian setback of Warm Springs Creek. The appeal filing provided some information related to the process by which the determination was made and the working relationship between staff and the applicant; however, many pertinent details were left out. Overall, the city's approach to working with victims of structure fires is always one of flexibility, understanding, and fairness. Structure fires, particularly partial fires, often result in complex permitting and legal interpretations as many regulations are not designed for the full nuances of these situations.

Below is the overview of the timeline for the process. It is important to note that staff and the applicant were in regular communication regarding various paths forward for the reconstruction of the units. Initially, the applicant submitted a demolition permit for the fire damaged portion of the building and then pivoted to a full demolition concept following initial cost estimates for construction.

- May 10, 2025: Date of the structure fire. Three of six units were damaged. The three damaged units were those on the far side of the building opposite the Warm Springs Creek.
- May 2025: Discussions between staff and the applicant began.
- May 15, 2025: Partial demolition permit submitted
- July 18, 2025: Partial demolition permit issued.
- October 16, 2025: staff has no record of the discussion referenced in the appeal brief
- October 20, 2025: Site inspection conducted by the building official to review structural integrity for potential condemnation

- October 28, 2025: meeting with applicant team to discuss potential full demolition and potential opportunities/challenges. Items discussed included floodplain development permit requirements, limitations on development in the floodplain, nonconformities allowance for reconstruction, and options for the deck were discussed.
- November 14, 2025: Planning staff site visit to review the existing deck.
- November 17, 2025: Condemnation letter issued for entire building.
- November 24, 2025: Staff provided informal determination via email to River Vorse with Maxwell SDS that the full deck could not be rebuilt, but that the building code required landing would be permitted as the restoration code provision requires compliance with the building code.
- November 26, 2025: Applicant requested formal determination letter.
- January 13, 2025: Following further code research and analysis, final determination letter signed, and transmitted to applicant

In general, staff interpretation of KMC 17.136 - Nonconforming Uses and Nonconforming Buildings is that nonconforming structures cannot be demolished and reconstructed in place. The appellant warrants that demolition of the deck was not voluntary. During discussions with the applicant team, the structural reliance of the building for the deck was not raised as an issue. Therefore, the staff's understanding was that the deck could remain in its location while the building was demolished and reconstructed. Therefore, staff verbally advised the applicant that if they wanted to keep the deck, they could do so if it was not altered.

The restoration clause of the KMC, referenced in the appeal application, requires compliance with building and fire codes. Ultimately, the building code requires that any portion of a building encroaching into the floodway be removed. To achieve the building code requirement of removing the encroachment in the floodway, the applicant proposed to remove the entire deck and reconstruct it. This resulted in staff making the determination that the deck could not be rebuilt in the riparian area due to the entirety of the deck being removed and the determination outlined above. As the building code also requires adequate egress, staff determination allowed for the construction of the minimum landing necessary within the riparian area to safely access the door.



City of Ketchum

# **ATTACHMENT C: Appellant Rebuttal Brief**

**TO:** City of Ketchum Planning and Zoning Commission

**FROM:** Craig Maxwell P.E., Maxwell Structural Design Studio (Representative for Michael Taylor)

**DATE:** April 8<sup>th</sup>, 2026

**RE:** Rebuttal to Director's Response Brief regarding Prospector Building 4, Unit 145 Deck Reconstruction

**I. Introduction** This brief serves as a rebuttal to the Memorandum issued by Ketchum Planning and Building Director, Morgan Landers. It should be read along with the original appeal application and the forementioned memorandum. A number of statements within the Director's memorandum do not reflect the established record or the sequence of events leading up to the demolition of the deck at Prospector Building #4, Unit 145.

## **II. Factual Corrections to the Administrative Record**

The Director's memorandum contains several timeline and factual discrepancies that require correction:

- **Firm Involvement:** Our office was not involved in this project in May 2025. Our first discussion with City staff regarding this project occurred several months later, on **August 7, 2025**.
- **Meeting Date:** The meeting cited in our brief as October 16th was incorrectly dated on our part; this meeting actually occurred on **October 28th**, as correctly noted by the Director's memorandum.
- **Cause of Demolition (Condemnation vs. Cost):** The Director's memorandum implies the complete demolition of the building was a response to "initial cost estimates." This is incorrect. The demolition was a response to a **Letter of Condemnation** issued by Building Official Alan Chambers. The condemnation was based on our structural memo detailing severe fire and water damage to the roof diaphragm, floor diaphragm, and shear walls, rendering the building highly unstable.
- **Context of Cost Discussions:** Any discussions regarding construction costs were strictly to address the City-adopted flood zone codes. The omission in her memorandum of why we discussed construction costs with her mis-characterizes our intent and approach as one focused primarily on financial interests. Specifically, cost estimates were used to determine if the repairs crossed the 50% threshold for "substantial damage" and "substantial improvement," which triggers mandatory flood code compliance in the City's adopted code.

**III. Demolition of the Deck Was Mandated by the City** During the October 28th meeting, Director Landers stated in no uncertain terms that the deck *must* be removed before any fire repair permit application would be approved. This mandate was repeatedly documented by City staff in emails and plan comments:

- **November 24th (Abby Rivin, City Planner):** *"Only the portion of the existing deck that is the minimum area required for landing and egress per building code may be maintained/rebuilt."*
- **November 26th (Abby Rivin):** *"To clarify the determination... The only portion of the deck that is permitted to remain is the minimum area for the landing at the rear exterior door that is required per building code."*

- **January 9th, 2026 (Allison Kennedy, City Planner):** Referencing Floodplain Manager Sarah Foster's comments, Kennedy stated a determination letter would direct the applicant *"to omit the deck from the building permit set... to be removed from the riparian setback excepting the landing."*

It was made explicitly clear that retaining the deck was not an option. Demolition of the structure did not begin until December 12th, only *after* the issuance of the condemnation letter, a demolition permit, and communications from staff instructing us that the deck could not remain. The complete communications from city staff are appended.

#### **IV. Inconsistent Application of Egress Requirements**

The Director states that the "minimum landing" was allowed because *"the building code also requires adequate egress."* We are unaware of any code requiring an additional means of egress for a kitchen and living room beyond the front door. Notably, Unit 147, the immediately adjacent unit with an identical layout, has only a front entry door for egress. This was approved by City staff with no additional requirements. The City's insistence on a rear landing for Unit 145 is inconsistent with its own recent approvals and appears to be an arbitrary and capricious restriction rather than a code-mandated safety requirement.

#### **V. Mandatory Flood Compliance (The "Regulatory Catch-22")**

Even if the applicant had desired to leave the deck untouched, Title 44 of the Code of Federal Regulations, the International Existing Building Code (IEBC 2018), and KMC §16.02.070 legally prohibited it.

Because the fire caused "Substantial Damage" (repairs exceeding 50% of the structure's market value), the project became a "Substantial Improvement." Therefore:

1. **Floodway Encroachment:** Under the currently enforced 2010 FEMA study, the end of the original deck encroached on the regulatory floodway. (While the pending 2019 HECRAS study shows the deck safely outside the floodway, and floodplain, it is not yet adopted). The IEBC and Federal code strictly prohibit keeping any encroaching portion of a structure during a substantial improvement.
2. **Elevation Requirements:** Under KMC §16.02.070, non-flood-resistant materials must be raised 2'-0" above the Base Flood Elevation (BFE) to the Flood Protection Elevation (FPE). The bottom of the original deck sat at 5870.4' which is 0.6' below the BFE and **2.6' below the required FPE.**

Retaining the existing deck was physically and legally impossible without removing the floodway encroachment and raising the untreated framing by over two and a half feet.

#### **VI. Conflicting Code Interpretations and Vested Rights**

The Director's memorandum claims regulations are "not designed for the full nuances of these situations." However, the City has adopted the **IEBC (2018)** specifically to manage the complex structural repair of existing buildings. The Director declined to engage with the language of this adopted code during our October 28<sup>th</sup> meeting.

Furthermore, the City is oscillating between code editions. The formal determination letter cited the newer KMC Title 16 (effective Jan 1, 2026), while the Director's memo cites the older KMC 17.136 (in effect at the time of our submittal). Even under the newly published code, **KMC §16.136.050(d)** states: *"Removal and reconstruction of any nonconforming portions of a building is not permitted unless it is declared unsafe by the Building Official in which case it may be structurally strengthened or restored to a safe condition."* Because



Building Official Alan Chambers formally condemned the structure for safety reasons, reconstruction is explicitly permitted under this provision.

**VII. Conclusion**

We implore the Planning and Zoning Commission to overturn the Director's determination. The Taylor family's deck was demolished due to a City-issued Condemnation Letter and mandatory Federal Floodway compliance. We request that the applicant be permitted to rebuild the deck within the full envelope allowed by City flood code, rather than being restricted to an arbitrary "minimum egress" area found nowhere in the applicable building codes. Additionally, we request the commission evaluate whether the entire \$6700 appeal fee should have been required to have a fair reading of the adopted City codes, after every attempt had been made to work with City Staff and comply with the City codes.

A handwritten signature in blue ink, appearing to read "S. Maxwell", is written across the page.

**From:** Abby Rivin <ARivin@ketchumidaho.org>  
**Sent:** Wednesday, November 26, 2025 8:24 AM  
**To:** river@maxwellsds.com  
**Cc:** 'Allie Freund'  
**Subject:** Re: Prospector Deck

Hi River,

To clarify the determination on the existing deck located in the riparian area. The only portion of the deck that is permitted to remain is the minimum area for the landing at the rear exterior door that is required per building code. Planning staff can provide you with a formal determination letter on this if needed. Please let me know if you'd like to request a formal determination letter.

I'll follow up with you as soon as I have a determination about whether or not Design Review will be required.

Best,  
Abby

**ABBY RIVIN, AICP | CITY OF KETCHUM**

Senior Planner

P.O. Box 2315 | 191 5<sup>th</sup> Street W | Ketchum, ID 83340

office: 208-726-7801 | direct: 208-727-5082

[arivin@ketchumidaho.org](mailto:arivin@ketchumidaho.org) | [www.ketchumidaho.org](http://www.ketchumidaho.org)

---

**From:** river@maxwellsds.com <river@maxwellsds.com>  
**Sent:** Monday, November 24, 2025 1:43 PM  
**To:** Abby Rivin <ARivin@ketchumidaho.org>  
**Cc:** 'Allie Freund' <allie@maxwellsds.com>  
**Subject:** Re: Prospector Deck

Thanks for following up with us Abby. Let us know about the design review as soon as you are able.

On the deck, I am having a hard time understanding where it says we have to build to the minimum egress requirements.

The code is as follows: "A nonconforming building which has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a building permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the building permit."

My understanding is that to comply with IBC requirements and federal code, the replacement deck will have to remain clear of the floodway. Beyond the floodway, the deck can be restored to its original footprint, while complying with the relevant floodplain construction requirements.

**From:** Abby Rivin <ARivin@ketchumidaho.org>  
**Sent:** Monday, November 24, 2025 1:28 PM  
**To:** river@maxwellsds.com <river@maxwellsds.com>  
**Cc:** 'Allie Freund' <allie@maxwellsds.com>  
**Subject:** Re: Prospector Deck

Hi River,

Sorry I missed your call—I'm currently in a webinar. I'll need to investigate the code/confirm with the P&B Director whether or not design review will be required. I'll follow up with you as soon as I have a determination for you about whether or not design review will be required.

The existing deck is located entirely within the riparian area and partially within the floodway, which is out of compliance with floodplain code requirements. Since Ketchum Municipal Code §17.136.040 states that nonconforming buildings damaged by fire may be restored to its preexisting nonconforming condition, only the portion of the existing deck that is the minimum area required for landing and egress per building code may be maintained/rebuilt.

Best,  
Abby

**ABBY RIVIN, AICP | CITY OF KETCHUM**

Senior Planner

P.O. Box 2315 | 191 5<sup>th</sup> Street W | Ketchum, ID 83340

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**From:** river@maxwellsds.com <river@maxwellsds.com>  
**Sent:** Thursday, November 20, 2025 9:49 AM  
**To:** Abby Rivin <ARivin@ketchumidaho.org>  
**Cc:** 'Allie Freund' <allie@maxwellsds.com>  
**Subject:** Re: Prospector Deck

Thanks Abby,  
We were hoping to submit Friday, EOD.  
Are we going to need a design review application for this project, or will this be an administrative design review?  
Will the building and/or deck require a variance?

Best,  
River

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**From:** Abby Rivin <ARivin@ketchumidaho.org>  
**Sent:** Wednesday, November 19, 2025 2:06 PM  
**To:** river@maxwellsds.com <river@maxwellsds.com>  
**Subject:** Re: Prospector Deck

Hi River,

Allison and I conducted a site visit last Friday to take a look at the existing deck. We're still reviewing this question internally. I'll follow up with you as soon as we have a determination.

Best,  
Abby

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**From:** river@maxwellsds.com <river@maxwellsds.com>

**Sent:** Tuesday, November 18, 2025 9:04 AM

**To:** Abby Rivin <ARivin@ketchumidaho.org>

**Subject:** Prospector Deck

Good morning Abby,

I am following up on the Prospector unit we are trying to rebuild after the fire this spring. We met a few weeks ago and it was determined that the deck would have to be reduced in size on the rebuild due to the riparian encroachment.

Are you able to provide further guidance on what size deck will be allowed on the rebuild?

There is an exterior door at the deck that will need at a minimum a landing and a stair down to grade.

The survey we provided previously is attached.

Best,  
River

**River Vorse, E.I.T.**

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**CITY OF KETCHUM**

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ketchumidaho.org

**BUILDING PERMIT REVIEW COMMENTS**  
Planning Department

PROJECT NAME: Prospector Condos #4  
BUILDING PERMIT #25-KET-00408  
PROJECT ADDRESS: 315 Skiway  
REVIEWER: Allison Kennedy, Senior Planner  
REVIEW DATE: 1/9/2026  
APPROVAL STATUS: Resubmittal Required

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*Note: These plans have only been reviewed for compliance with applicable adopted codes by this jurisdiction. There may be other regulations applicable under state and federal statutes which this department has no authority to enforce and are not part of this plan review.*

1	Comment: See comments related to resubmittals requested for the Floodplain Permit #P25-63 from Sarah Foster, Floodplain Manager. In addition, a deck determination letter will be made available from the Administrator with the direction to omit the deck from the building permit set p. C0.20, A1.0, to be removed from the riparian setback excepting the landing.
	Applicant Response:
2	Comment: See comment from Wastewater Department. The preexisting footprint of the structure is located 10' on top of the city sewer line. This is simply to make the property owner aware of the circumstance. Further conversations may be needed internally on how to best proceed if rerouting the line is necessary and/or feasible at this time.
	Applicant Response:
3	Comment:
	Applicant Response:

**MISCELLANEOUS COMMENTS:**

1.

## CHAPTER 17.136 - NONCONFORMING USES AND NONCONFORMING BUILDINGS

## 17.136.010 - Continuation of use.

A nonconforming use may be continued and a nonconforming building may continue to be occupied except as both are otherwise provided for in this chapter.

(Ord. 1135, 2015)

## 17.136.020 - Change of use.

A nonconforming use may be changed only to a conforming use.

(Ord. 1135, 2015)

## 17.136.030 - Abandonment of use.

- A. An owner shall not be deprived of the right to use improvements on private property for their designed purpose based solely on the nonuse of the improvements for their designed purpose for a period of ten years or less. Where an owner or his authorized agent permits or allows an approved or unlawful intervening use of the owner's property, the provisions of this subsection are not applicable.
- B. For purposes of this section "designed purpose" means the use for which the improvements were originally intended, designed and approved pursuant to any applicable planning and zoning ordinances.
- C. For all uses where the provisions of subsection A of this section are not applicable: If active and continuous operations are not carried on in a nonconforming use during a continuous period of six months, the building, other structure or tract of land where such nonconforming use previously existed shall be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

(Ord. 1135, 2015)

**17.136.040 - Restoration.**

A nonconforming building which has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a building permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the building permit.

Nonmaterial changes to the preexisting nonconforming condition may be approved at the City's discretion. If additional square footage is added, that additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the planning and zoning department head.

(Ord. 1135, 2015)

#### 17.136.050 - Enlargement of a nonconforming building or a nonconforming use.

A nonconforming use shall not be enlarged or extended and a nonconforming building shall not be enlarged or extended so as to increase the degree of nonconformity, except in the community core district where one-family dwellings may increase their original square footage by 20 percent. Additions and/or enlargements to existing buildings are not considered to be nonconforming or to increase the degree of nonconformity, so long as the additions and/or enlargements comply with the following:

- A. Any additional square footage may be subject to the current requirements of the underlying zone district at the discretion of the planning and zoning department head.
- B. Fifty percent of the building footprint and exterior walls of a nonconforming structure must remain unaltered.

(Ord. 1135, 2015)

#### 17.136.060 - Alteration of a nonconforming building.

A nonconforming building may be structurally altered or repaired in any way permitted by these regulations.

(Ord. 1135, 2015)

#### 17.136.070 - Structural changes.

Any building or other structure containing a nonconforming use or any nonconforming building or portion declared unsafe by the City building inspector may be strengthened or restored to a safe condition.

(Ord. 1135, 2015)

request of the applicant. Applications shall not be processed under a combination of prior regulations and this Code.

2. If a Preapplication Design Review is required and has been completed pursuant to the procedure in §16.07.030.C.1, a vested property right shall be created. The voluntary request for a Preapplication Design Review does not create a vested property right.

### C. Prior Violations

If a development or activity in violation of the prior development regulations fully complies with this Code, it shall no longer be deemed a violation. Unpaid fees and/or penalties from prior enforcement of violations are still valid and shall remain the responsibility of the violator under the prior regulations

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## 16.01.050. Nonconformities

### A. Nonconforming Uses

A nonconforming use may be continued provided it meets the following standards:

#### 1. Change of Use

A nonconforming use may be changed only to a conforming use.

#### 2. Expansion of Use

A nonconforming use shall not be enlarged or expanded. Enlargement and expansions include any increase to floor area of the nonconforming use within an existing or new building. Any building or other structure containing a nonconforming use declared unsafe by the Building Official may be strengthened or restored to a safe condition.

#### 3. Abandonment of Use

A lawful nonconforming use shall be deemed abandoned when the nonconforming use has been replaced by a conforming use or when the nonconforming use has ceased and has not been active for a continuous period of six months. Intent to resume active operations shall not be considered in determining abandonment.

### B. Nonconforming Buildings

#### 1. Nonconforming Due to Lack of Parking and Loading

No lawfully existing building shall be deemed to be a nonconforming building solely because of lack of off-street parking and loading spaces, provided that the area being used for off-street parking or loading shall not be further reduced in area or capacity as of the Effective Date.

#### 2. Enlargement or Alteration

- a. A nonconforming building shall not be enlarged or extended so as to increase the degree of nonconformity.
- b. One-family dwellings in the Community Core District may increase their original square footage by a cumulative 20 percent as of the effective date of the ordinance subject to a Conditional Use Permit per §16.07.030.A.

- c. Any additional square footage may be subject to the current requirements of the underlying zoning district at the discretion of the Administrator.
- d. Removal and reconstruction of any nonconforming portions of a building is not permitted unless it is declared unsafe by the Building Official in which case it may be structurally strengthened or restored to a safe condition.
- e. If a portion of a nonconforming building is located within the public right-of-way, that portion of the building shall not be expanded or altered to increase the existing encroachment. The City Engineer and Streets Department shall determine whether the portion of the nonconforming building that extends into the public right-of-way may remain or if the encroachment must be removed. If the City Engineer and Street Department determine that the portion of nonconforming building that extends into the public right-of-way may remain, the property owner shall enter into a right-of-way encroachment agreement with the City.

### 3. Restoration

- a. A nonconforming building that has been damaged or destroyed by fire or any other calamity, may be restored to its preexisting nonconforming condition if a Building Permit for the work of restoration is obtained within two years of the date of the fire or other calamity and the work of the restoration complies with the international building and fire codes in effect at the time of the issuance of the Building Permit.
- b. Nonmaterial changes to the preexisting nonconforming condition may be approved at the City's discretion. Nonmaterial changes include minor repairs and maintenance necessary to correct damage or deterioration to the structural soundness of, or the exterior or interior appearance of a nonconforming building without expanding the height or footprint of the building. If additional square footage is added, that additional square footage may be subject to the current requirements of the underlying zoning district at the discretion of the Administrator.

### 4. Relief for Structures on the Historic Building/Site List

Any expansion or remodel of a property on the historic building/site list is permitted to match the current setback, height, or other dimensional standard on such property at the time of application.

### C. Nonconforming Lots

- 1. For the purpose of this section, nonconforming lots shall include:
  - a. Any lot that did not comply with the minimum lot size requirements at the time the lot was subsequently annexed to the City;
  - b. Any lot that was of legal area and dimensions when held in separate ownership from adjoining properties or when platted in a recorded subdivision; and
  - c. Any lot that was made nonconforming by virtue of enactment of this Code.
- 2. A nonconforming lot may be used for construction of a building or establishment of a use allowed in the applicable zoning district, provided that all other zoning district and dimensional standards are met.