

CITY OF SANDPOINT STAFF REPORT

DATE: December 18, 2024

TO: Mayor and City Council

FROM: Brandon Staglund, P.E., City Engineer

SUBJECT: Appeal hearing, McGhee Subdivision

BACKGROUND:

The property owner of Bonner County parcel RPP00000027801A, an unplatted parcel located in Ponderay, is appealing a staff decision to deny water service to the proposed "McGhee Subdivision" development. The City of Sandpoint issued the decision letter denying water service on September 24, 2024 (Attachment 1). The applicant submitted a formal appeal letter on October 8, 2024 (Attachment 2).

According to Idaho Administrative Code 58.01.08.552.01.b.i, public water systems must "be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system."

The proposed subdivision is for a mixed-use development consisting of 304 Equivalent Residential Units (ERU), as described on the ability to serve application (Attachment 3) and the preliminary development plan (Attachment 4), both submitted by the applicant. The City previously issued an "ability to serve" letter, dated September 29, 2022, for a smaller 60 ERU development (Attachment 5).

The staff decision to deny water service was based on the findings of a Water System Master Plan, adopted by council on December 21, 2022 (resolution 22-080). The master plan included a computerized model of the existing system demand through 2018. The model results indicated deficiencies in estimated fire flow available at several locations in the system surrounding the proposed development (attachment 6), with numbers indicating the fire flow requirements and colors representing fire flow deficiency. Fire flow requirements were assumed to be 1,000 gpm for single-family residential, 1,500 gpm for multi-family residential and commercial, and 2,500 gpm for industrial and non-residential areas. The capital improvement project list in the plan recommends pipe upgrades, such as upsizing or looping, to address these deficiencies. The proposed McGhee Subdivision in question was not included in the model.

The applicant requested that the City perform a project-specific water modelling effort, for the proposed development, to determine if the proposed water main extension serving the proposed development could meet minimum pressures. For new developments, the City uses a consultant,

Consor (previously Murray Smith), to provide water modelling analysis, and the cost is passed on to the applicant at cost plus 15%, as shown on the City's adopted fee schedule. After reviewing the proposed development, City staff determined it was unnecessary to perform additional water modelling, because the 2022 Water System Master Plan already identified fire flow deficiencies in the immediate vicinity of the project.

The reason for denying water service to the proposed development is as follows:

- The 2022 Water System Master Plan indicates that there is inadequate fire flow in the system in the immediate vicinity of the proposed development, as well as more generally in the northern extents of the system. Continuing to add additional demand by large developments in this northern part of the system will make these existing fire flow deficiencies even worse.
- 2. Continuing to add demand imposed by additional large developments in the northern part of the system will eventually cause pressure issues in other parts of the system not currently identified in the master plan.

ATTACHMENTS:

- 1. Denial letter to applicant, September 24, 2024
- 2. Appeal notice letter from applicant, October 8, 2024
- 3. Ability to serve application, May 20, 2024
- 4. Development plan, May 20, 2024
- 5. Ability to serve letter from City for 60 ERU, September 29, 2022
- 6. Fire flow deficiencies map, excerpt from 2022 Water System Master Plan



Fonda L. Jovick | Managing Partner Zachary W. Jones | Attorney at Law fjovick@lclattorneys.com zjones@lclattorneys.com 208-664-8115

September 24, 2024

BY EMAIL nsemanko@parsonsbehle.com

Norman Semenko 800 West Main Street, Ste 1300 Boise, Idaho 83702

> RE: Water Service Application for McGhee Development Bonner County Parcels RPP00000027801A, RPP00000020104A

Dear Mr. Semenko,

As you are aware this firm serves as general counsel for the City of Sandpoint (hereinafter "the City"). This correspondence is in response to your letter dated August 16, 2024, and addressed to the City Engineer, Brandon Staglund, inquiring about a water service application (aka request for a "will serve" letter) submitted by your client on May 20, 2024 (attached for reference). After review of the application the City has determined it must deny the application for good cause pursuant to Sandpoint City Code Section 7-6-12 and the City's Water Rules and Regulations Section III-1-D (2) and (5).

The City cannot provide a "will serve" letter for the proposed mixed-use development consisting of 304 equivalent residential units (ERU's) due to the impact such an expansion of use would have on the water system. As explained below, such an expansion will create conditions that are impractical to provide water services. Originally, City staff had requested submittal of an application with the intention of requesting the City's consulting engineer to review the application, and then to pass any costs on to the applicant, as described on the application form. However, after internal review of the City's existing water system master plan, which identifies existing modelled fire flow deficiencies (see attached figure 4-3 from that report), there are already fire flow deficiencies in the immediate vicinity of the proposed project. Additional water demand resulting from this project has the potential to make existing deficiencies worse.

Granting this application for water services creates conditions that are impractical to provide water services. Additionally, granting an application that would expand the already existing fire flow deficiency will cause an undue hardship on water users. Finally, granting the application that would expand the already existing fire flow deficiency creates

conditions that do not conform to sound engineering design and pose a risk to public health due to the potential for a fire flow event that causes pressures elsewhere in the system to drop below 20 psi as required in IDAPA 58.01.08.552.01.b.

Sincerely, LAKE CITY LAW GROUP PLLC

Zachary Jones

Attorney for City of Sandpoint

cc: Fonda Jovick,

Brandon Staglund, Mayor Jeremy Grimm,

City Clerk.



ABILITY TO SERVE WATER APPLICATION CHECKLIST

- Step 1: email the application form and applicable submittals to development@sandpointidaho.gov
- Step 2: if the application is complete, an invoice for payment of review fees (as applicable) will be sent to the applicant. Payment of these review fees establishes the application date and initiates the review period.

If the application is not complete, a list of outstanding information/documents will be sent to the applicant.

- Step 3: you will be contacted in approximately 15 business days with a review status update.
- **Step 4**: upon determination that your application has been reviewed, an invoice for any remaining fees will be provided. Upon payment of fees, a letter will be issued, notifying the applicant of the City's ability to serve water.

SUBMITTALCHECKLIST - REVIEW

Yes	N/A	Document
1		Application Form (see attached)
✓		Preliminary Site Plan, Water Utility Layout (Detailed Construction Documents are not required. Provide reference to existing utilities, if known; alignment of new water mains; and number/location of new service connections)
V		Multifamily, Commercial and Industrial Developments: Fixture Load Calculations required, stamped by licensed design professional (see enclosed demand form)

AROURICA - SCOTT



Infrastructure and Development Services

City Use Only Submittal Date:	Application No:	
The City of Sandpoint's ability t	o provide new water service depends on a va ific property shall submit this form and pay t	riety of factors. All inquiries related to he application fees.

Application Form - Ability to Serve Water

_						
	Purpose of Request	PROJECT/ SITE INFORMATION				
	Sale of Property or Platting Conceptual/Planning	NAME:	McGhee Development	PARCEL NO:	RPP00000027801A, RPP00000020104A	
	Building Permit Application	ADDRESS:		CITY:	Ponderay	
	Request to Serve	DESCRIPTION:	2-57N-2W TAX 49 2-57N-2W GOV LOT 7 & SWNE LESS W 775 775FT OF SWNE	FT; GOV LOT 8, S	ENE, S 60FT OF W	
	Single family residence Multi-family residential	OWNER				
	Subdivision Development	NAME:	Richard Villelli, Manager Bobby McGhee Golf and RV Resort, LLC	ADDRESS:	P.O. Box 1785	
	Commercial/Industrial	PHONE:	(208) 660-8474	CITY:	Sandpoint	
	Existing Water Service	EMAIL:	dick@villellipnw.com	STATE, ZIP:	ID 83864	
	No existing service Meter Size(s)	AUTHORIZED	REPRESENTATIVE			
	Other (e.g. well)	NAME:		ADDRESS:	-	
.	Town and Makey Compige	PHONE:		CITY:		
,	Expected Water Service Single family residential	EMAIL:		STATE, ZIP:		
	number of lots: 64 Multi-family, commercial, or industrial (see below):	ENGINEER NAME:	Scott McNee, P.E. Ardurra Group, Inc.	ADDRESS:	7950 N Meadowlark Way, Suite A	
	Meter Qty_10** Sizes_TBD **Assumes shared meter(s) for RV sites	PHONE:	(208) 762-3644	CITY:	Coeur d'Alene	
	Meter Sizes: determined by applicant's licensed	EMAIL:	smcnee@ardurra.com	STATE, ZIP:	ID 83815	
	professional, based upon number of fixtures/ fire demands, include form*.	RELATED PER	MIT NO.			

This application is limited to a review of the City's ability to provide water service. It is NOT a detailed review of construction documents and does result in permit issuance. The City will perform an analysis of the existing system and the proposed demands. The City must have the capacity to provide the minimum pressure of water required for the proposed service, as well as the capacity. The City may need to perform a hydraulic model and fire flow analysis to determine its ability to serve water at the proposed location.

The application fee is set by the currently adopted fee schedule. If a hydraulic model is required, the application will be informed. Hydraulic modeling costs are typically \$2,875 and shall be paid by the applicant prior to the City issuing model results or a determination of the City's ability to serve water. By submitting this application, the property owner hereby agrees to pay the associated fees.

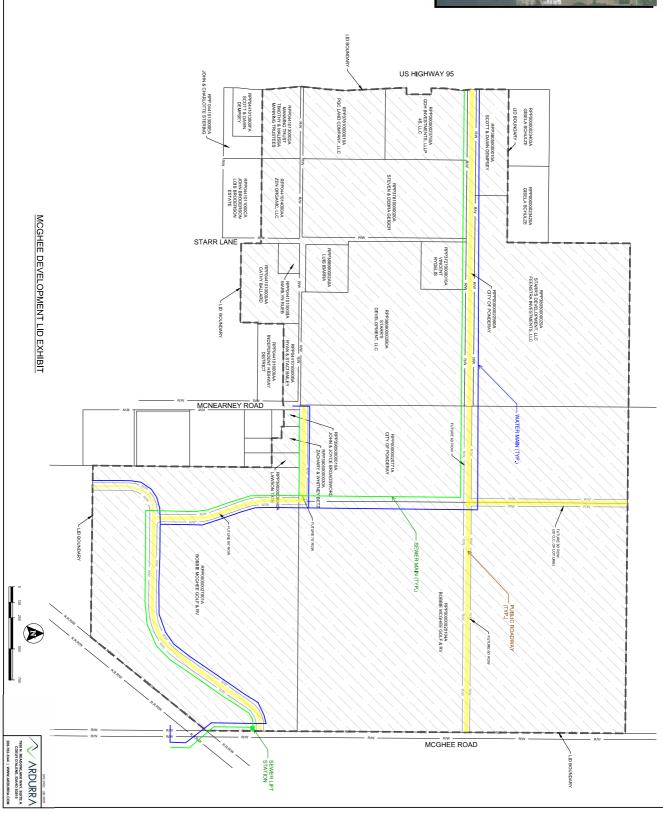




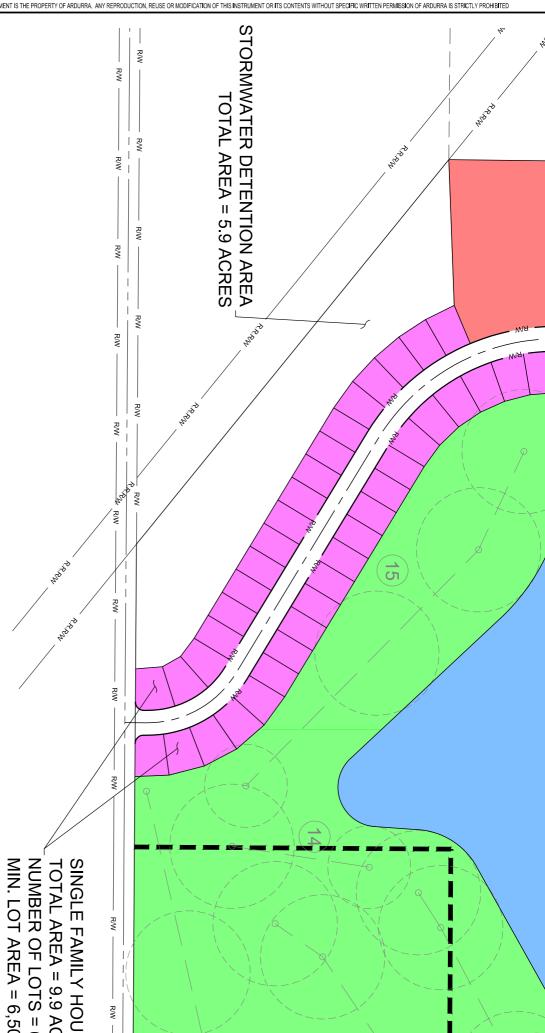
DEMAND FORM

Date:	6/5/24	Name:_	McGhee Developm	ent	Project Tracker ID (if applicable	e):
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Tap size	e requested:_		27		maximum load:	gpm
* For m	ixed use only	, please pro	ovide the following: Comr	mercial area:	7.84 T	square feet
If this to	ap will also s	erve irrigat	ion, please provide the fol	lowing:	*Approximate 304 ERUs for combined dommercial demand	omestic and
Area of	irrigation on	ly:	square feet		igation maximum load:	
Concur	rent irrigatio	n/domestic	use: yes	no ""Tot	al assumed irrigation area for SF Lots, R ercial areas is 20 acres. Golf irrigation fr	V Area and om other sources.
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	:	•	Area of irrigation	on only:	square fe	et
Maximu	ım load:		gpm			
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Name o	of the street v	vhere the m	ain is to be tappedis:			

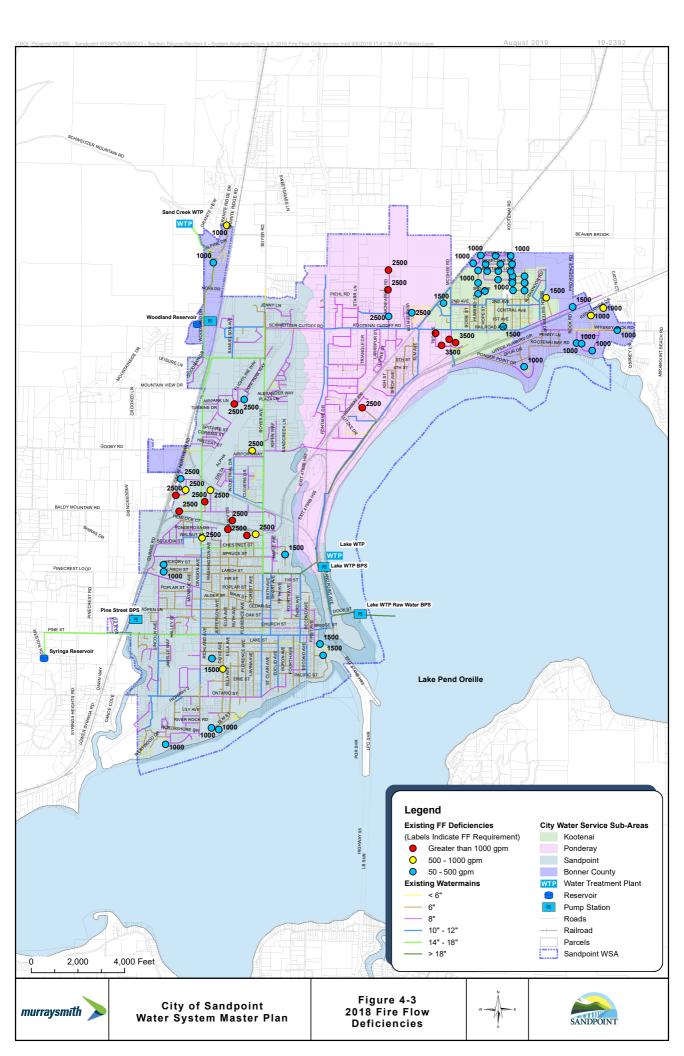




MCGHEE DEVELO



RW |





800 West Main Street, Suite 1300 Boise, Idaho 83702 Main 208.562.4900 Fax 208.562.4901

A Professional Law Corporation Norman M. Semanko Attorney at Law Direct Dial 208.562-4909 NSemanko@parsonsbehle.com

October 8, 2024

City Council
CITY OF SANDPOINT
ATTN: CITY CLERK
1123 W. Lake Street
Sandpoint, Idaho 83864

VIA EMAIL ONLY cityclerk@sandpointidaho.gov

Zachary W. Jones LAKE CITY LAW 435 W. Hanley Avenue, Suite 101 Coeur d'Alene, Idaho 83815 zjones@lclattorneys.com

Re: Notice of Appeal – Denial of Water Service Application for McGhee Development

Dear City Council and Mr. Jones:

This Notice of Appeal is submitted in reply to the City of Sandpoint's response letter dated September 24, 2024, regarding the above-referenced matter ("Water Service Denial"). We note that the City's letter did not advise our client of the right to appeal to the Sandpoint City Council, as required for a denial of water service under the City Code and the City's Water Rules. Chapter 6 - Municipal Water System, Section 7-6-16; Water Rules, Section III.1.D. Again, the City has failed to comply with its own rules. There is no fee listed in the City's currently published fee schedule (at https://www.sandpointidaho.gov/media/691) for the appeal of decisions on water service applications. If there is an applicable appeal fee, please advise us accordingly.

We set forth the following grounds for appeal, to be supplemented prior to or at hearing.

The Water Service Denial refers to the City's 2018 Master Plan, Figure 4-3. When our client was seeking approval for the 60-lot subdivision, they asked if looping through the development (see attached markup to Figure 4-3) would adequately improve the fire flow. The City's consultant then modeled this looping and found that it was adequate, hence the Will Serve letter that the City provided for the 60-lot subdivision (also attached). The proposed looping of the dead-end water mains in McGhee Road, Vermeer Drive and McNearney Road will improve fire flows to all of the surrounding properties. The Water Service Denial's reference to the 2018 model, without any consideration of this looping, presents an incomplete and inaccurate picture of the actual situation. This was the reason that our client requested, and the City previously agreed, to run a water model update.

CITY OF SANDPOINT LAKE CITY LAW October 8, 2024 Page 2

The City completed a more recent study in 2023, which shows looping of water mains through the McGhee property as part of all their buildout alternatives. We have attached one of the Figures from that study, showing the water mains extending through the property. It is unclear why the City would reject our client's project based on a 2018 study, when a more recent study has been completed.

Because the Water Service Denial failed to consider this information and therefore erroneously denied our client's application, we are submitting this Notice of Appeal - despite not being advised of the right to appeal to the Council as required by the City Code and Water Rules.

In furtherance of our client's appeal, we hereby request a hearing for additional consideration of the application by the City Council, to include the presentation of witnesses, evidence, and argument, pursuant to the procedures required by City Code Sections 7-6-16 and 7-6-17. In the meantime, we encourage the City to reconsider our client's request with the benefit of the information provided herein. A new decision approving the application may well render this appeal moot and obviate the need for a City Council hearing on the appeal.

The City's inaction on, misrepresentations about, and now erroneous denial of, the application for water service has already caused severe financial consequences for our client and is simply unacceptable. We look forward to the City Council hearing our client's appeal or, alternatively, the City reconsidering our client's application for water service and granting the same.

Thank you for your immediate attention to this matter.

Regards,

PARSONS BEHLE & LATIMER

Norman M. Semanko

Attorney at Law

NMS:kea Attachments

cc: Sandpoint City Council (<u>druehle@sandpointidaho.gov</u>; <u>jaispuro@sandpointidaho.gov</u>;

jdick@sandpointidago.gov; kschreiber@sandpointidaho.gov;

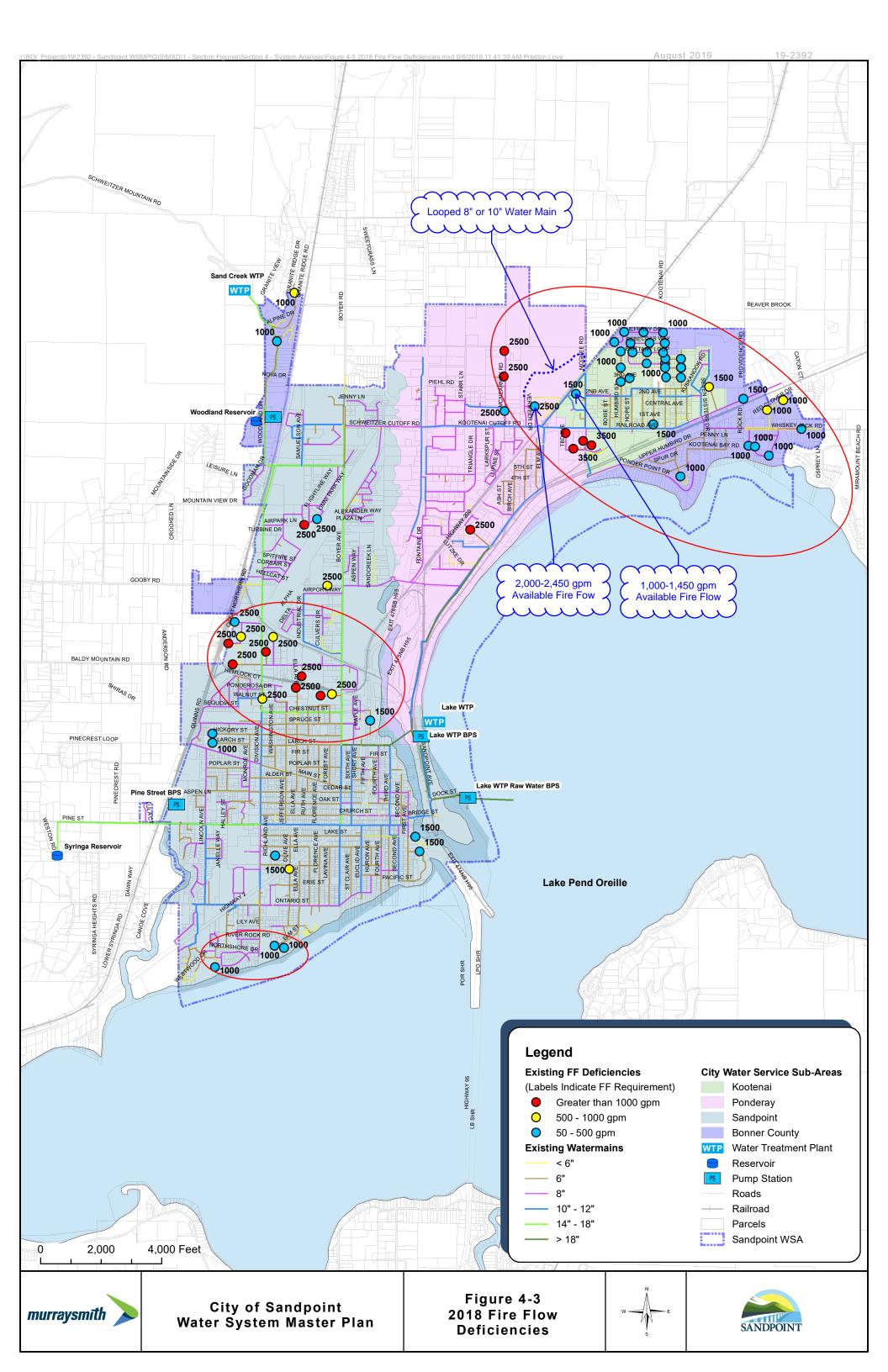
pduquette@sandpointidaho.gov; rhowarth@sandpointidaho.gov)

Fonda Jovick, City Attorney (fjovick@lclattorneys.com)

Richard Villelli (dick@villellipnw.com)

Scott McNee, P.E. (smcnee@ardurra.com)

Brandon Staglund, P.E. (bstaglund@sandpointidaho.gov)





September 29, 2022

Villelli Investment Attn: Bobby McGhee PO Box 1785 Sandpoint, ID 83864

Subject:

Will Serve Confirmation: Proposed McGhee Subdivision; RPP00000027801A, Section 2, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho

The City of Sandpoint has the capacity and ability to provide water for the subject properties within the City of Sandpoint water service area. An existing 8-inch public water main is located within Vermeer Drive, directly south of the subject property. A new 12-inch public water main will be extended north through the proposed development and loop back to the existing 10-inch public water main to the east.

A hydraulic model for fire flow plus max day demand (MDD) was completed on the basis of a 60-unit development, Water & Sewer Layout Plan (dated May 2022), and pipe sizing of a 12-inch water main on Vermeer Drive & Main Road. The results were approximately 23 psi available during fire flow, meeting the minimum criteria of 20psi.

Declining balance determination confirms that the City's system has the capacity to supply the service area of the system served by the extension.

Upon approval of engineered plans, proof of a valid building and plumbing permit, payment of applicable fees, and completion of approved water infrastructure improvements, water service will be provided.

The City of Sandpoint's ability to serve water is dependent on a variety of factors; this confirmation is based upon an assumption that the project will be developed within five years.

Please feel free to contact me with any questions.

Sincerely

Amanda Wilson

Infrastructure & Development Services Director

awilson@sandpointidaho.gov

208.263.3428





Option 1 - 2038 MDD AFF



ABILITY TO SERVE WATER APPLICATION CHECKLIST

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AROURICA - SCOTT



Infrastructure and Development Services

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	Building Permit Application	ADDRESS:		CITY:	Ponderay	
	Request to Serve	DESCRIPTION:	2-57N-2W TAX 49 2-57N-2W GOV LOT 7 & SWNE LESS W 775 775FT OF SWNE	FT; GOV LOT 8, S	ENE, S 60FT OF W	
	Single family residence Multi-family residential	OWNER				
	Subdivision Development	NAME:	Richard Villelli, Manager Bobby McGhee Golf and RV Resort, LLC	ADDRESS:	P.O. Box 1785	
	Commercial/Industrial	PHONE:	(208) 660-8474	CITY:	Sandpoint	
	Existing Water Service	EMAIL:	dick@villellipnw.com	STATE, ZIP:	ID 83864	
	No existing service Meter Size(s)	AUTHORIZED	REPRESENTATIVE			
	Other (e.g. well)	NAME:		ADDRESS:	-	
.	Town and Makey Compige	PHONE:		CITY:		
,	Expected Water Service Single family residential	EMAIL:		STATE, ZIP:		
	number of lots: 64 Multi-family, commercial, or industrial (see below):	ENGINEER NAME:	Scott McNee, P.E. Ardurra Group, Inc.	ADDRESS:	7950 N Meadowlark Way, Suite A	
	Meter Qty_10** Sizes_TBD **Assumes shared meter(s) for RV sites	PHONE:	(208) 762-3644	CITY:	Coeur d'Alene	
	Meter Sizes: determined by applicant's licensed	EMAIL:	smcnee@ardurra.com	STATE, ZIP:	ID 83815	
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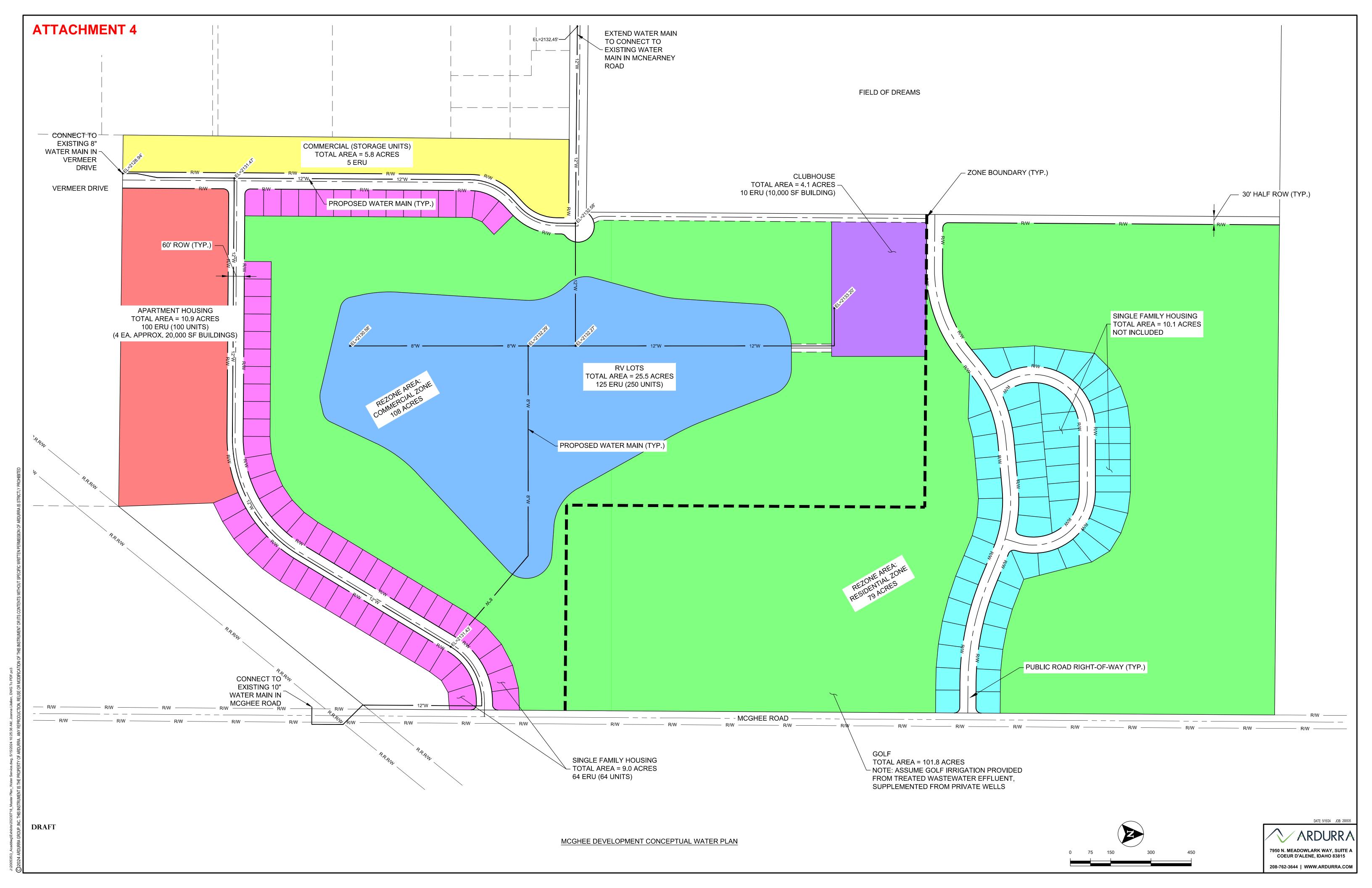
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DEMAND FORM

Date:	6/5/24	Name:_	McGhee Developm	ent	Project Tracker ID (if applicable	e):
Prope	rtv Addre:	ss: RPP	00000027801A, RPP000	000020104A		
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Tap size	e requested:_		27		maximum load:	gpm
* For m	ixed use only	, please pro	ovide the following: Comr	mercial area:	7.84 T	square feet
If this to	ap will also s	erve irrigat	ion, please provide the fol	lowing:	*Approximate 304 ERUs for combined dommercial demand	omestic and
Area of	irrigation on	ly:	square feet		igation maximum load:	
Concur	rent irrigatio	n/domestic	use: yes	no ""Tot	al assumed irrigation area for SF Lots, R ercial areas is 20 acres. Golf irrigation fr	V Area and om other sources.
Name o	of the street v	where the m	ain is to be tappedis:			
	ATION DI		DATA - use this section	n only if irri	gation will be served by its o	wn separate tap
	:	•	Area of irrigation	on only:	square fe	et
Maximu	ım load:		gpm			
If the area	of irrigation is ove	er 43,560 squai	e feet refer to City of Sandpointwate	er.org/DoingBusin	esswithUs/PlanReviews/IrrigationPlanSubmitt	al/
Name o	of the street v	vhere the m	ain is to be tappedis:			





September 29, 2022

Villelli Investment Attn: Bobby McGhee PO Box 1785 Sandpoint, ID 83864

Subject:

Will Serve Confirmation: Proposed McGhee Subdivision; RPP00000027801A, Section 2, Township 57 North, Range 2 West, Boise Meridian, Bonner County, Idaho

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