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May 28, 2025

Sandpoint City Council
1123 W. Lake Street
Sandpoint, Idaho 83864

Re: *University Place Phase 4 Planned Unit Development*

Dear Council:

I represent M & W Holdings, LLC and Derek Mulgrew, who respectfully requests this Council to approve an extension, pursuant to City of Sandpoint, Ordinance 10-3-10(M) for at least one (1) additional year so Mr. Mulgrew can complete the final development process.

As background, Mr. Mulgrew participated in all pre-application meetings with Amanda Wilson, Amy Tweeten, and other City staff prior to submitting his PUD for approval. The Planning Commission recommend approval, which was unanimously granted by the City Council on November 2, 2022. Between November 2, 2022 and November 2, 2024, Mr. Mulgrew installed the infrastructure for the development at the cost of more than one million dollars, the infrastructure was accepted by the City engineer, and worked with City officials to get the development agreement signed and final Plat adopted by the Council.

On November 2, 2024, Mr. Mulgrew's PUD expired. On March 13, 2025, more than four months later, Mr. Mulgrew was first informed that his PUD had expired. Between November 2, 2024, and March 13, 2025, scores of emails and numerous phone calls were exchanged between Mr. Mulgrew and City staff, all focused on securing final Plat and a signed development agreement. Unfortunately, on March 13, 2025, after the City had posted the required notice and added Mr. Mulgrew's development to the Council meeting agenda on March 16, 2025, Mr. Mulgrew received an emailed letter (the "Termination Letter") informing him that his project had been removed from the Council's agenda and that his PUD was, in fact, "void and expired." A true and correct copy of the Termination Letter is attached hereto as ***Exhibit A***. Please note that although the letter is dated March 3, 2025, it was not delivered to my client until March 13, 2025, at 5:44 p.m., a discrepancy I assume to be a typographical error.

As you can imagine, Mr. Mulgrew was blindsided and upset. He immediately requested an extension, which was summarily denied by City staff, as a "decision [that] cannot be brought to City Council on appeal." A copy of the email from City staff denying the extension is attached as ***Exhibit B***.

However, according to the City code, an extension to a PUD is allowed if it is not in conflict with public interest. *City of Sandpoint, Ordinance 10-3-10(M)*. Specifically, the ordinance states:

- M. Expiration and Extension of Approval Period: Preliminary approval shall be for a period not to exceed eighteen (18) months. The approval of a final development plan for a PUD shall be for a period not to exceed two (2) years to allow for preparation and recording of the required subdivision plan and the development of the project. If no construction has begun within two (2) years after approval is granted and no current building permit exists, the approved final development plan shall be void. **An extension of the time limit, revision of phasing schedule, or modification of the final development plan may be approved if the commission finds that such extension, revision, or modification is not in conflict with the public interest.**

Id. (emphasis added). This ordinance is clear that an extension of the two (2) year approval timeline is allowed.

An extension of the University Place Phase 4 PUD does not conflict with public interest. First, this project was unanimously approved by Council and will provide for additional housing, which is vital to our growing community. Second, Mr. Mulgrew has installed all the infrastructure for a high-density development consistent with this approved PUD. If the PUD extension is not granted, Mr. Mulgrew must either: 1) reapply and conform the development to the new City requirements, which may require significant alterations to the installed infrastructure; or 2) tear out the entirety of the high-density infrastructure and lose over one million dollars.

It is my understanding that the City's position is that an extension must be requested prior to the PUD's expiration date. Since Mr. Mulgrew did not do that, his PUD is forever void. However, that requirement does not appear in the ordinance. The ordinance simply states that an extension of time may be granted if it does not conflict with the public interest. The imposition of additional, unwritten conditions effectively denies the public fair notice of the procedural requirements governing a PUD that has reached the two-year mark.

Nonetheless, even if the Council believes the opportunity to extend the PUD has passed, bear in mind that the City continued to work with Mr. Mulgrew long after the expiration date. At no time between November 2, 2024 and the receipt of the Termination Letter, more than four months later, did City staff inform Mr. Mulgrew that he was proceeding under an expired PUD. On the contrary, the City continued to request information, documents, and completion of the infrastructure punch list items, among other things, all of which imposed additional costs on Mr. Mulgrew. Mr.

Mulgrew, in good faith, diligently worked with City officials toward getting the development agreement and final Plat before the Council. In fact, Mr. Mulgrew's builder had applied and paid for building permits that were being reviewed so they could issue once final Plat was adopted by Council. The building permit application and permit fees were both returned to the builder shortly after the Termination Letter. It seems unjust to now deem Mr. Mulgrew's PUD expired without the opportunity of an extension.

This is an unfortunate situation where no one realized the two-year deadline had passed and both parties were operating under the assumption that the Council's final consent for the development was forthcoming. The Council has an opportunity to make this right and extend the PUD pursuant to City of Sandpoint Ordinance 10-3-10M.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Lisa Moline', with a stylized, cursive script.

Lisa Moline
Attorney

Ex. A: Termination Letter

Ex. B: Email from City Staff Denying Extension

EXHIBIT A

Termination Letter



Date: March 3rd, 2025

Subject: University Place Phase 4 Planned Unit Development – permit void

From: Jason Welker, Planning and Community Development Director and Bill Dean, City Planner

Dear Mr. Mulgrew,

This letter is to inform you that pursuant to §10-3-10.M of the Sandpoint City Code, The University Place Phase 4 PUD final development plan has expired and is no longer in effect. Accordingly, the agenda item relating to the now void PUD has been removed from the March 19th City Council agenda.

Over the past several weeks City staff have attempted to reconcile your statements with the written record and City code. The expiration of the PUD, in addition to being clearly identified in City code, was deliberated by council and formalized as condition of approval #14: *"The development shall be initiated within two years of the date of approval."*

According to §10-3-10.M, *"If no construction has begun within two (2) years after approval is granted and no current building permit exists, the approved final development plan shall be void."* November 2nd, 2024 marked the two-year deadline by which building permits needed to have been issued. Given that no building permits were applied for before late December 2024, the PUD is void and expired.

Sincerely,

Jason Welker *Bill Dean*

Jason Welker and Bill Dean

EXHIBIT B

Email From City Denying Extension

On Mar 14, 2025, at 1:02 PM, Jason Welker <jwelker@sandpointidaho.gov> wrote:

Derek,

This is not a staff decision. The notice of expiry arises from City code, which states "if no building permit exists, the approved final development plan shall be void." City staff is not cancelling the PUD. The PUD expired effective November 2nd, 2024. Because this is not a staff decision, it cannot be brought to City Council on appeal.

Regards,
Jason

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Logo,
comp.png>

**Community Planning and
Development Department**

sandpointidaho.gov

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Jason Welker | Director

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