



PLANNING AND ZONING COMMISSION AGENDA

Monday, April 10, 2017

Ketchum City Hall

480 East Avenue North, Ketchum, ID 83340

1. **5:30 PM - CALL TO ORDER: City Hall, 480 East Avenue North, Ketchum, Idaho**
2. PUBLIC COMMENT - Communications from the public for items not on the agenda.
3. COMMUNICATIONS FROM STAFF
 - a. Public Hearing, Zoning Code Amendments Phase II – Motor Vehicle Fueling Stations: City-initiated text amendments to Chapter 17.08, Definitions, Section 17.12.020, District Use Matrix, and Chapter 17.124, Development Standards to amend regulations for motor vehicle fueling stations in order to protect the health, safety and welfare of the public and to align regulations for the use with the Comprehensive Plan.
 - b. Kneebone Final Plat: 500 N. Washington Ave, Ketchum, ID (Ketchum, Lot 8, Block 15). The Commission will consider and take action on an application by Kneebone, LLC for a final plat for a three-story mixed use condominium building.
 - c. Discussion of Emergency Ordinance #1172 of the City of Ketchum, to amend Title 17, Zoning Regulations, Chapter 17.88, Floodplain Management Overlay Zoning District, finding an imminent peril to the public health, safety, or welfare due to anticipated flooding caused by Wood River Valley snowpack being 180% above normal and therefore amending Ketchum City Code 17.88 to provide for emergency procedures for riparian alteration and emergency city actions; providing a savings and severability clause; and providing an effective date.
4. CONSENT CALENDAR
 - a. Minutes: March 13, 2017
 - b. Knudson Conditional Use Permit 491 East 10th Street, Ketchum, Idaho (Tenth St Light Industrial Complex, Building A Unit 1): Findings of Fact and Conclusions of Law
 - c. Sun Valley Mixed Use Project, 231 Sun Valley Road, Ketchum, Idaho (Lot 8 Remainder, Block 17, Section 18, Township 4): Findings of Fact and Conclusions of Law
 - d. Angel Wings Retail Addition, 320 North Leadville Ave Ketchum, Idaho (Ketchum Lot 2 Block 24): Findings of Fact and Conclusions of Law
 - e. Argyros Performing Arts Center Design Review: 120 South Main Street and 111 South Leadville, Ketchum, Idaho (Leadville, Ketchum, Idaho (Ketchum Lot 4, Block 1, West 10' of Alley and Ketchum Lot 8, Block 1, East 10' of Alley): Findings of Fact and Conclusions of Law
 - f. Kneebone Final Plat: 500 N. Washington Ave, Ketchum, ID (Ketchum, Lot 8, Block 15): Findings of Fact and Conclusions of Law
5. FUTURE PROJECTS AND NOTICING REQUIREMENTS
6. STAFF REPORTS & CITY COUNCIL MEETING UPDATE
7. COMMISSION REPORTS AND EX PARTE DISCUSSION DISCLOSURE
8. ADJOURNMENT

Any person needing special accommodations to participate in the meeting should contact the City Clerk's Office as soon as reasonably possible at 726-3841. All times indicated are estimated times, and items may be heard earlier or later than indicated on the agenda.



City of Ketchum

April 10, 2017

Planning and Zoning Commission
City of Ketchum
Ketchum, Idaho

**STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
REGULAR MEETING OF APRIL 10, 2017**

- PROJECT:** City-initiated Text Amendments to Title 17, Chapter 17.08, Definitions, and Section 17.12.020, District Use Matrix
- REPRESENTATIVE:** City of Ketchum Planning and Building Department
- DESCRIPTION:** City-initiated text amendments to the City of Ketchum Municipal Code to amend Title 17 - Zoning Regulations, Chapter 17.08, Definitions, and Section 17.12.020, District Use Matrix, to amend the regulations for motor vehicle fueling stations in order to protect the health, safety and welfare of the public and to align regulations for the use with the Comprehensive Plan.
- PLANNER:** Brittany Skelton, Senior Planner
- ATTACHMENTS:**
- A. Table 1: Light Industrial Districts #1 and #2 Parcel Characteristics Summary and Location Map
 - B. Table 2: Analysis of Amendments
 - C. Table 3: Compliance With Comprehensive Plan
 - D. Table 4: Compliance with Zoning Ordinance
 - E. Table 5: Compliance with Subdivision Ordinance
 - F. Public comment received as of Wednesday, April 5th, 9:00 a.m.
 - G. Draft Ord. [# tbd]
- NOTICE:** **Planning and Zoning**
- Public notice for the public hearing on April 10, 2017 was published in the Idaho Mountain Express and was mailed to outside agencies on March 22, 2017. Notice was posted in three public locations on March 21, 2017.
- PUBLIC HEARINGS:** **Planning and Zoning**
- April 10, 2017

Amendment Objectives

The objective of the proposed text amendments is to align the zoning code with the 2014 Comprehensive Plan in regards to motor vehicle fueling stations and the zoning code.

Background

Motor Vehicle Fueling Stations, defined as, “[Facilities] providing the retail sale and direct delivery to motor vehicles of fuel, including electric charging stations, lubricants and minor accessories, and retail sales for the convenience of the motoring public,” are permitted in Light Industrial zoning districts #1 and #2 within the City of Ketchum. Motor Vehicle Fueling Stations are permitted only within these zoning districts in city limits.

From June of 2016 through December of 2016 city staff and the Planning and Zoning Commission reviewed a Conditional Use Permit application for a new motor vehicle fueling station that was proposed to be developed in the Light Industrial District Number 1 (LI-1) zone on a lot fronting, and providing vehicular access from, Highway 75. The applicant’s team of professional designers and engineers submitted numerous revisions to the site plan originally proposed for the project and submitted two engineering studies and traffic studies related to pedestrian and vehicle trip generation anticipated by the proposed use.

Ultimately, the Planning and Zoning Commission denied the Conditional Use Permit application, finding the vehicle composition attracted to the proposed use and the volume of vehicle trips generated by the use would be hazardous and conflict with existing and anticipated pedestrian, cyclist, and vehicular traffic in the vicinity.

Zoning Code Text Amendment Considerations

Primarily due to the high volume of vehicle trips generated by motor vehicle fueling stations, especially motor vehicle fueling stations that include sales of items of convenience to the motoring public, and due to anticipated conflict between pedestrian, cyclist, and vehicular traffic and safety that would result if such a use were to locate at any site with access from Highway 75 in city limits, staff proposes several simple text amendments to the zoning code that would prohibit such access. Secondly, staff recommends such amendments because locating motor vehicle fueling stations on Highway 75 conflicts with goals and objectives stated in the 2014 Comprehensive Plan. Furthermore, because the only place in the zoning code that references electric vehicle charging stations is the definition of motor vehicle fueling station, staff recommends defining electric vehicle fueling stations separately.

There are several proposed text amendments for the Commission to consider:

1. Amend the Zoning District Use Matrix with a footnote that prohibits the development of motor vehicle fueling stations to locate on sites where access is provided from Highway 75;
2. Amend the Development Standards chapter to reiterate the prohibition of access to motor vehicle fueling stations being provided from Highway 75;
3. Amending the code to add a definition for Electric Vehicle Charging Stations and amending the existing definition of “motor vehicle fueling station” to differentiate between electric vehicle charging stations that are incorporated as part of a motor vehicle fueling station and Electric Vehicle Charging Stations as an accessory use; and
4. Amend the Zoning District Use Matrix to allow Electric Vehicle Charging Stations as a permitted Accessory (A) in all zoning districts.

The Commission may elect to recommend approval, recommend approval with modifications, or recommend denial of all or any of the above text amendments at this time.

Proposed Amendments

1. Amend Section 17.12.020, District Use Matrix, to include a new footnote #30. to appear at the bottom of the table.

The footnote would state, “Vehicular access from Highway 75 to motor vehicle fueling stations is prohibited.” The footnote would be added to the row for the motor vehicle fueling station within the district use matrix. The proposed revised District Use Matrix is attached as Exhibit A to Attachment E, proposed Ordinance.

2. Amend chapter 17.124 Development Standards to include a new section 17.124.160 Motor Vehicle Fueling Stations as follows:

17.124.160 Motor Vehicle Fueling Stations

Access to motor vehicle fueling stations from Highway 75 is prohibited.

3. Amend Section 17.02.020, Terms Defined, as follows:

MOTOR VEHICLE FUELING STATION: A facility providing the retail sale and direct delivery to motor vehicles of fuel, including electric charging stations associated with a motor vehicle fueling station, lubricants and minor accessories, and retail sales for the convenience of the motoring public.

ELECTRIC VEHICLE CHARGING STATION: Electric vehicle charging station means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Light Industrial District Parcel Characterizes

Below is a table summarizing the total number of parcels, total acreage, total number of vacant parcels, total vacant acreage, and number of parcels with existing access to Highway 75 and number of parcels that are adjacent to Highway 75 that do not currently have Highway 75 access in each Light Industrial zoning district.

The table represents both the potential number of parcels that would be directly impacted by the text amendment as well as the existing development opportunities and potential opportunities for redevelopment available for future motor vehicle fueling stations.

TABLE 1: Light Industrial District Parcel Characteristics Summary and Location Map

[see next page]

TABLE 1: Light Industrial District #1 and #2 Parcel Characteristics Summary and Location Map

	Light Industrial District No. 1	Light Industrial District No. 2
Number of parcels in zone	31	189
Total acreage in zone	12.36	42.43
Number of vacant parcels in zoning district	3	11
Total vacant acreage in zone	0.126 acre	3.444 acre
Number of Parcels with existing vehicular access on Highway 75	1	1
Number of parcels that are adjacent to Highway 75 without vehicular access to Highway 75*	0	12*

* These parcels do not have access from Highway 75 due to a significant grade change

TABLE 2: Analysis of Amendments

ANALYSIS OF AMENDMENTS
17.12.020, District Use Matrix
<p>The District Use Matrix of the zoning code regulates uses that are permitted, conditionally permitted, and not permitted in each zoning district. The District Use Matrix also contains footnotes with clarification points or additional regulations for some uses.</p> <p>The proposed new footnote #30. would clearly denote within the use matrix that Motor Vehicle Fueling Stations are not permitted to have access from Highway 75.</p> <p>The proposed addition of Electric Vehicle Fueling Station to the District Use Matrix would clearly demonstrate that Electric Vehicle Fueling Stations are permitted as an Accessory Use in all zoning districts.</p>
Section 17.02.020, Terms Defined
<p>The proposed new definition, Electric Vehicle Charging Station, narrowly defines this use to mean a public or parking space that is served by battery charging station equipment. Coupled with the District Use Matrix, the Electric Vehicle Fueling Stations would be permitted as Accessory Uses only.</p> <p>This definition is not intended to and does not allow for the development of an exclusively Electric Vehicle serving version of a traditional gas station and the convenience item/retail sales that typically accompany traditional gas stations. However, consideration of such a use at some point in the future could be considered by the city, as electric vehicles gain in market share, consumer behavior changes, and the impacts of such a use could be considered and evaluated.</p>

TABLE 3: Compliance with Comprehensive Plan

SUPPORTING SECTION	SUMMARY OF COMPLIANCE OF PROPOSED AMENDMENTS WITH THE 2014 COMPREHENSIVE PLAN
Prohibition of access to motor vehicle fueling stations from Highway 75	
Chapter 12: Future Land Use	<p>The Light Industrial #1 and #2 zones are designated for the future I and use “Mixed-Use Industrial.” The description of this land use includes, “Uses should generate little traffic from tourists and the general public.”</p> <p>Providing highway access to a motor vehicle fueling station from Highway 75 facilitates the generation of traffic from tourists and the general public because Highway 75 is the main thoroughfare that carries tourists and the general public through Ketchum. Prohibiting access to motor vehicle fueling stations from Highway 75 limits the accessibility, and therefore traffic generated, from tourists and the general public.</p>
Goal CD-3: Ketchum will maintain and improve the appearance of its entryway corridors and gateways.	<ul style="list-style-type: none"> • Policy CD-3.1 Scenic Corridors and the Community’s Key Gateways. <p>Along SH 75, there are a wide variety of panoramic vistas, rather than specific views to a fixed background area. Any development along the rural portions of the highway should retain these vistas. The gateways to the community presently convey a positive image because of their vast openness and distinct separation of urban and rural areas.</p> <p>The community would like to maintain views from major gateways including the following: SH 75, Sun Valley Road, Warm Springs Road</p>
Goal M-1: Promote land use patterns, densities and mobility planning that maximizes investments and promotes safe and efficient mobility.	<ul style="list-style-type: none"> • Policy M-1.2 Transportation Planning and Access Management on Highway 75 and Arterials. <p>Develop and implement a City-wide Transportation Plan. Control new curb cuts on Highway 75, Warm Springs Road and Saddle Road and reduce access points where possible (especially in the Mortgage Row area) to promote safe and efficient circulation.</p>
Goal M-3: Monitor and manage traffic volume.	<p>Monitor and manage traffic volume.</p> <ul style="list-style-type: none"> • Policy M-3.2 Roadway Safety <p>The City will strive to maintain an acceptable level of service for roads, which will generally place a priority on pedestrian, bicycle, and vehicle safety.</p>
Addition of Electric Vehicle Charging Station as a distinct and defined accessory use	
Goal NR6: Promote and support energy conservation and reduction of greenhouse gases.	<p>Promote and support energy conservation and reduction of greenhouse gases.</p> <ul style="list-style-type: none"> • Policy NR6.2 Energy Alternatives <p>The City should implement policies and programs that enhance opportunities for individuals, businesses, and public organizations to conserve energy and convert to renewable resources. The City should support energy conservation in City buildings, vehicles, operations and processes through its own policies, and provide information about techniques for energy efficiency.</p>
Goal CHW-6 Reduce generation of air pollutants and noise	<p>The City will promote reductions in air pollution to minimize impact to human health, sustain or improve the local economy, improve air quality, and reduce the impact of greenhouse gases.</p> <ul style="list-style-type: none"> • Policy CHW-6.1 Air Emissions

	<p>The City will continue to pursue reductions in air emissions/airborne particulates by regulating idling vehicles, street sanding, construction pollution, and other sources. Further, the City will reduce vehicle trips and vehicle miles travelled, and support renewable energy sources.</p>
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Table 4: Compliance with Zoning Ordinance

SECTION	SUMMARY OF COMPLIANCE OF PROPOSED AMENDMENTS WITH THE ZONING ORDINANCE
Prohibition of access to motor vehicle fueling stations from Highway 75	
17.18.140: LIGHT INDUSTRIAL DISTRICT NUMBER 1 (LI-1)	<p>A. Purpose: The LI-1 light industrial district number 1 is established as a transition area providing limited commercial service industries, limited retail, small light manufacturing, research and development, and offices related to building, maintenance and construction and which generate little traffic from tourists and the general public.</p>
	<ul style="list-style-type: none"> Prohibiting access to motor vehicle fueling stations from Highway 75 limits the accessibility, and therefore traffic generated, from tourists and the general public.
17.18.150: LIGHT INDUSTRIAL DISTRICT NUMBER 2 (LI-2)	<p>A. Purpose: The LI-2 light industrial district number 2 is established to provide for a permanent year round employment base and the location of light manufacturing, wholesale trade and distribution, research and development, service industries, limited related, bulk retail and offices related to building, maintenance and construction and which generate little traffic from tourists and the general public.</p>
	<ul style="list-style-type: none"> Prohibiting access to motor vehicle fueling stations from Highway 75 limits the accessibility, and therefore traffic generated, from tourists and the general public.

Table 5: Compliance with Subdivision Ordinance

SECTION	SUMMARY OF COMPLIANCE OF PROPOSED AMENDMENTS WITH THE SUBDIVISION ORDINANCE
16.04.010: GENERAL PROVISIONS	<p>B. Purposes: The general purpose of this chapter is to protect and promote the public health, safety, convenience and welfare by establishing regulations and a process of review for all proposed subdivisions of land. This chapter establishes standards for land subdivision in order to accomplish the following:</p> <ol style="list-style-type: none"> To promote orderly, harmonious and integrated development of land; To provide safe, adequate and efficient pedestrian and vehicular traffic systems and circulations; To provide adequate all weather ingress and egress to subdivisions and lots; To prevent overcrowding of land and congestion on streets and highways; To provide for adequate air, light, solar access, privacy, and open space; To provide for adequate fire protection; To prevent inadequate or inappropriate provision of water, sewer, streets, pedestrian easements and public expenditures to provide such improvements; To protect and conserve wildlife, streams, natural topography, and other desirable natural features by providing for maximum retention of natural topographic features and qualities such as, but not limited to, skyline and ridge tops, knoll ridges, established trees and shrub masses, topsoil, streambeds and banks, drainage swales, and preventing damage to the natural environment or scenic beauty; To safeguard and enhance the character, appearance, and economic stability of the community; To provide adequate and uniform monumenting of land subdivisions and promote

	<p>accurate legal descriptions;</p> <p>11. To protect the economic base of the community, including property values;</p> <p>12. To provide access to public lands and waters;</p> <p>13. To ensure the provision and construction of adequate improvements including, but not limited to, water, sewer, and other utilities, streets, bridges, drainage, street lighting and easements;</p> <p>14. To encourage and promote energy conservation and alternative energy sources as well as other advanced building technology;</p> <p>15. To ensure conformance of proposed subdivisions with the above stated purposes and to ensure design and construction of improvements in conformance with the standards and purposes of this chapter and all other municipal ordinances relating to this chapter, including subsequent amendments.</p>
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- The proposed text amendments do not conflict with the Subdivision Ordinance.

STAFF RECOMMENDATION

Staff recommends approval of the text amendments as proposed.

OPTIONAL MOTIONS

1. "I MOVE TO RECOMMEND approval to City Council of the text amendments to Title 17, Chapter 17.08, Definitions, Section 17.12.020, District Use Matrix, and Chapter 17.124, Development Standards as proposed."
2. "I MOVE TO RECOMMEND approval to City Council of the text amendments to Title 17, Chapter 17.08, Definitions, Section 17.12.020, District Use Matrix, and Chapter 17.124, Development Standards with the following modifications, [insert modifications]."
3. I MOVE TO RECOMMEND denial to City Council of the text amendments to Title 17, Chapter 17.08, Definitions, Section 17.12.020, District Use Matrix, and Chapter 17.124, Development Standards as proposed."

Attachment F.

Public comment received as of Wednesday, April 5th, 9:00 a.m.

NO PUBLIC COMMENT WAS RECEIVED BY 9:00 A.M. WEDNESDAY, APRIL 5th, 2017.

Any public comment received after this date will be included in the public record and made available at the public hearing on April 10th, 2017.

Attachment G.

Draft Ord. [# tbd]

ORDINANCE NO. [TBD]

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO AMENDING TITLE 17, THE ZONING ORDINANCE, OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 17.12.020, DISTRICT USE MATRIX; SECTION 17.02.020, DEFINITIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ketchum is authorized to amend the city zoning ordinance pursuant to Idaho Code § 67-6511; and

WHEREAS, motor vehicle fueling stations generate a high volume of vehicle trips; and

WHEREAS, motor vehicle fueling stations with accessory retail sale of items of convenience to the motoring public generate an even higher volume of vehicle trips; and

WHEREAS, where Highway 75/Main Street in Ketchum, Idaho is adjacent to the zoning districts where motor vehicle fueling stations are permitted has only two lanes of vehicular travel, and lacks bicycle lanes and adequate pedestrian facilities; and

WHEREAS, Goal M-3 of the 2014 Comprehensive Plan is to monitor and manage traffic volumes and Policy M-3.2 Roadway Safety states, “The City will strive to maintain an acceptable level of service for roads, which will generally place a priority on pedestrian, bicycle and vehicle safety”; and

WHEREAS, Prohibiting vehicular access from Highway 75/Main Street supports Goal M-3 and Policy M-3.2 of the 2014 Comprehensive Plan; and

WHEREAS, Goal NR-6 of the 2014 Comprehensive Plan is to promote and support energy conservation and reduction of greenhouse gasses and Goal CHW-6 is to reduce generation of air pollutants and noise; and

WHEREAS, defining Electric Vehicle Charging Station as a use in the zoning code and permitting Electric Vehicle Charging Stations as an accessory use in all zoning districts supports Goal NR-6 and Goal CHW-6 of the 2014 Comprehensive Plan; and

WHEREAS, the Ketchum City Council, having reviewed the proposed text amendments, held public hearings on _____ and found that the request, on the whole, was in compliance with the 2014 Comprehensive Plan; and

WHEREAS, the Ketchum City Council having considered the recommendation of the Planning and Zoning Commission and submitted comments and testimony from the public, having determined that it is in the best interests of the public and adopt the proposed text amendments to Title 17, Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KETCHUM

Section 1: AMENDMENTS TO SECTION 17.12.020, DISTRICT USE MATRIX. That Title 17 of the Ketchum Municipal Code be amended to add a new footnote to Section 17.12.020, District Use Matrix as attached and incorporated as Exhibit A to this Ordinance.

Section 2: AMENDMENTS TO SECTION 17.02.020, DEFINITIONS. That Title 17 of the Ketchum Municipal Code be amended to add a new definition to Section 17.02.020, Definitions, as attached and incorporated as Exhibit B to this Ordinance.

Section 3: SAVINGS AND SEVERABILITY CLAUSE. It is hereby declared to be the legislative intent that the provisions and parts of this Ordinance shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid for any reason by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 4: REPEALER CLAUSE. All City of Ketchum Ordinances or parts thereof which are in conflict herewith are hereby repealed.

Section 5: PUBLICATION. This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form annexed hereto as Exhibit C, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

Section 6: EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval and publication, according to law.

PASSED BY the CITY COUNCIL and APPROVED by the MAYOR of Ketchum, Idaho, on this _____ day of _____, 2017.

APPROVED BY the Mayor of the City of Ketchum, Idaho, this _____ day of _____, 2017.

APPROVED:

Nina Jonas, Mayor

ATTEST:

Robin Crotty, Interim City Clerk

EXHIBIT A

17.12.020: DISTRICT USE MATRIX:

"P" = PERMITTED "C" = CONDITIONAL "A" = ACCESSORY

DISTRICT USE MATRIX

DISTRICT USES		L	L	L	G	G	S	S	S	T	T	T	C	C	C	C	L	L	L	R	A	
		R	1	2	L	R	O	O	O	T	3000	4000	SD	SD	SD	SD	I	I	I	U	F	
RES.	Dwelling, Multi-family				P ¹	P			P	P	P	P	P ²⁶	P ²⁶	P	P	C ¹⁴	C ¹⁴	C ¹⁴	C ¹⁹		
	Dwelling, One-Family	P	P	P	P ²	P	P	P	P	P	P	P	See Note 28	See Note 28	See Note 28	See Note 28				C ¹⁹	P	
	Residential Care Facility	P ⁴	P ²⁶	P ²⁶	P	P																
COMMERCIAL	Agriculture, Commercial																				P	
	Adult Only Business																		P			
	Business Support Service												P	P	P	P ²⁷	P	P				
	Convenience Store									P			P	P	P		P ¹²	P ¹⁶				
	Daycare Center				C ⁴	C ⁴				P ⁴	P ⁴	P ⁴	P	P	P		C ¹⁷		C ¹⁷			
	Daycare Facility				C ⁴	P ⁴			C ⁴	P ⁴	P ⁴	P ⁴					C ¹⁷		C ¹⁷	P ⁴		
	Drive-Through Facility												P ⁹	P ⁹	P ⁹							
	Equestrian Facility																				C	C
	Food Service									P	P ⁶	P ⁶	P	P	P		PC ¹⁵	PC ¹⁵		C ²⁹		
	Golf Course	P	P	P	P	P	P	P	P	P	P	P									C	
	Grocery Store												P	P	P							
	Health and Fitness Facility									P			P	P	P		C	C				
	Hotel									P ²⁵												
	Hybrid Production Facility												P	P	P		P	P				
	Instructional Service												P	P	P		P	P				
	Kennel, Boarding																P	P				
	Laundry, Industrial																P	P				
	Lodging Establishment									P	P	P	P	P								
	Maintenance Service Facility																P	P			C	
	Manufacturing																P	P				
	Mortuary													C	C	C						
	Motor Vehicle Fueling Station																C ³⁰	C ³⁰				
	Motor Vehicle Sales																C	C				
	Motor Vehicle Service																P	P				
	Office, Business									C			P ¹⁰	P	P	P ²⁴				P		
	Outdoor Entertainment									P	P	P	P	P	P							
	Personal Service									P	P ⁶	P ⁶	P	P	P		P ¹³					
	Professional Service																P	P				
	Recreation Facility, Commercial									C	C	C	P ²⁰	P ²⁰	P ²⁰						C	
	Repair Shop									P	P ⁶	P ⁶	P	P	P		P	P				
	Retail Trade									P ⁵			P	P	P		P ¹²	P ¹⁶		C ²⁹		
	Self-Service Storage Facility																P	P				
	Ski Facility									C	C	C									C	C
	Storage Yard																P	P				
	Studio, Commercial												P	P	P		P	P	P			
	Tourist House									P	P	P	P ¹¹	P ¹¹	P ¹¹	P ¹¹						
Tourist Housing Accommodation						P	P	P	P	P	P											
Truck Terminal																P	P					
TV and Radio Broadcasting Station																P	P	P				
Veterinary Service Establishment																P	P		C ²¹			
Warehouse																P	P	P				
Wholesale																P	P					
Wireless Communication Facility	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	C ²³	
INSTITUTIONAL	Assembly, Place of				C ³	C ³							C	C	C							
	Cemetery												P	P	P					C	C	
	Cultural Facility																			C		
	Geothermal Utility											C ⁷										
	Hospital												C	C	C							
	Medical Care Facility					C			P				P	P	P							
	Nature Preserve	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Parking Facility, Off-Site									C	C	C	C	C	C	C							

DISTRICT USES		L	L	L	G	G	S	S	S	T	T	T	C	C	C	C	L	L	L	R	A		
		R	1	2	R	R	O	O	O	T	3000	4000	SD	SD	SD	SD	I	I	I	U	F		
PUBLIC & I	Parking, Shared											C ⁸	C ⁸	C ⁸	P ⁸	P ⁸	P ⁸	P ⁸					
	Performing Arts Production													P	P	P					C		
	Public Use	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	C	C	C	C	C	C	
	Public Utility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Recreation Facility, Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Recycling Center																			P			
Semi-Public Use						C						C	C	C	P	P	P				C	C	
ACCESSORY	Agriculture, Urban	A ²²																					
	Daycare Home	A ⁴						C ⁴				A ⁴											
	Daycare, Onsite Employees																		A	A	A		
	Dwelling Unit, Accessory	A ¹⁸					A ¹⁸																
	Electric Vehicle Charging Station	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	Energy System, Solar	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	Energy System, Wind	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	Fallout Shelter	A	A	A	A	A	A	A	A	A	A	A	A										A
	Guesthouse	A	A	A	A	A	A	A	A	A	A	A	A										
	Home Occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	Recreation Facility, Residential	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
	Equestrian Facility, Residential	A	A	A	A	A	A	A	A	A	A	A	A										A
	Sawmill, Temporary																						C

- A multi-family development containing up to two (2) dwelling units is permitted.
- Two (2) one-family dwellings are permitted.
- Religious institutions are allowed through the provision of a conditional use permit. No other assembly uses as defined in Chapter 17.08 are permitted.
- Use is not permitted in the Avalanche Zone. Reference Zoning Map.
- Retail trade is permitted but must not exceed 2,500 square feet.
- Uses must be subordinate to and operated within tourist housing and not to exceed ten percent (10%) of the gross floor area of the tourist housing facility.
- Utility for offsite use.
- See section 17.125.070 for shared parking standards.
- Drive-throughs are not allowed in association with food service establishments.
- This is a permitted use, however offices and professional services on the ground floor with street frontage require a conditional use permit.
- Tourist houses shall only be located in existing one-family dwellings. Additions to the home shall not exceed 20 percent (20%) of the existing square footage.
- The following forms of retail trade are permitted: (a) Equipment rental, including sporting equipment and entertainment equipment, (b) Building, construction and landscaping materials; small engines with associated sales (c) Retail in conjunction with manufacturing, warehousing or wholesaling not to exceed 30% gross floor area or 800 square feet, whichever is less; no advertising is displayed from windows or building facades; and no access onto a major arterial is allowed if an alternative access is available.
- Personal service is not allowed except for laundromats and dry cleaning establishments.
- See section 17.124.090 of this title for industrial districts residential development standards.
- Catering and food preparation is permitted. Restaurants require a conditional use permit and shall not exceed 1,000 square feet and serve no later than 9:00 P.M. unless expressly permitted through approval of the conditional use permit.
- The following forms of retail trade are permitted: (a) Equipment rental, including sporting equipment and entertainment equipment (b) Building, construction and landscaping materials; small engines with associated sales (c) Furniture and appliances in conjunction with warehousing not to exceed 18% gross floor area or 900 square feet, whichever is less; (d) Other retail in conjunction with manufacturing, warehousing or wholesaling; it is limited to 10% gross floor area or 500 square feet, whichever is less. ---- Retail uses (c) & (d) shall have no advertising displayed from windows or building facades; and no access will be permitted onto a major arterial if an alternative access is available.
- See section 17.124.120.C of this title for industrial districts daycare development standards.
- See section 17.124.070 of this title for accessory dwelling unit development standards.
- A maximum of five (5) dwelling units are allowed through a conditional use permit and shall be a minimum of 400 square feet and not exceed 1,200 square feet in size.
- Indoor only.
- Only allowed in conjunction with an equestrian facility.
- See section 17.124.080 of this title for urban agriculture development
- See chapter 17.140 for wireless communications facility provisions.
- Allowed on the ground floor only.
- See section 17.124.050 of this title for hotel development standards.
- Ground floor street frontage uses are limited to retail and/or office uses. In subdistrict A office uses require a conditional use permit.
- Ground floor only.
- Through the provision of a conditional use permit, the planning and zoning commission may approve a 20% increase to the total existing square footage of an existing nonconforming one-family dwelling.
- Use is allowed as an accessory use through the provision of a conditional use permit.
- 30. Vehicular access from Highway 75 to motor vehicle fueling stations is prohibited.**

EXHIBIT B

17.02.020 DEFINITIONS:

MOTOR VEHICLE FUELING STATION: A facility providing the retail sale and direct delivery to motor vehicles of fuel, including electric charging stations associated with a motor vehicle fueling station, lubricants and minor accessories, and retail sales for the convenience of the motoring public.

ELECTRIC VEHICLE CHARGING STATION: Electric vehicle charging station means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

EXHIBIT C

PUBLICATION OF SUMMARY OF ORDINANCE NO. [tbd]

AN ORDINANCE OF THE CITY OF KETCHUM, BLAINE COUNTY, IDAHO AMENDING TITLE 17, THE ZONING ORDINANCE, OF THE KETCHUM MUNICIPAL CODE BY AMENDING SECTION 17.12.020, DISTRICT USE MATRIX; SECTION 17.02.020, DEFINITIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

A summary of the principal provisions of Ordinance No. 1170 of the City of Ketchum, Blaine County, Idaho, adopted on _____, 2017, is as follows:

SECTION 1. Amends Section 17.12.020, District Use Matrix, to prohibit vehicular access from Highway 75 to motor vehicle fueling stations and to add Electric Vehicle Charging Stations as a permitted accessory use in all zones.

SECTION 2. Amends Section 17.02.020, Definitions, to add a new definition for Electric Vehicle Charging Station and to amend the definition of Motor Vehicle Fueling Station to clarify that Electric Vehicle Charging Stations are permitted in association with motor vehicle charging stations.

SECTION 3. Provides for a savings and severability clause.

SECTION 4. Provides for a repealer clause.

SECTION 5. Provides for publication of this Ordinance by Summary.

SECTION 6. Establishes an effective date.

The full text of this Ordinance is available at the City Clerk's Office, Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho 83340 and will be provided to any citizen upon personal request during normal office hours.

APPROVED:

Nina Jonas, Mayor

ATTEST:

Robin Crotty, Interim City Clerk



City of Ketchum
Planning & Building

April 10, 2017

Planning and Zoning Commission
City of Ketchum
Ketchum, Idaho

Commissioners:

STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
REGULAR MEETING OF APRIL 10, 2017

PROJECT: Kneebone Building Final Plat

FILE NUMBER: #17-011

OWNERS: Kneebone LLC, c/o Steve Kearns

REPRESENTATIVE: Steve Kearns

REQUEST: Final plat approval for the Kneebone Building, a five unit condominium development, comprised of two residential units and three commercial units within a three story building currently under construction and nearing completion

LOCATION: 500 N. Washington Avenue (Lot 8, Block 15, Ketchum Townsite)

NOTICE: No noticing is required for the Final Plat. For the Preliminary Plat notice was mailed to property owners within a 300' radius of the subject property and was posted in three public locations on October 27, 2016. Notice was published in the newspaper of record on October 26, 2016.

ZONING: CC-C, Community Core, Sub-district C, Urban Residential

REVIEWER: Brittany Skelton, Senior Planner

ATTACHMENTS:

- A. Application, dated April 3, 2017
- B. Final Plat, dated April 2017
- C. Findings of Fact
- D. Condominium Covenants, Conditions and Restrictions for the Kneebone Building, draft dated April 3, 2017
- E. Bylaws and Articles of Incorporation for the Kneebone Condominium Owners Association, Inc., draft dated April 3, 2017
- F. Warranty deed

STAFF ANALYSIS

1. The subject property is located at 500 N. Washington Avenue, at the northeast corner of 5th Street and N. Washington Avenue, in the Community Core, Urban Residential sub-district zone. In March of 2016 a new three story mixed use building proposed for the property received Design Review (#16-012) approval from the Planning and Zoning Commission; the owner then applied for and received a building permit (BP #16-031) and construction commenced. The applicant then submitted a Preliminary Plat application (#16-085) and received a recommendation for Preliminary Plat approval from the Planning and Zoning Commission in December 2016 and followed by Preliminary Plat approval from City Council in April 2017.

2. Construction is nearing completion and Kneebone LLC has now submitted a Final Plat application. The Commission reviews the Final Plat application first and if the application substantially conforms to the Preliminary Plat approval the Commission shall recommend approval. Upon receipt of a Certificate of Occupancy the Final Plat application is then forwarded to City Council. If the Final Plat substantially conforms with the Preliminary Plat and all conditions have been met, including completion of or approval of bonding for specified design review elements, Council shall approve the final plat.

4. The Final Plat for the Kneebone Building substantially conforms to the Preliminary Plat application and the concerns and conditions raised by the City Engineer and the Utilities Department have been or are in progress of being met. The applicant is aware that public improvements, including sidewalks, shall be completed prior to receiving Final Plat approval from City Council. Staff has no concerns regarding the applicant’s ability to meet all requirements and conditions.

City Department Comments				
Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Complete Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	City Department Comments	Police Department: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Fire Department: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		City Engineer: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Streets: <ul style="list-style-type: none"> • <i>Construction of sidewalks shall be completed prior to City Council’s approval of the Final Plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Utilities: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Parks and Recreation: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Building: <ul style="list-style-type: none"> • <i>No comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Planning and Zoning: <ul style="list-style-type: none"> • <i>The condition noted during Preliminary Plat review, that a plat note stating, “The first floor commercial units (Unit 101 and Unit 102) are connected to the same water meter and</i>

			<p>ground floor irrigation is provided through this meter," shall be added to the Final Plat, has been met.</p> <ul style="list-style-type: none"> The condition noted during Preliminary Plat review, that a public access easement pertaining to the proposed street tree on Washington Avenue shall be recorded prior to City Council's approval of the Final Plat, is in progress. There are no concerns that this condition will not be met.
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Final Plat Requirements					
Compliant			Standards and Staff Comments		
Yes	No	N/A	City Code	City Standards and Staff Comments	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.C	Complete Application	
			<i>Staff Comments</i>	<i>The application has been reviewed and determined to be complete.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.C Final Plat Procedure	<p>1. The final plat procedure contained in subsection 16.04.030F of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the condominium has received:</p> <ul style="list-style-type: none"> a. A certificate of occupancy issued by the city of Ketchum; and b. Completion of all design review elements as approved by the planning and zoning administrator. <p>2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code. Prior to final plat approval, the subdivider shall submit to the city a copy of the final bylaws and condominium declarations which shall be approved by the council and filed with the Blaine County recorder, including the instrument number(s) under which each document was recorded.</p>	
			<i>Staff Comments</i>	<i>The Final Plat application is being reviewed by the Commission at this time. After the Commission forwards the application to City Council the Council will review the application. The Council will not approve the Final Plat until a certificate of occupancy has been issued and all design review elements have been completed and approved or a security deposit has been accepted in accordance with this section.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.D Garage	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.	
			<i>Staff Comments</i>	<i>The Final Plat designates the two-car covered parking garage as part of Unit #301. There are three uncovered parking spaces reflected in the site plan approved with the building permit that do not belong to a particular unit and are designated as common area on the final plat.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.E Storage Areas	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.	
			<i>Staff</i>	<i>There are adequate storage areas for personal property for all</i>	

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and Staff Comments
			Comments	<p>residential and commercial units designated on the final plat. Some storage areas are located on the ground floor and located within the common area of the covered parking and other storage areas are located on the second floor.</p> <p>Storage areas for boats, campers and trailers are not required nor provided due to characteristics of this development, which is a 3-story mixed use building located within the Community Core.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.F Maintenance Building	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.
			Staff Comments	<p>This development is a 3-story mixed use building in the Community Core; the majority of the property that is not covered in building footprint is covered with hardscape. Landscaping is limited to planter beds and street trees on the street fronting sides of the property and as indicated on sheet L-2 approved with the building permit (#16-031), the landscaping will be irrigated by an automatic sprinkler system and subsurface drip lines.</p> <p>Due to the characteristics of the development a maintenance building is not required and due to the nature of the common area a dedicated room for maintenance supplies is not required. There are however mechanical spaces and storage areas designated for each unit on the final plat.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.G Open Space	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.
			Staff Comments	<p>The common and limited common areas dedicated to owners of units in the development is of usable area and shape and is conveniently located for residents.</p> <p>Due to the development being a 3-story mixed use building in the Community Core the open space for the development is located on the top floor of the building and is a rooftop deck. The rooftop is divided with a screen wall with one half of the rooftop dedicated as Limited Common Area to the owner of Unit #301 and the other half of the rooftop decided as Common Area for the owners or tenants of the four other units in the development. The screen wall serves to maximize privacy and the rooftop location maximizes solar access in the common area.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.H General Applicability	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.
			Staff Comments	<i>As a condition of approval, all other provisions of this chapter and all applicable ordinances rules and regulations of the city and other</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
				<i>governmental entities having jurisdiction shall be complied with by the condominium subdivision.</i>

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission recommend approval of the Kneebone Building Final Condominium Plat to the City Council, subject to conditions 1-10 below.

OPTIONAL MOTIONS

Make a motion to:

1. **“I MOVE TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE KNEEBONE BUILDING FINAL PLAT BY KNEEBONE LLC, WITH CONDITIONS 1-10.”; or**
2. **“I MOVE TO RECOMMEND DENIAL TO THE CITY COUNCIL OF THE KNEEBONE BUILDING FINAL PLAT BY KNEEBONE LLC, BECAUSE OF THE FOLLOWING STANDARDS (Commission to insert reasons for denial).”**

RECOMMENDED CONDITIONS

1. The Covenants, Conditions and Restrictions (CC&R’s) shall be simultaneously recorded with the final plat, and the City will not now, nor in the future, determine the validity of the CC&R’s;
2. The failure to obtain Final Plat approval by the Council, of an approved preliminary plat, within one (1) year after approval by the Council shall cause all approvals of said preliminary plat to be null and void;
3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map;
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder’s office concurrent with the recording of the Plat containing the following minimum data:
 - a. Line work delineating all parcels and roadways on a CAD layer/level designated as “parcel”;
 - b. Line work delineating all roadway centerlines on a CAD layer/level designated as “road”; and,
 - c. Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as “control”; and,
5. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a “.dwg”, “.dgn” or “.shp” format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.

6. The applicant shall provide a copy of the recorded final plat to the Department of Planning and Building for the official file on the application.
7. All requirements of the Fire, Utility, Building, Planning and Public Works departments of the City of Ketchum shall be met. All public improvements shall meet the requirements of the Public Works Department.
8. The final plat shall not be signed by the City Clerk and recorded until the townhouse has received:
 - a. A Certificate of Occupancy issued by the City of Ketchum; and,
 - b. Completion of all design review elements as approved by the Planning and Zoning Administrator.
9. The Council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to Section 17.96.120.
10. A public access easement pertaining to the street tree proposed on Washington Avenue and guaranteeing public access around the tree shall be recorded prior to City Council's review of the Final Plat.



**City of Ketchum
Planning & Building**

28

OFFICIAL USE ONLY
Application Number:
Date Received:
By:
Fee Paid:
Approved Date:
By:

Subdivision Application

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 and click on Municipal Code.

APPLICANT INFORMATION			
Name of Proposed Subdivision: Kneebone Building Condominiums			
Owner of Record: Kneebone LLC			
Address of Owner: PO Box 3233, Ketchum, ID 83340			
Representative of Owner: Steve Kearns			
Legal Description: Ketchum lot 8 Block 15			
Street Address: 500 North Washington, Ketchum, ID 83340			
SUBDIVISION INFORMATION			
Number of Lots/Parcels: 5 condominiums			
Total Land Area: 5,500 sq ft			
Current Zoning District: CC Community Core Subdistrict C Urban Residential			
Proposed Zoning District: CC Community Core Subdistrict C Urban Residential			
Overlay District:			
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: pedestrian easement on to Kneebone property to walk around a tree planted in the city right of way			
Briefly describe the improvements to be installed prior to final plat approval: Curb, gutter and sidewalks, street trees with tree grates in sidewalk, street lights, trash enclosure			
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 tortuous 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.

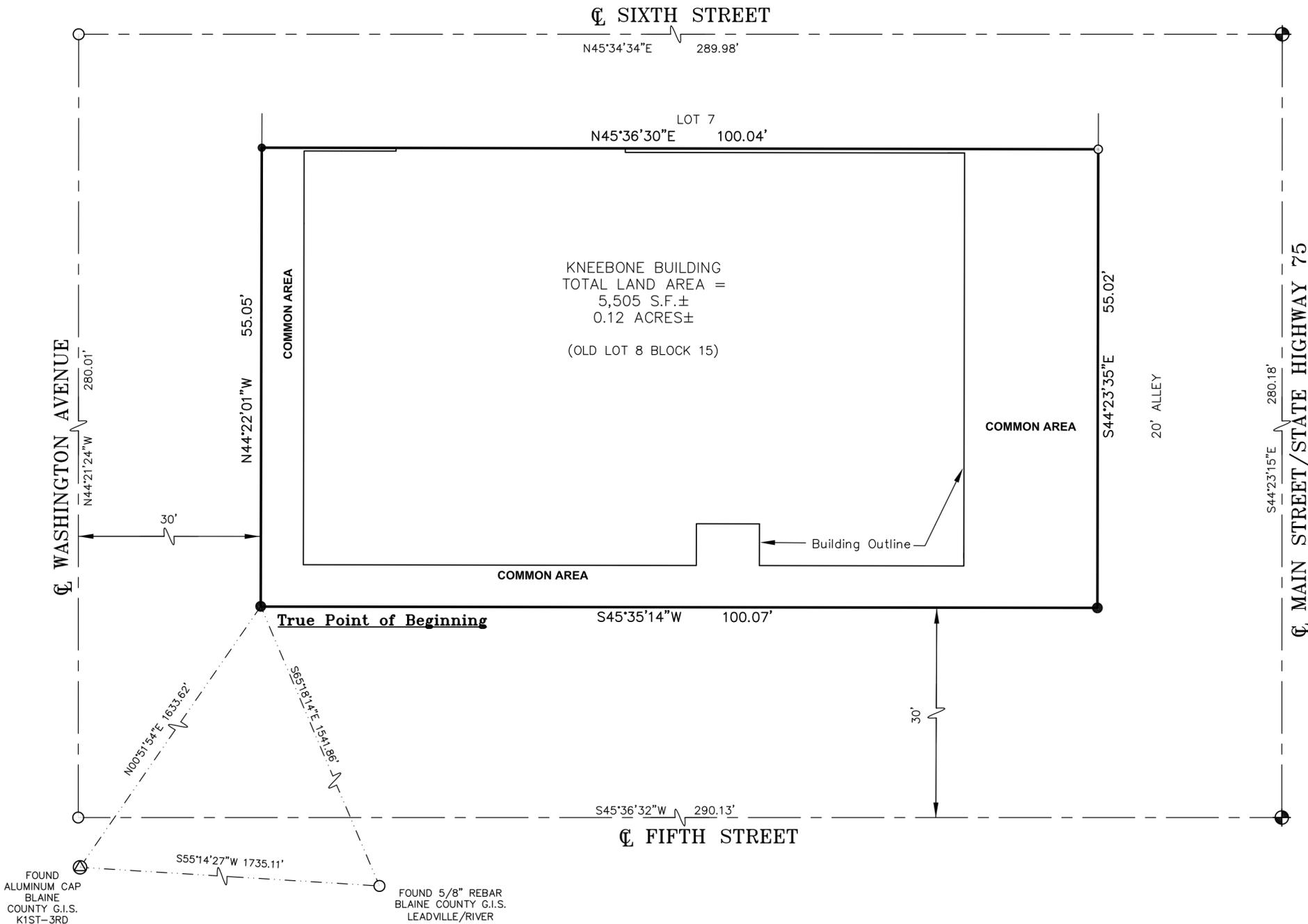
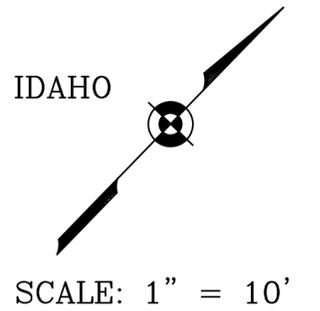
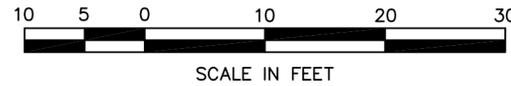
Applicant Signature

4/3/17
Date

A CONDOMINIUM PLAT SHOWING KNEEBONE BUILDING

WHEREIN LOT 8, BLOCK 15, KETCHUM TOWNSITE IS CONVERTED INTO A CONDOMINIUM PROJECT, AS SHOWN
LOCATED WITHIN SECTION 13, T.4 N., R.17 E., & SECTION 18, T.4N., R.18 E., B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

APRIL 2017



LEGEND

- Property Boundary
- Adjoiners Lot Line
- Centerline of Right of Way
- GIS Tie
- Found Aluminum Cap
- Found Brass Cap
- Found 5/8" Rebar
- Set 5/8" Rebar

NOTES

1. PROPERTY HEREON IS SUBJECT TO THE COVENANTS, CONDITIONS, AND RESTRICTIONS (CC&R'S) AS RECORDED UNDER INSTRUMENT NO. _____, RECORDS OF BLAINE COUNTY, IDAHO.
2. VERTICAL DATUM IS ASSUMED. BENCHMARK IS A FOUND 5/8" REBAR AT THE INTERSECTION OF FIFTH STREET AND WASHINGTON AVENUE, ELEVATION = 5831.00.
3. THE BUILDING OUTLINE IS ONLY SHOWN ON THIS PAGE FOR ORIENTATION.
4. THE FIRST FLOOR COMMERCIAL UNITS (UNIT 101 AND UNIT 102) ARE CONNECTED TO THE SAME WATER METER. GROUND FLOOR IRRIGATION IS PROVIDED THROUGH THIS METER.

OWNER OF RECORD AND SUBDIVIDER:

Kneebone, LLC
PO Box 4356
Ketchum, Idaho 83340

HEALTH CERTIFICATE: Sanitary restrictions as required by Idaho Code Title 50, Ch. 13, have been satisfied. Sanitary restrictions may be reimposed in accordance with Idaho Code Title 50, Ch. 13, Sec. 50-1326, by issuance of a Certificate of disapproval.

SEE SHEETS 2 & 3 FOR CONDOMINIUM UNIT
DIMENSIONS, UNIT TIES AND ADDITIONAL
NOTES



BRIAN D. YEAGER, P.L.S. 13260

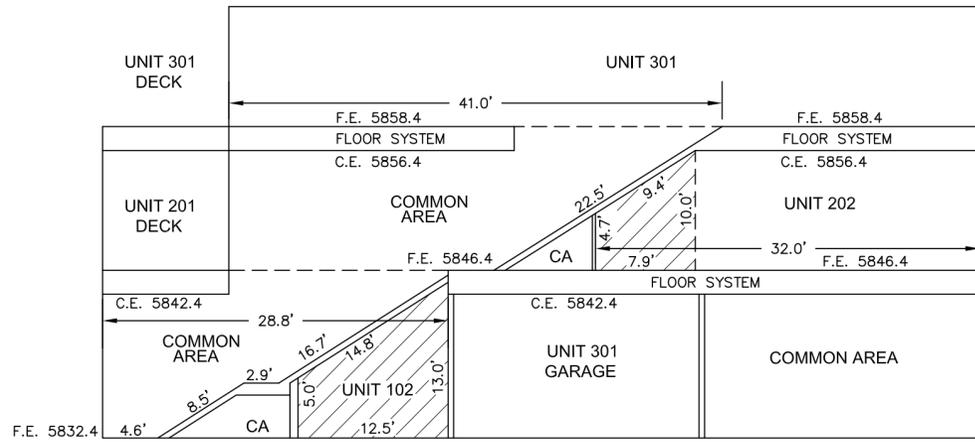
KNEEBONE BUILDING
GALENA ENGINEERING, INC.
HAILEY, IDAHO

SHEET 1 OF 4

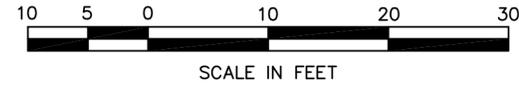
Job No. 7208

Date _____ South Central Public Health District

BUILDING CROSS SECTION

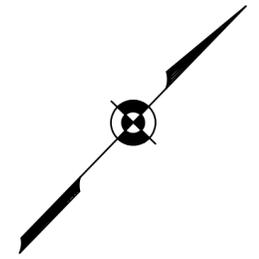


A CONDOMINIUM PLAT SHOWING
KNEEBONE BUILDING



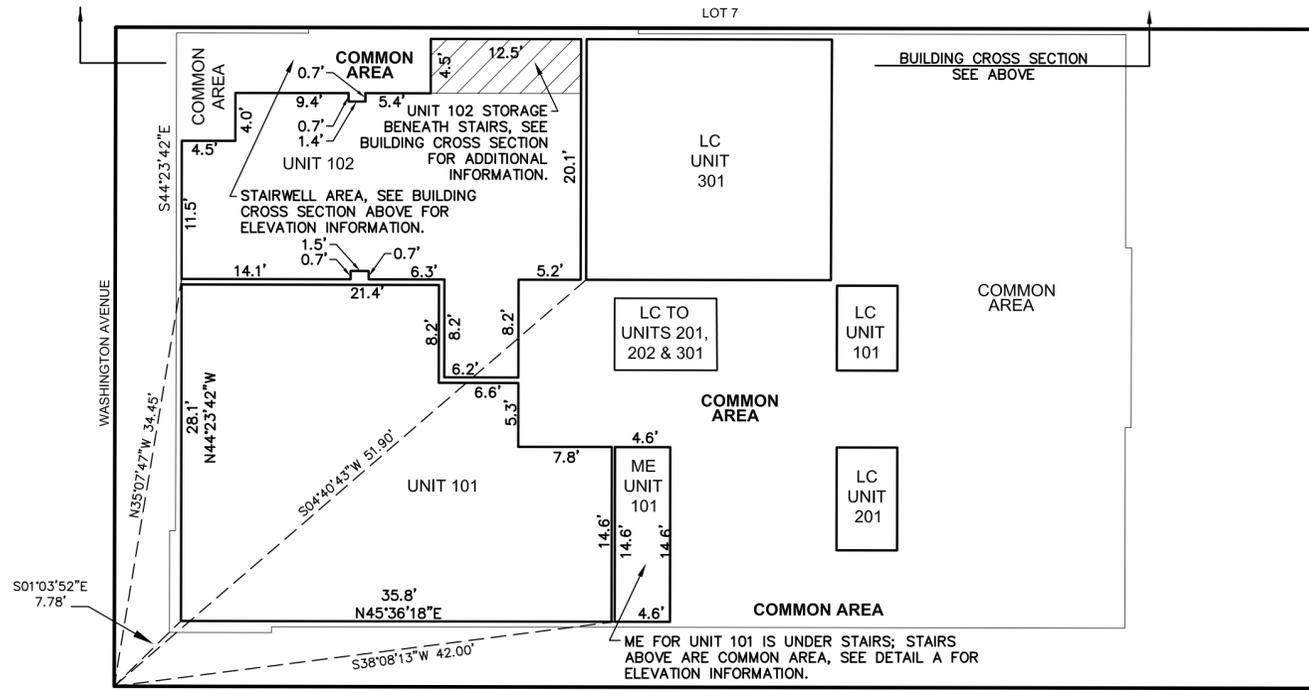
LEGEND

- Property Boundary
- Building Outline
- Unit Outline
- - - Unit Tie
- ▨ Unit Area under staircase. See building cross section for elevation information.
- CA Common Area
- LC Limited Common
- ME Mechanical
- ST Storage
- CE Ceiling Elevation
- FE Floor Elevation

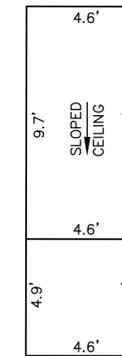


SCALE: 1" = 10'

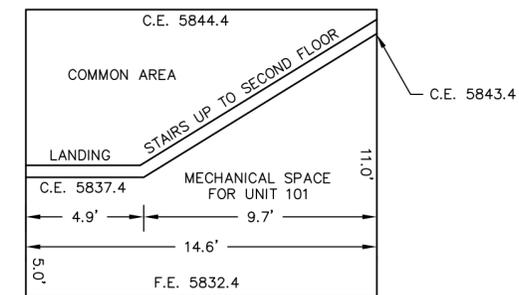
SEE SHEET 1 FOR LOT DIMENSIONS, G.I.S. TIES AND ADDITIONAL NOTES



FIRST FLOOR

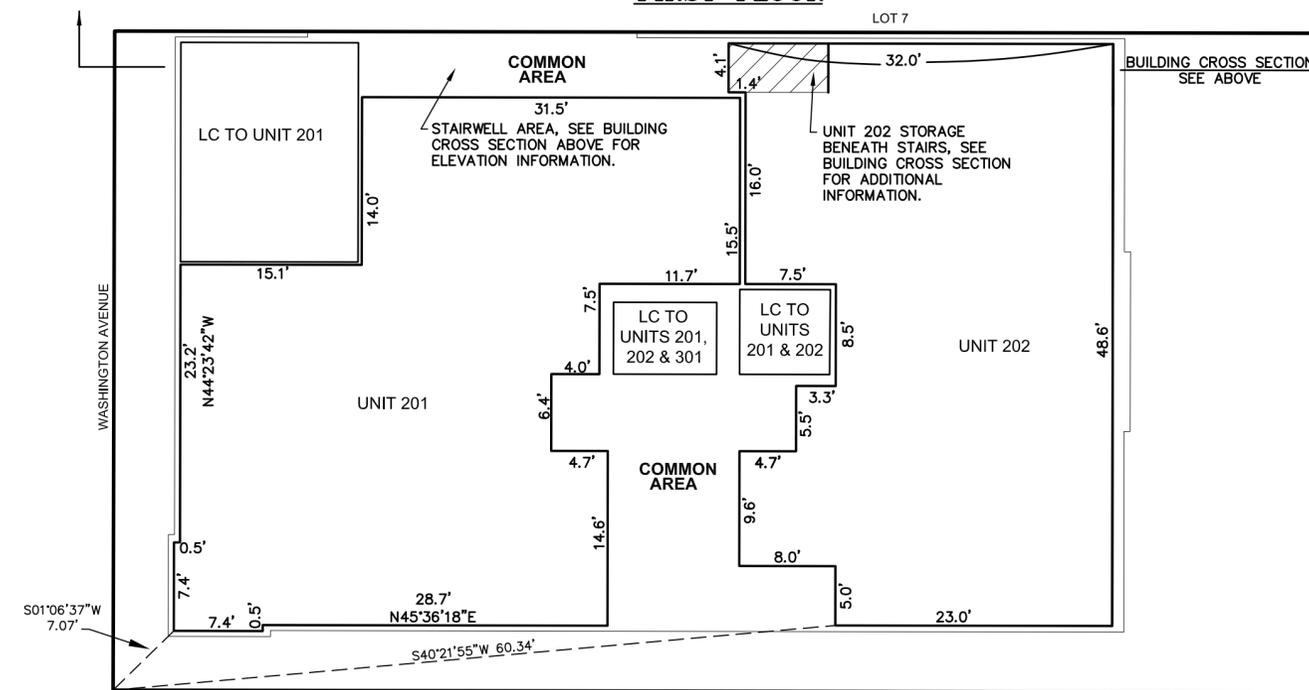


PLAN VIEW



PROFILE VIEW

DETAIL A
SCALE 1"=5'



SECOND FLOOR

NOTES

1. IN INTERPRETING THE DECLARATION, PLAT OR PLATS, AND DEEDS, THE EXISTING PHYSICAL BOUNDARIES OF THE UNIT AS ORIGINALLY CONSTRUCTED, OR RECONSTRUCTED IN LIEU THEREOF, SHALL BE CONCLUSIVELY PRESUMED TO BE ITS BOUNDARIES RATHER THAN THE METES AND BOUNDS EXPRESSED OR DEPICTED IN THE DECLARATION, PLAT OR PLATS, AND/OR DEEDS, REGARDLESS OF SETTLING OR LATERAL MOVEMENT OF THE BUILDING AND REGARDLESS OF MINOR VARIANCES BETWEEN BOUNDARIES SHOWN IN THE DECLARATION, PLAT OR PLATS, AND/OR DEEDS, AND THE ACTUAL BOUNDARIES OF THE UNITS IN THE BUILDINGS.
2. HORIZONTAL OR SLOPING PLANES SHOWN HEREON ARE TOP OF FINISHED SUBFLOOR AND BOTTOM OF FINISHED CEILING: VERTICAL PLANES ARE FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS, LIMITED COMMON AREAS AND PARKING SPACES.
3. DIMENSIONS SHOWN HEREON WILL BE SUBJECT TO SLIGHT VARIATIONS, OWING TO NORMAL CONSTRUCTION TOLERANCES.
4. CONSULT THE CONDOMINIUM DECLARATIONS FOR THE DEFINITION OF COMMON AND LIMITED COMMON AREA.
5. ALL AREA OUTSIDE OF UNITS THAT IS NOT DESIGNATED AS LIMITED COMMON IS COMMON AREA. AREAS OF "COMMON" OR "LIMITED COMMON" ARE SHOWN BY DIAGRAM.
6. BUILDING TIES ARE TO THE INTERIOR CORNERS OF UNIT WALLS.
7. UTILITY EASEMENTS NECESSARY TO ALLOW FOR ACCESS AND MAINTENANCE OF UTILITIES SERVING UNITS OTHER THAN THE UNIT THEY ARE LOCATED IN ARE HEREBY GRANTED BY THIS PLAT.

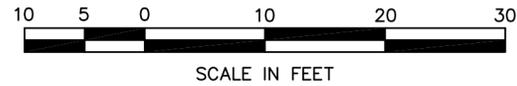


BRIAN D. YEAGER, P.L.S. 13260

KNEEBONE BUILDING
GALENA ENGINEERING, INC.
HAILEY, IDAHO
SHEET 2 OF 4

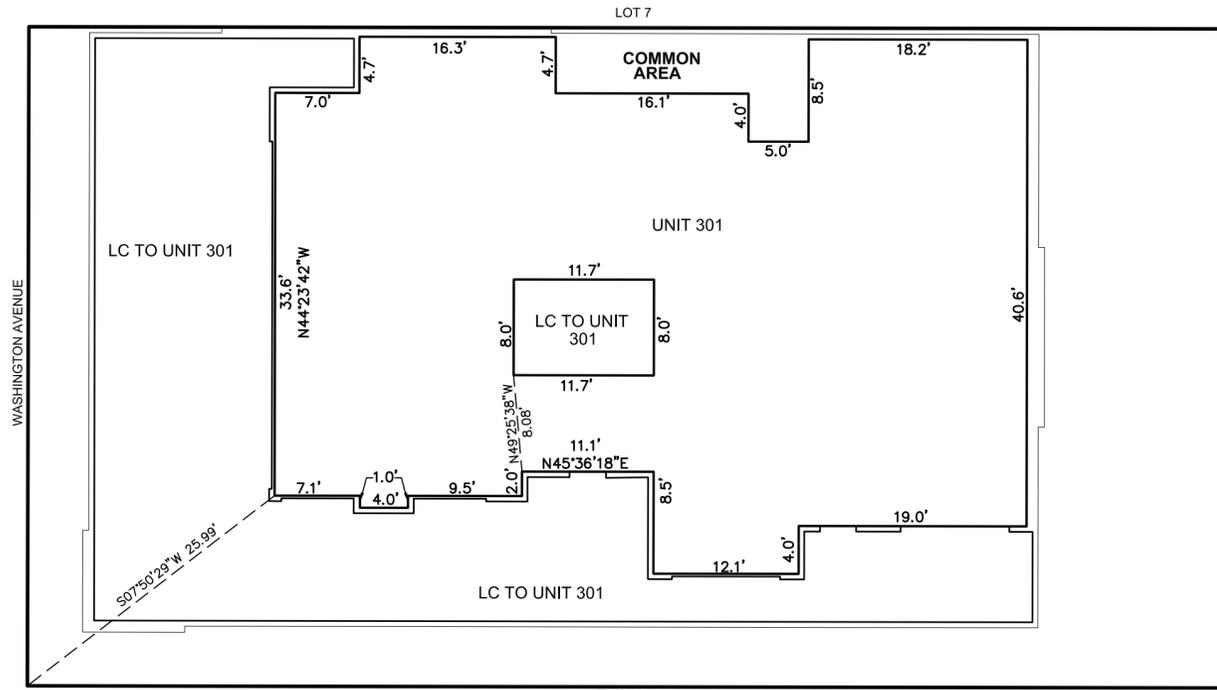
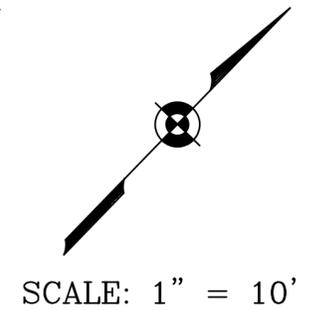
Job No. 7208

A CONDOMINIUM PLAT SHOWING KNEEBONE BUILDING



LEGEND

- Property Boundary
- Building Outline
- Unit Outline
- Unit Tie
- Unit Area under staircase. See building cross section for elevation information.
- CA Common Area
- LC Limited Common
- ME Mechanical
- ST Storage
- CE Ceiling Elevation
- FE Floor Elevation



THIRD FLOOR

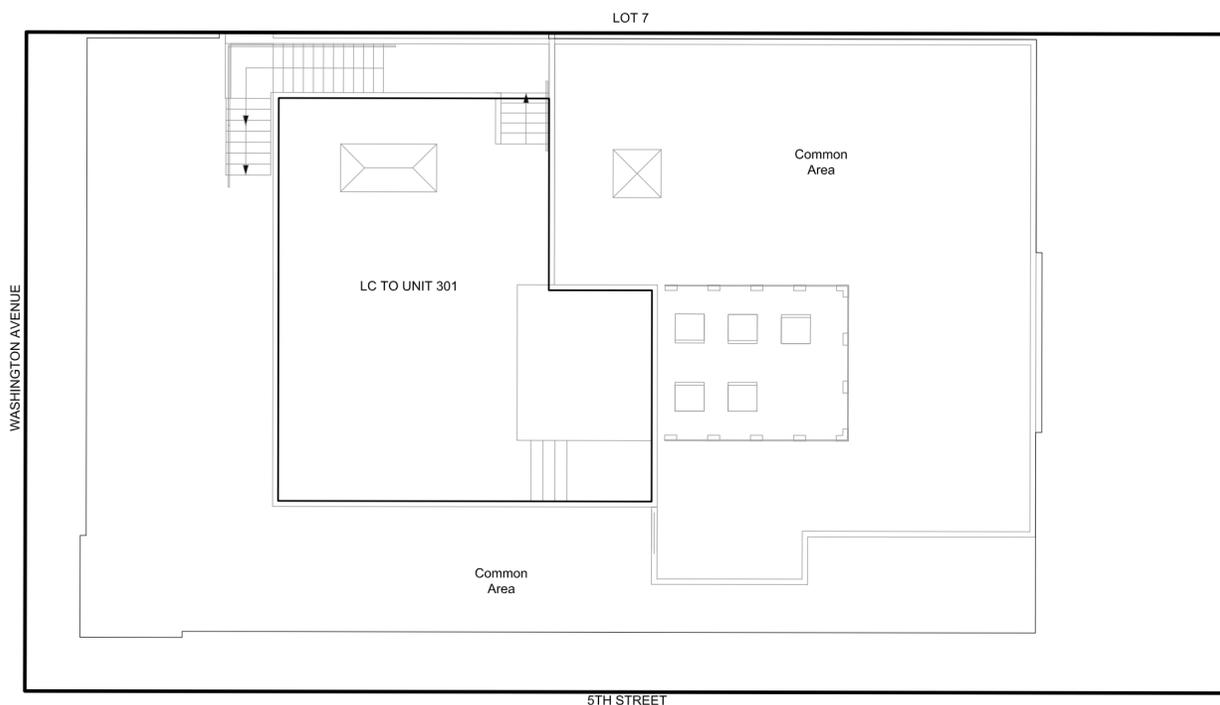
SCALE: 1" = 10'

THE FINISHED FLOOR ELEVATION OF THE UNITS ON THE THIRD FLOOR IS 5858.4'
THE CEILING ELEVATION OF THE UNITS ON THE THIRD FLOOR IS 5867.4'

NOTES

1. IN INTERPRETING THE DECLARATION, PLAT OR PLATS, AND DEEDS, THE EXISTING PHYSICAL BOUNDARIES OF THE UNIT AS ORIGINALLY CONSTRUCTED, OR RECONSTRUCTED IN LIEU THEREOF, SHALL BE CONCLUSIVELY PRESUMED TO BE ITS BOUNDARIES RATHER THAN THE METES AND BOUNDS EXPRESSED OR DEPICTED IN THE DECLARATION, PLAT OR PLATS, AND/OR DEEDS, REGARDLESS OF SETTLING OR LATERAL MOVEMENT OF THE BUILDING AND REGARDLESS OF MINOR VARIANCES BETWEEN BOUNDARIES SHOWN IN THE DECLARATION, PLAT OR PLATS, AND/OR DEEDS, AND THE ACTUAL BOUNDARIES OF THE UNITS IN THE BUILDINGS.
2. HORIZONTAL OR SLOPING PLANES SHOWN HEREON ARE TOP OF FINISHED SUBFLOOR AND BOTTOM OF FINISHED CEILING; VERTICAL PLANES ARE FINISHED SURFACES OF INTERIOR WALLS. SOME STRUCTURAL MEMBERS EXTEND INTO UNITS, LIMITED COMMON AREAS AND PARKING SPACES.
3. DIMENSIONS SHOWN HEREON WILL BE SUBJECT TO SLIGHT VARIATIONS, OWING TO NORMAL CONSTRUCTION TOLERANCES.
4. CONSULT THE CONDOMINIUM DECLARATIONS FOR THE DEFINITION OF COMMON AND LIMITED COMMON AREA.
5. ALL AREA OUTSIDE OF UNITS THAT IS NOT DESIGNATED AS LIMITED COMMON IS COMMON AREA. AREAS OF "COMMON" OR "LIMITED COMMON" ARE SHOWN BY DIAGRAM.
6. BUILDING TIES ARE TO THE INTERIOR CORNERS OF UNIT WALLS.
7. UTILITY EASEMENTS NECESSARY TO ALLOW FOR ACCESS AND MAINTENANCE OF UTILITIES SERVING UNITS OTHER THAN THE UNIT THEY ARE LOCATED IN ARE HEREBY GRANTED BY THIS PLAT.

SEE SHEET 1 FOR LOT DIMENSIONS, G.I.S. TIES AND ADDITIONAL NOTES



ROOF

SCALE: 1" = 10'

CERTIFICATE OF OWNERSHIP

This is to certify that the undersigned is the owner in fee simple of the following described parcel of land:
A parcel of land located within Section 18, Township 4 North, Range 18 East, Boise Meridian, City of Ketchum, Blaine County, Idaho; more particularly described as follows:

Lot 5, Block 15, Ketchum Townsite

The easements indicated hereon are not dedicated to the public, but the right to use said easements is hereby reserved for the public utilities and for any other uses indicated hereon and no permanent structures are to be erected within the lines of said easements. We do hereby certify that all lots in this plat will be eligible to receive water service from an existing water distribution system and that the existing water distribution system has agreed in writing to serve all of the lots shown within this plat.

It is the intent of the owners to hereby include said land in this plat.

Kneebone L.L.C., An Idaho Limited Liability Company

By: Stephen T. Kearns, Member

ACKNOWLEDGMENT

STATE OF _____ }
 }SS
COUNTY OF _____ }

On this _____ day of _____, 20____, before me, a notary public in and for said State, personally appeared Stephen T. Kearns, member of Kneebone L.L.C., known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he(she) executed the same on behalf of said L.L.C.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written above.

Notary Public in and for said State

Residing at

My Commission Expires

SURVEYOR'S CERTIFICATE

I, Brian D. Yeager, a duly Licensed Professional Land Surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land and points surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to Plats, Surveys, and the Corner Perpetuation and Filing Act, 55-1601 through 55-1612.

Brian D. Yeager, P.L.S. 13260



BLAINE COUNTY SURVEYOR'S APPROVAL

I, Sam Young, County Surveyor for Blaine County, Idaho, do hereby certify that I have checked the foregoing Plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating to Plats and Surveys

Sam Young, P.L.S. 11577
Blaine County Surveyor

KETCHUM CITY ENGINEER'S APPROVAL

The foregoing plat was approved by _____, City Engineer for the City of Ketchum on this _____ day of _____, 20____.

City Engineer

KETCHUM CITY COUNCIL'S APPROVAL

The foregoing plat was approved by the City Council of Ketchum on this on this _____ day of _____, 20____.

City Clerk

BLAINE COUNTY TREASURER'S APPROVAL

I, the undersigned County Treasurer in and for Blaine County, State of Idaho per the requirements of Idaho Code 50-1308, do hereby certify that any and all current and/or delinquent county property taxes for the property included in this subdivision have been paid in full. This certification is valid for the next thirty (30) days only.

Blaine County Treasurer

Date

BLAINE COUNTY RECORDER'S CERTIFICATE

KNEEBONE BUILDING
GALENA ENGINEERING, INC.
HAILEY, IDAHO
SHEET 4 OF 4
Job No. 7208

IN RE:)
)
 Kneebone) KETCHUM PLANNING AND ZONING
 Final Plat) COMMISSION - FINDINGS OF FACT,
)
 File Number: 17-011) CONCLUSIONS OF LAW AND DECISION
)

BACKGROUND FACTS

OWNERS: Kneebone LLC, c/o Steve Kearns

REPRESENTATIVE: Steve Kearns

REQUEST: Final plat approval for the Kneebone Building, a five-unit condominium development, comprised of two residential units and three commercial units within a three-story building currently under construction.

LOCATION: 500 N. Washington Avenue (Lot 8, Block 15, Ketchum Townsite)

NOTICE: No noticing is required for the Final Plat. For the Preliminary Plat notice was mailed to property owners within a 300’ radius of the subject property and was posted in three public locations on October 27, 2016. Notice was published in the newspaper of record on October 26, 2016.

ZONING: CC-C, Community Core, Sub-district C, Urban Residential

OVERLAY: None

GENERAL FINDINGS OF FACT

1. The subject property is located at 500 N. Washington Avenue, at the northeast corner of 5th Street and N. Washington Avenue, in the Community Core, Urban Residential sub-district zone. In March of 2016 a new three story mixed use building proposed for the property received Design Review (#16-012) approval from the Planning and Zoning Commission; the owner then applied for and received a building permit (BP #16-031) and construction commenced. The applicant then submitted a Preliminary Plat application (#16-085) and received a recommendation for Preliminary Plat approval from the Planning and Zoning Commission in December 2016 and followed by Preliminary Plat approval from City Council in April 2017.
2. Construction is nearing completion and Kneebone LLC has now submitted a Final Plat application. The Commission reviews the Final Plat application first and if the application substantially conforms to the Preliminary Plat approval the Commission shall recommend approval. Upon receipt of a Certificate of Occupancy the Final Plat application is then forwarded to City Council. If the Final Plat substantially conforms with the Preliminary Plat and all conditions have been met, including completion of or approval of bonding for specified design review elements, Council shall approve the final plat.

4. The Final Plat for the Kneebone Building substantially conforms to the Preliminary Plat application and the concerns and conditions raised by the City Engineer and the Utilities Department have been or are in progress of being met. The applicant is aware that public improvements, including sidewalks, shall be completed prior to receiving Final Plat approval from City Council. Staff has no concerns regarding the applicant's ability to meet all requirements and conditions.

Table 2: Final Plat Requirements

Final Plat Requirements				
Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Complete Application
			Staff Comments	<i>The application has been reviewed and determined to be complete.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.C Final Plat Procedure	<p>1. The final plat procedure contained in subsection 16.04.030F of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the condominium has received:</p> <ul style="list-style-type: none"> a. A certificate of occupancy issued by the city of Ketchum; and b. Completion of all design review elements as approved by the planning and zoning administrator. <p>2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code. Prior to final plat approval, the subdivider shall submit to the city a copy of the final bylaws and condominium declarations which shall be approved by the council and filed with the Blaine County recorder, including the instrument number(s) under which each document was recorded.</p>
			Staff Comments	<i>The Final Plat application is being reviewed by the Commission at this time. After the Commission forwards the application to City Council the Council will review the application. The Council will not approve the Final Plat until a certificate of occupancy has been issued and all design review elements have been completed and approved or a security deposit has been accepted in accordance with this section.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.D Garage	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.
			Staff Comments	<i>The Final Plat designates the two-car covered parking garage as part of Unit #301. There are three uncovered parking spaces reflected in the site plan approved with the building permit that do</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
				<i>not belong to a particular unit and are designated as common area on the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.E Storage Areas	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.
			Staff Comments	<i>There are adequate storage areas for personal property for all residential and commercial units designated on the final plat. Some storage areas are located on the ground floor and located within the common area of the covered parking and other storage areas are located on the second floor.</i> <i>Storage areas for boats, campers and trailers are not required nor provided due to characteristics of this development, which is a 3-story mixed use building located within the Community Core.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.F Maintenance Building	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.
			Staff Comments	<i>This development is a 3-story mixed use building in the Community Core; the majority of the property that is not covered in building footprint is covered with hardscape. Landscaping is limited to planter beds and street trees on the street fronting sides of the property and as indicated on sheet L-2 approved with the building permit (#16-031), the landscaping will be irrigated by an automatic sprinkler system and subsurface drip lines.</i> <i>Due to the characteristics of the development a maintenance building is not required and due to the nature of the common area a dedicated room for maintenance supplies is not required. There are however mechanical spaces and storage areas designated for each unit on the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.G Open Space	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.
			Staff Comments	<i>The common and limited common areas dedicated to owners of units in the development is of usable area and shape and is conveniently located for residents.</i> <i>Due to the development being a 3-story mixed use building in the Community Core the open space for the development is located on the top floor of the building and is a rooftop deck. The rooftop is divided with a screen wall with one half of the rooftop dedicated as Limited Common Area to the owner of Unit #301 and the other half</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
				<i>of the rooftop decided as Common Area for the owners or tenants of the four other units in the development. The screen wall serves to maximize privacy and the rooftop location maximizes solar access in the common area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.H General Applicability	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.
			Staff Comments	<i>As a condition of approval, all other provisions of this chapter and all applicable ordinances rules and regulations of the city and other governmental entities having jurisdiction shall be complied with by the condominium subdivision.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and subdivision ordinance, Title 16.
3. The City of Ketchum Planning Department provided adequate notice of the time, place and summary of the applicant’s proposal to be heard by the Commission for review of this application.
4. The proposed final plat **does** meet the standards of approval under Title 16, Chapter 16.04, subject to conditions of approval.
5. This approval is given for the final plat of the Kneebone Building, plans dated April 2017, by Galena Engineering, Inc.

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this final plat application this 10th day of April, 2017, subject to the following conditions:

1. The Covenants, Conditions and Restrictions (CC&R’s) shall be simultaneously recorded with the final plat, and the City will not now, nor in the future, determine the validity of the CC&R’s;
2. The failure to obtain Final Plat approval by the Council, of an approved preliminary plat, within one (1) year after approval by the Council shall cause all approvals of said preliminary plat to be null and void;

3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map;
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder's office concurrent with the recording of the Plat containing the following minimum data:
 - Line work delineating all parcels and roadways on a CAD layer/level designated as "parcel";
 - Line work delineating all roadway centerlines on a CAD layer/level designated as "road"; and,
 - Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as "control"; and,
5. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a ".dwg", ".dgn" or ".shp" format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.
6. The applicant shall provide a copy of the recorded final plat to the Department of Planning and Building for the official file on the application.
7. All requirements of the Fire, Utility, Building, Planning and Public Works departments of the City of Ketchum shall be met. All public improvements shall meet the requirements of the Public Works Department.
8. The final plat shall not be signed by the City Clerk and recorded until the townhouse has received:
 - a. A Certificate of Occupancy issued by the City of Ketchum; and,
 - b. Completion of all design review elements as approved by the Planning and Zoning Administrator.
9. The Council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to Section 17.96.120.
10. A public access easement pertaining to the street tree proposed on Washington Avenue and guaranteeing public access around the tree shall be recorded prior to City Council's review of the Final Plat.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux, Chair
Planning and Zoning Commission

**CONDOMINIUM DECLARATION AND
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
THE KNEEBONE BUILDING**

ARTICLE I

Recitals and Certain Definitions

Section 1.01 The Declarant; the Real Property. Kneebone, LLC, an Idaho Limited Liability Company authorized to do business within the State of Idaho (together with its successors and assigns, including any person or entity acquiring all and not less than all of the interest of Kneebone, LLC in the "Real Property" whether by purchase or pursuant to foreclosure proceedings or otherwise (collectively the "Declarant"), is the owner of that certain real property located in the City of Ketchum, Blaine County, Idaho, described in Exhibit A attached hereto and hereby made a part of this Declaration (the "Real Property").

Section 1.02 Intention of Declarant. Declarant intends to provide for condominium ownership of the Real Property under the Condominium Property Act of the State of Idaho.

Section 1.03 The Project. The term "Project" shall collectively mean the Real Property and all buildings and other improvements located on the Real Property. Declarant intends for the Project to be a mixed-use project consisting of areas for retail, office and residential uses.

Section 1.04 Type of Ownership. This condominium project will provide a means for ownership in fee simple of separate interests in the Units and for co-ownership with others, as tenants in common, of the Common Area, as those terms are herein defined.

ARTICLE II

Additional Definitions

The following terms shall have the following meanings when used herein unless the context otherwise requires.

Section 2.01 Building. "Building" means any building constructed on the Real Property pursuant to this Declaration.

Section 2.02 Unit. "Unit" means the separate interest in a Condominium as bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows, and doors thereof and the interior surfaces of built-in fireplaces, as shown and numbered on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained (attached as Exhibit C). Notwithstanding such markings, the following are not part of a "Unit": bearing walls, columns, floors, and roofs (except for the interior surface thereof), foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps, and other central services pipes, vents, ducts, flues, chutes, conduits, and wires, and other utility installations wherever located, except the outlets thereof when located within the Unit. The interior surfaces of a perimeter window or door means at the points at which such surfaces are located when such windows or doors are closed; the physical windows and doors themselves are part of the Unit or Common Area as herein defined. Each Unit excludes the interior of any storage areas and/or garages, which are shown on the Condominium Map that are dedicated to a particular unit, and hereinafter referred to as a Limited Common Area. The ownership of a storage unit or garage is preconditioned on the ownership of a Unit. The storage units and garage must be used only for purposes, which are consistent with relevant zoning regulations and shall not be used as residences or as dog kennels.

Section 2.03 Common Area. "Common Area" means the entire Project excepting the Limited Common Areas and the Units.

Section 2.04 Limited Common Areas. "Limited Common Area" means that Common Area and facilities designated herein for the exclusive use of a certain Condominium Owner or Owners to the exclusion, limitation or restriction of others, as described in greater detail in Section 4.02.

Section 2.05 Condominium. "Condominium" means a separate interest in a Unit, plus the Limited Common Area appurtenant to that Unit, along with an undivided interest in common in the Common Area in accordance with the attached Exhibit B.

Section 2.06 Owner. "Owner" means any person or entity, including Declarant, at any time owning a Unit or Condominium; the term "Owner" shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 2.07 Mortgage. "Mortgage" means any mortgage, deed of trust, or other security instrument by which a Unit or Condominium or any part thereof is encumbered.

Section 2.08 Mortgagee. "Mortgagee" means any person or any successor to the interest of such person named as the mortgagee, trust beneficiary, or creditor under any Mortgage, as Mortgage is defined in Article II, Section 2.07, under which the interest of any Owner, or successor to the interest of such Owner, is encumbered.

Section 2.09 Association. "Association" means Kneebone Condominium Owners Association, Inc., an Idaho corporation, not for profit, its successors and assigns, organized as provided herein. The Association shall act through its duly elected Board of Directors.

Section 2.10 Condominium Map. "Condominium Map" means the Condominium Map for the Kneebone Building to be filed for record in the office of the County Recorder of Blaine County, Idaho (attached as Exhibit C) consisting of a plat or survey map of the surface of the ground of the Real Property showing a survey and legal description thereof, the location of the Building with respect to the boundaries of the Real Property, together with diagrammatic floor plans of the Building showing the boundaries of each Unit within the Building, including horizontal and vertical locations and dimensions of all boundaries of each Unit and the Unit number identifying the Units, together with such other information as may be included therein in the discretion of the Declarant.

ARTICLE III

Statement of Intention and Purpose

Declarant hereby declares that the Project and every part thereof is held and shall be held, conveyed, devised, leased, rented, encumbered, used, occupied, improved, and otherwise affected in any manner, subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plans and scheme of condominium ownership referred to in Article I and are further declared to be for the benefit of the Project and every part thereof and for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the Declarant and the Declarant's assigns and to all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

ARTICLE IV

Nature and Incidents of Condominium Ownership

Section 4.01 Estates of an Owner. The Project is hereby divided into Condominiums, each consisting of a separate interest in a Unit, plus the Limited Common Area appurtenant to that Unit, along with an undivided interest in common in the Common Area in accordance with the attached Exhibit B. Exhibit B contains a legal description of each Unit in the Project, consisting of the identifying number of such Unit as shown on the Condominium Map. The percentage of ownership interest in the Common Area and Limited Common Areas, which is to be allocated to each Unit for purposes of tax assessment under section 55-1514 of the Idaho Code and for purposes of liability as provided by section 55-1515 of the Idaho Code shall be the same as set forth in Exhibit B.

Section 4.02 Limited Common Area. "Limited Common Area(s)" shall consist of those parts of the Common Area that are limited to and reserved for use in connection with one or more but fewer than all of the Units. Without limiting the foregoing, the Limited Common Areas shall include decks, balconies, porches appurtenant to and accessible only from a Unit, the elevator designated to serve a Unit but located outside the Unit boundaries, the garages and the storage areas designated as Limited Common Area in this Declaration or on the Condominium Map, and heating or other equipment located in an enclosed area adjacent to each Unit or for the exclusive use of such Unit. Such Limited Common Area shall be used in connection with such Unit to the exclusion of the use thereof by the other Owners of Units except by invitation. The elevator shall be used in connection with Units #201, #202 and #301 located on the second and third floors, and shall be considered a Limited Common Area for the shared use by these Units, which Units shall be responsible for the maintenance and repairs of said Limited Common Area in accordance with the percentages specified in Exhibit B relating thereto. No reference to Limited Common Area need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Area appurtenant to a Unit.

The Owner of Unit #301 has the right, subject to prior written approval of all plans and improvements by the Association, to improve for its exclusive use at its sole expense, the roof top terrace, including stair access thereto. Such roof top terrace area, including stairway access thereto that has been improved by the Owner of Unit #301, shall be Limited Common Area for the exclusive use of said Unit #301, except for the portion of the roof designated as Common Area on the Condominium Plat and the access thereto. Unit #301 shall also be responsible for 100% of the maintenance and repair of this to-be-improved roof top terrace Limited Common Area.

Section 4.03 Parking Area. The Association shall maintain as a part of the Common Area, the parking area, miscellaneous utility meters, mechanical rooms and the trash collection area, for the use of Condominium Owners, tenants, and occupants, or their invitees.

Section 4.05 Right to Combine Units. Declarant reserves the right to combine physically the area or space of one Unit with the area or space of one or more adjoining Units. Such combination shall not prevent separate ownership of such Condominiums in the future. Declarant reserves the right to designate and convey to any purchaser of such combined Units as additional Limited Common Area any walls, floors, or other structural separations between Units so combined, or any space which would be occupied by such structural separations but for the combination of the Units. Such structural separations and such space shall automatically become Common Area if the combined Units become subject to separate ownership in the future.

Section 4.06 Title. Title to a Condominium may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Idaho.

Section 4.07 Inseparability. No part of a Condominium, or of the legal rights comprising ownership of that Condominium, may be separated from any other part of that Condominium during the period of Condominium ownership prescribed herein, so that each Condominium and the undivided interest in the Common Area appurtenant to such Condominium shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Condominium or any part thereof shall be presumed to be a gift, devise, request, transfer, encumbrance, or conveyance, respectively, of the entire Condominium, together with all appurtenant rights created by law or by this Declaration.

Section 4.08 Partition Not Permitted. The Common Area shall be owned in common by all Owners of Condominiums, and no Owner may bring any action for partition thereof.

Section 4.09 Owner's Right to Common Area. Subject to the limitations contained in this Declaration, each Owner shall have the nonexclusive right to use and enjoy the Common Area, and shall have the exclusive right to use and enjoy the Limited Common Area designated herein for exclusive or shared use by such Owner(s).

Section 4.10 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 or special district or other assessments may, in the opinion of the Association, nevertheless be a lien on the Project or any part thereof, the Association shall pay the same and assess the same to the Owner or Owners responsible therefor. Each Owner shall pay the taxes or assessments assessed against such Owner's Condominium or interest therein, or such Owner's interest in the Common Area or any part of any or all of the foregoing. Each Owner shall pay all taxes, rates, impositions, and assessments levied against the Project or any part of the Common Area in proportion to such Owner's interest in such common area as set forth in Exhibit B, and such payment is to be made to the Association at least thirty (30) days prior to the delinquency of such tax or assessment. Each such unpaid tax or assessment shall bear interest at the rate of ten percent (10%) per annum from and after the time the same becomes payable by each Owner and shall be secured by the lien created by Section 9.06 hereof. Notwithstanding the foregoing, taxes, assessments, or other charges attributable to the Common Area shall be apportioned among the Owners as provided in Article IX hereof.

Section 4.11 Owner's Rights With Respect to Interiors. Each Owner shall have the exclusive right to paint, repaint, tile, paper, or otherwise maintain, refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors and to clean the interior surfaces of windows, all of which form the boundaries of their respective Unit, and all walls, ceilings, floors, and doors within such boundaries. The Association shall have the responsibility for cleaning of exterior surfaces of windows. Window

coverings visible from the outside of the Building must be approved by the Association prior to installation.

Section 4.12 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 to be encumbrances either 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 or by changes in position caused by repair or reconstruction of the Project or any part thereof or by signage approved in writing by the Association.

Section 4.13 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Area is or may be located within the Units or may be conveniently accessible only through the Units. The Owners shall have the irrevocable right, to be exercised by the Association as their agent, to have access to all such parts of the Project from time to time during such reasonable hours as may be necessary, and with reasonable notice except in cases of emergency, for the maintenance, repair, or replacement of any of the Common Area located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Project. The Association shall also have such right independent of any agency relationship. Damage to the interior of any part of a Unit or Units resulting from the 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, if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to Article IX below.

Section 4.14 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 such Owner's Condominium and to the Limited Common Area designated for use in connection with such 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.

Section 4.15 Association's Right to Use of Common Area. The Association shall have a non-exclusive easement to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Area maintenance, trash and storage facilities for use by the Association. In addition, the Association may enter into an agreement(s) to jointly operate and/or utilize trash and maintenance facilities with adjacent property owners for the mutual benefit of the Association and adjacent property owner(s).

With the approval of majority vote of the Membership Voting Percentages as set forth on attached Exhibit B, the Association shall also maintain the right to enter into agreements with Owners to allow non-exclusive utilization of certain parts of the Common Area for use by their employees, tenants, and business invitees.

Section 4.16 Easements and Utilities. In order to adequately serve each Unit, utility and service facilities may be constructed and may encroach on Common Area, Limited Common Area, or the Units. An easement for such encroachment and for the maintenance of the same shall and does exist.

Section 4.17 Declarant's Right Incident to Construction. Declarant and persons Declarant shall select shall have the right to and hereby reserve an easement and right-of-way for ingress and egress over, upon, and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to complete development of the Project .

Section 4.18 Easements Deemed Created. All conveyances of Condominiums, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to this Article IV, even though no specific reference to such easements or to those sections appears in any such conveyance.

Section 4.19 Association's Management of Common Area. The Association shall act prudently and diligently to manage and control the Common Area in a manner compatible with good business practices and for the benefit of all Owners. The Association shall have the right to hire a building manager for this purpose.

ARTICLE V

Description of a Condominium

Every contract for the sale of a Condominium and every other instrument affecting title to a Condominium may describe that Condominium by the number shown on the Condominium Map as set forth in Exhibit B to this Declaration and as each appears on the records of the County Recorder of Blaine County, Idaho. Such description will be construed to describe the Unit together with the appurtenant undivided interest in the Common Area, and to incorporate all the rights incident to ownership of a Condominium and all the limitations on such ownership as described in this Declaration.

ARTICLE VI

Mechanic's Lien Rights

Section 6.01 Condominium Labor. No labor performed or services or materials furnished with the consent 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 Common Area, Limited Common Area or 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 the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the Owner of any Condominium in the case of emergency repairs thereto. Labor performed or services or materials furnished for the Project, 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 such owner's Condominium from a lien against two or more Condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to such Owner's Condominium.

ARTICLE VII

The Association

Section 7.01 Membership. The Articles of Incorporation and Bylaws of the Association are attached hereto as Exhibit D and hereby made a part of this Declaration. Every Owner shall be entitled and required to be a member of the Association. If more than one person holds title to a Condominium, the membership related to that Condominium shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the Condominium is held.. No person or entity other than an Owner may be a member of the Association, and the Articles of Incorporation or Bylaws of the Association always shall so state and shall in addition state that the memberships in the Association may not be transferred except in connection with the transfer of a Condominium; provided, however, the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium.

Section 7.02 Voting Rights. Each Owner shall have the percentage of interest in Common Area and be entitled to vote their percentage Membership Voting Interest as set forth in Exhibit B attached to this Declaration (“Membership Voting Interest”). The membership voting rights and percentage ownership interests of new members shall be determined in the same way as such voting rights and percentage interests were determined for existing members.

Section 7.03 Election of Directors. The Unit Owners shall elect a Board of Directors of at least three (3) members, each of whom shall be Unit Owners. Election and removal of members to the Board of Directors and of officers shall be as set forth in the By-laws. In the election of members of the Board of Directors, the candidates receiving the highest percentages of Membership Voting Interest shall be deemed elected. A director may be removed as set forth in the By-laws.

Section 7.05 Amplification. The provisions of this Article VII are amplified by the Articles of Incorporation of the Association and by the Bylaws of the Association; provided, however, no present or future provision of such Articles of Incorporation or Bylaws shall substantially alter or amend any of the rights or obligations of the Owners set forth herein.

ARTICLE VIII

Certain Rights and Obligations of the Association

Section 8.01 The Management Body. The Association is hereby designated to be the "Management Body" as provided in sections 55-1503 and 55-1506 of the Idaho Code and shall administer the Project in accordance with the Condominium Property Act of the State of Idaho, the Idaho Code, the Articles of Incorporation and Bylaws of the Association, and the provisions of this Declaration.

Section 8.02 The Common Area. The Association, subject to the rights of the Owners set forth in Article IV hereof, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair; however, each Owner of a Unit shall keep the Limited Common Area designated for use in connection with such Owner's Unit in a clean, sanitary, and attractive condition and shall maintain and repair their Limited Common Area and the heating and other equipment and hot water heater exclusively servicing such Owner's Unit. The Association shall be responsible for the maintenance and repair of exterior surfaces of Buildings and improvements located on the Project including, without limitation, the painting and/or plastering of interior and exterior Common Areas, the same as often as necessary, the replacement of interior and exterior wood and/or stone in the Common Areas, trim and caulking, the maintenance and repair of roofs, the maintenance and repair of exterior walkways, and the maintenance, repair and general upkeep of any other Common Area, including utility lines and all other improvements or materials located within or used in connection with the Common Area. The Association shall be responsible for the removal and disposal of all snow and ice from all driveways, parking areas, pedestrian pathways and sidewalks. The Association shall additionally maintain the general building mechanical and electrical systems. The Association shall also have the right to allocate additional costs to any particular Owner to the extent such Owner is utilizing a portion of the Common Area for a particular purpose to the exclusion of other Owners. The Association by and through the Association's officers shall have the right to grant easements for utility purposes over, upon, across, under, or through any portion of the Common Area, and each Owner hereby irrevocably appoints this Association and the Association's officers as attorney-in-fact for such purposes.

Section 8.03 Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage the Association's affairs, or any part thereof, to the extent the Association deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which the Association contracts. The Association may obtain and pay for legal, accounting and tax preparation services, as necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish electrical, natural gas, water, sewer, trash collection and recycling, and other

common services to each Unit. The cost of such management, maintenance, and repair by the Association shall be borne as provided in Article IX.

Section 8.04 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all the Owners tangible and intangible personal 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 the Owner's percentage in the Common Area as set forth in attached Exhibit B. Such interest shall not be transferable except with the transfer of a Condominium. A transfer of a Condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Condominium under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium.

Section 8.05 Rules and Regulations. The Association may, from time to time, make reasonable rules and regulations governing the use of the Units, Common Area, and Limited Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. Such rules and regulations may include, without limitation, assignment of particular areas within the Common Area for exclusive use by Owners of particular Condominiums including but not limited to the right of the Association to designate use of particular portions of parking areas, outside sidewalk areas for the installation, maintenance and utilization of outdoor seating and related equipment uses. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with such rules and regulations or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations, or other obligations or to obtain damages for noncompliance, all to the extent permitted by law. The Association is hereby appointed as the Owners' representative for the purpose of enforcing compliance with such rules, regulations, other obligations, or to obtain damages for non-compliance by tenants with respect to the Common Area. The Association may appoint an outside management company to serve as the Owner's representative so long as the Association provides adequate supervision of the activities of the outside management company.

Section 8.06 Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege.

Section 8.07 Limited Liability. Neither the Association nor its past, present or future Members, officers or directors, nor any other employee, agent or committee member of the Association shall be liable to any Owner or Occupant or to any other person for actions taken or omissions made except for wanton and willful acts or omissions. Without limiting the generality

of the foregoing, the Association and the Board shall not be liable to any Owner or Occupant or other person for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice.

Section 8.08. Indemnification of Board of Directors. Each member of the Board of Directors, and the officers of the Association shall be entitled to be indemnified, defended, and held harmless by the Association against all damages, claims, causes of action, demands, costs, expenses, and damages reasonably incurred in connection with any proceeding to which he or she may become involved by directly by reason of being or having been a member of the Board of Directors or an officer of the Association . No member of the Board of Directors or an officer of the Association shall be entitled to the benefits of this Section for any action or omission determined by a court of competent jurisdiction to be wanton and willful , or a criminal act.

ARTICLE IX

Assessments

Section 9.01 Agreement to Pay Assessment. Declarant, for each Condominium owned by Declarant within the Project and for and as the owner of the Project and every part thereof, hereby covenants, and each Owner of any Condominium by the acceptance of a deed, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association periodic assessments made by the Association for the purposes provided in this Declaration and special assessments for capital improvements and other matters as provided in this Declaration. In the case of joint or co-ownerships this liability shall be joint and several. No Unit Owner may waive or otherwise escape personal liability for the payment of the Assessments provided for in this Declaration by not using the Common Areas or the facilities contained in the Common Area or by abandoning or leasing his Unit. Such assessments shall be fixed, established, and collected from time to time in the manner provided in this Article IX.

Section 9.02 Amount of Total Periodic Assessments. The total periodic assessments against all Condominiums shall be based upon cash requirements determined by the Association to provide for the payment of all estimated or actual expenses growing out of or connected with the maintenance and operation of the Common Area or furnishing electrical, water, sewer, trash collection, and other common services to each Unit to the extent not separately metered and/or billed to a specific Unit, which estimates may include, among other things, expenses of management, taxes and special assessments, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto, landscaping and care of grounds, snow removal, common lighting and heating, water charges, trash collection, recycling, sewer service charges, repairs and maintenance, wages for Association employees, legal and accounting fees, taxes, licenses, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus, and/or sinking fund, and any other expenses and liabilities which may be

incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

Section 9.03 Apportionment of Periodic Assessments. The expenses attributable to the Common Area shall be apportioned among all Owners of Units in proportion to the interest in the Common Area owned by each Owner of a Unit as set forth in Exhibit B to this Declaration.

Section 9.04 Notice of Periodic Assessments and Time Payment Thereof. The Association shall make periodic assessments based upon a budget adopted no less frequently than annually, which assessments shall be annually, quarterly, or monthly, as the Association shall from time to time determine. The total periodic Assessment for any fiscal year of the Association shall be assessed to the Units in proportion to their percentage of interest in the Common Area set forth on Exhibit B, subject to: (a) common expenses which are separately metered or assessed to the Units by third parties; (b) common expenses associated with the maintenance, repair or replacement of Limited Common Areas which shall be assigned equally or on such other equitable basis as the Board of Directors shall determine to the Units to which the specific Limited Common Areas are appurtenant; (c) common expenses or portions thereof benefitting fewer than all of the Units which shall be assessed exclusively against the Units benefitted; (d) any increased cost of insurance based upon risk which shall be assessed to Units in proportion to the risk; (e) any common expense caused by the misconduct of any Unit Owner(s), which may be assessed exclusively or on such other equitable basis as the Board of Directors shall determine against such Unit Owner(s); and (f) any expenses which are charged equally to the Units.

The Association may, in the Association's discretion, allow assessments to be given to each Owner, which notice shall specify the amount of the assessment and the date or dates of payment of the same. No payment shall be due less than fifteen (15) days after the said written notice has been given as herein provided. Each periodic assessment shall bear interest at the rate of ten percent (10%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date and shall be subject to an automatic late charge of Fifty Dollars (\$50.00). Failure of the Association to give notice of the assessment shall not affect the liability of any Owner for such assessment, but the date when payment shall become due in such a case shall be deferred to a date fifteen (15) days after such notice shall have been given. A Unit Owner's assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period.

Section 9.05 Special Assessments. In addition to the annual assessments authorized by this Article IX, the Association may, at any time, levy a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expenses, but this section shall be construed to prescribe the

manner of assessing for expenses authorized by other sections hereof which shall make specific reference to this Article IX. Any amounts assessed pursuant hereto shall be assessed to Owners in the same manner as provided in Section 9.03 of this Article IX. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. The Association shall have the power to incur expenses for maintenance and repair of any Unit, if such maintenance or repair is necessary, in the opinion of the Board of Directors of the Association to protect the Common Area or any other portion of the Project and if the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair has been delivered by the Board of Directors to said Owner or Owners; the Board of Directors shall levy a special assessment against the Owner or Owners of any such Unit to pay for the cost of such maintenance and repair and any other costs or expenses arising out of or incident to such maintenance and repair and the assessment therefor. A special assessment shall bear interest at the rate of ten percent (10%) per annum from the date it becomes due and payable if not paid within thirty (30) days and an automatic late charge of fifty dollars (\$50).

Section 9.06 Lien for Assessments. All sums assessed to any Condominium pursuant to this Article IX, together with interest thereon and late fees as provided herein, shall be secured by a lien on such Condominium in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on such Condominium except only for: (a) valid tax and special assessment liens on the Condominium in favor of any governmental assessing authority; (b) a lien for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in Blaine County, Idaho, including all unpaid obligatory advances to be made pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument; and (c) labor or materialmen's liens, to the extent required by law. All other lienors acquiring liens on any Condominium after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior liens to future liens for assessments as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens. To create a lien for sums assessed pursuant to this Article IX, the Association shall prepare a written notice of assessment setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the record Owner of the Condominium and a description of the Condominium. Such a notice shall be signed by a member of the Board of Directors, an officer of the Association or the managing agent and shall be recorded in the office of the County Recorder of Blaine County, Idaho. No notice of assessment shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by sale of the Owner's Condominium by the Association after failure of the Owner to pay such an assessment in accordance with its terms, such sale to be conducted in the manner permitted by law in Idaho for the exercise of power of sale in deeds of trust or in any other manner permitted by law. The Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of assessment and all reasonable attorney fees. All such costs and

expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use, and otherwise deal with the Condominium as the Owner thereof.

Upon any default in the payment of periodic or special Assessments, the Association shall also have the right to appoint a receiver to collect all rents, profits, or other income from the Unit payable to the Unit Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Unit Owner, by ownership of a Unit, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of Assessments.

A further notice stating the satisfaction and release of any such lien shall be executed by the Association and recorded in the Blaine County, Idaho, real estate records upon payment of all sums secured by a lien which has been made the subject of a recorded notice of assessment. Any encumbrancer holding a lien on a Condominium may pay, but shall not be required to pay, any amounts secured by the lien created by this section, and upon such payment such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority. The Association may report any unpaid assessment remaining unpaid for longer than ninety (90) days after the same shall have become due to any encumbrancer of a Condominium; provided, however, such encumbrancer first shall have furnished written notice of such encumbrance to the Association. Unless sooner satisfied and released or the enforcement thereof initiated as provided earlier in this section, any lien created pursuant to this section shall expire and be of no further force or effect one (1) year from the date of recordation of said notice of assessment; provided, however, said one-year period may be extended by the Association for not to exceed one (1) additional year by a written extension signed by the Association and recorded in the office of the County Recorder of Blaine County, Idaho, prior to expiration of said first one-year period.

Section 9.07 Personal Obligation of Owner. The amount of any periodic or special assessment against any Condominium shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosure or waiver of the lien securing the same. No Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the Common Area or by abandonment of the Owner's Condominium.

Section 9.08 Statement of Account. Upon payment of a reasonable fee, not to exceed Fifty Dollars (\$50.00), and upon written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Condominium, the amount of the current periodic assessment, the date that such assessment becomes or became due, and credit for

advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired such Mortgagee's interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the 20-day period provided herein and if thereafter an additional written request is made by such purchaser, is not complied with within ten (10) days, and the purchaser subsequently acquires the Condominium.

Section 9.09 Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 9.08, a purchaser of a Condominium shall be jointly and severally liable with the seller for all unpaid assessments against the Condominium up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named purchaser pursuant to the provisions of this Declaration.

Section 9.10 Waiver of Homestead Exemption; Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument of transfer of a Unit, each Unit Owner irrevocably waives the homestead exemption provided by Idaho Code § 55-1001, as amended, with regard to any assessment of the Association.

ARTICLE X

Use of Condominiums

Section 10.01 Condominiums. Condominium Units shall be used only for residential purposes and/or commercial and/or office uses, excluding bars, restaurants or food services of any kind. No Unit shall be used for any purpose not allowed by the city of Ketchum's Municipal Code.

Section 10.02 Use of Common Area. 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 Association. There shall be no modifications, additions or alterations made to the Common Area or Limited Common Area without the prior written consent of the Association. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Association after its acceptance of the Common Area from Declarant. No modification or alteration of the open space or exterior parking area(s) of the Common Area which would affect the quantity or quality of such areas shall be made without the written consent of the Planning and Zoning Commission of the City of Ketchum, Idaho.

Section 10.03 Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any part of the Project which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of 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 Association. Nothing shall be done or kept in any part of the Project that would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirement of any governmental body. No damage to or waste of the Common Area or any part thereof shall be committed by any Owner or any invitee of any Owner, 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 invitees; provided, however, any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive, or offensive activity shall be carried on in any part of the Project nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in or operating a business in the Project.

Section 10.04 Animals. The Association hereby prohibits the raising, breeding, or keeping of animals, livestock, or poultry in any part of the Project including without limitation operation of a pet store or other pet related business. Notwithstanding the foregoing, each Unit Owner shall be entitled to keep no more than two (2) dogs, two (2) cats, two (2) birds and aquarium fish in any Condominium Unit; provided that (A) such pets are of a size and nature that does not cause disruption or nuisance to other Owners, (B) such pets are not allowed to run at large, chase humans or other animals or bark excessively, (C) such pets do not cause damage to the Common Area, and (D) the owner thereof complies with any further restrictions contained in any supplemental Declaration, and any reasonable rules and regulations adopted by the Association regarding such pets.

Section 10.05 Rules and Regulations. No Owner shall violate the rules and regulations for the use of that portion of the Project to which such rules apply as adopted from time to time by the Association. Except as otherwise provided herein, any Owner shall have the right to enforce any or all of the provisions of any restriction contained in this Declaration or any rule or regulation adopted by the Association. Any violation of any state, municipal or local law, ordinance or regulation pertaining to ownership, occupation or use of any property within the Project is hereby declared to be a violation of a restriction in this Declaration and subject to any or all of the enforcement procedures set forth below.

Section 10.06 Maintenance of Interiors. Each Owner shall keep the interior of such Owner's Unit including, without limitations interior walls, windows, glass, ceilings, floors, and permanent fixtures and appurtenances thereto, in a clean, sanitary, and attractive condition and good state of repair; shall keep the Limited Common Area designated for use in connection with such Owner's Unit in clean, sanitary, and attractive condition; and shall keep the heating and other equipment and water heating system exclusively servicing such Owner's Unit in a good state of maintenance and repair.

Section 10.07 Structural Alterations. No structural alterations or modification to any interior walls shall be made to any Condominium and no plumbing, electrical, or similar work within the Common Area shall be done by any Owner without the prior written consent of the Association, except that an Owner may do such work as may be appropriate to maintain and repair Limited Common Area appurtenant to such Owner's Unit,

Section 10.08 Parking Restrictions. No vehicle shall be parked within the Common Area other than within the one of the three designated parking spaces located on the ground floor ("parking area"). The parking area shall be used for parking operable vehicles only and shall not be converted for living, recreational, or business purposes, nor shall anything be stored in any parking area so as to prevent the parking of an automobile thereon, unless otherwise approved in writing by the Association. No exposed storage shall be permitted anywhere on the property. No camper, RV, trailer or boat storage shall be permitted within any part of the Project. No vehicle may be parked so as to block or impede access to the garage or storage areas. No vehicle may be parked within the parking area for a period of more than 48 consecutive hours without prior authorization by the Association.

Section 10.09 Signs. Except for signs as may be used by Declarant in connection with the sale of Condominiums, no sign of any kind shall be displayed to the public view by Owners of Condominiums without the approval of the Board of Directors. In addition, the Declarant and/or the Association shall be entitled to place interior identification and/or directional signage as appropriate and additionally an identification directory for owners of Units within the Project.

Section 10.10 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate, and no odors shall be permitted to arise from the property or any Condominium so as to render any portion of the property unsanitary, unsightly, offensive, or detrimental to any other property or Condominium in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate either within any such property or any Condominium or be permitted to exist or operate outside of any Condominium and controlled by an owner or occupant of the Condominium so as to be offensive or detrimental to any other property or Condominium in the vicinity thereof or its occupants. Without limiting the generality of any of the following provisions, no exterior music and/or speakers, horns, whistles, bells, or other sound devices (other than security systems used exclusively for security purposes) shall be located, used, or placed on any such property or Condominium without the prior written approval of the Association (unless originally approved by the Declarant).

Section 10.11 Outside Installations. No clotheslines, television antennas, satellite dishes, wiring, or installation of air conditioning, or other machines, awnings, flags, banners or umbrellas, unless properly screened from view or contained within roof wells as part of the original construction of the Project, shall be installed on the exterior of the Building for the use of any Unit or be allowed to protrude through the

walls, windows, or roof of the Building for the use of any Unit without the prior written approval of the Association.

Section 10.12 Enforcement of Violations. No violation of any Rule or Regulation, inclusive of those items described in Section 10.05 above, shall be allowed. If any Owner, Owner's family, tenant, licensee, or invitee commits such violation; the Association may, in addition to any other legal remedies it may have, impose a Special Assessment upon such person of not more than Fifty Dollars (\$50) for each such violation for each day that such violation continues. Before invoking such assessment, the Association's Board of Directors shall give such person sixty (60) days written notice to cure such violation and/or to be heard by the Board regarding the violation and any potential assessment. If such violation is of a nature that it cannot be remedied within sixty days, no assessment shall be invoked so long as the Owner submits a remediation plan to the Board to remedy the violation within a reasonable time and such Owner diligently pursues such plan to completion. If an Owner violates any Rule or Regulation more than twice within any three-year period, regardless of whether the Rule that has been violated is the same, the accrual of such assessment shall begin three days after the Board gives notice of such violation rather than sixty days after such notice. Such additional assessments may be collected and enforced in the same manner as any other assessment under Article IX. Each remedy provided in this Declaration or by law shall be cumulative and not exclusive. The failure to enforce any of the provisions of this Declaration at any time shall not constitute a waiver of the right to enforce such provision thereafter.

ARTICLE XI

Insurance

Section 11.01 Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by a company authorized to do business in Idaho. The provisions of this Article XI shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder in such amounts and in such forms as the Association may deem appropriate from time to time. In order to facilitate the providing and maintaining of adequate and proper insurance, it is contemplated that Declarant may contract for blanket insurance coverage covering the Project as contemplated by this Article XI prior to or concurrently with the first conveyance of a Condominium. Any obligation or commitment for the payment of premiums or expenses otherwise incurred by Declarant under any such blanket policy or coverage, whether or not the same is also a personal obligation of the purchaser or purchasers of any Condominium, shall become an obligation of the Association and shall be paid for out of Association funds.

(a) Casualty Insurance. The Association shall obtain insurance on the Project in such amounts as shall provide for full replacement thereof in the event of damage or

destruction from the casualty against which such insurance is obtained, all in the manner in which a corporation owning similar multiple-family, residential, mixed use buildings in the vicinity of the Project would in the exercise of prudent business judgment obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, war risk insurance if available and if deemed appropriate by the Association, and such other risks and hazards against which the Association shall deem it 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 in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall purchase broad-form, comprehensive liability coverage in such amounts and in such forms as the Association deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Project.

(c) Worker's Compensation and Employer's Liability Insurance. The Association shall purchase worker's 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 law.

(d) Fidelity Insurance. The Association shall purchase, in such amounts and in such forms as the Association shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(e) Other. The Association may obtain insurance against such other risks of a similar or dissimilar nature as the Association shall deem appropriate with respect to the Project, including any personal property of the Association located thereon.

Section 11.02 Optional Insurance. The Association may obtain the following types of insurance coverage, but the Association is not required to do so.

(a) Personal Property Casualty Insurance. The Association may, in the Association's discretion, obtain insurance on the personal property and furnishings initially placed in the Units of Owners by Declarant upon completion of construction of the Project in amounts equal to the replacement cost less depreciation in the event of damage or destruction from casualties against which such insurance is obtained.

(b) Casualty and Public Liability Insurance. The Association may, in the Association's discretion, obtain casualty, and public liability insurance coverage in amounts the Association may select with respect to an Owner's activities within each individual Unit and for activities of the Owner, not acting by the Association, with respect to the Common Area.

(c) Other Casualty Insurance. The Association may purchase other casualty insurance, such as, flood, earthquake, etc., in such amounts and in such forms as the Association deems advisable to provide adequate protection.

Section 11.03 Form. Casualty insurance shall be carried in a form or forms naming the Association the insured as trustee for the Owners, which policy or policies shall specify the interest of each Condominium Owner (Owner's name, Unit number, description, 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 Mortgagees which from time to time shall give notice to the Association of such first Mortgages, such proceeds to be used in accordance with this Declaration. Each policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days prior written notice is first given to each Owner and to each first Mortgage. The Association shall furnish to each Owner who requests it and to Declarant a true copy of such policy, together with a certificate identifying the interest of the Owner. All policies of insurance shall provide for a waiver of subrogation by the insurer as to claims against the Association, the Board of Directors, employees, and agents and against each Owner and each Owner's employees, agents, and guests and shall provide that the insurance cannot be cancelled, invalidated, or suspended on account of the conduct of the Association, the Board of Directors, employees, and agents or on account of any Owner or such Owner's employees, agents, or guests and shall provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee.

Public liability and property damage insurance shall name the Association as the insured, 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 Project.

Section 11.04 Owner's Responsibility. Insurance coverage on the furnishings initially placed in the Unit by Declarant, unless the Association elects to arrange for such casualty insurance pursuant to Section 11.02 hereof (in which event Owner shall be responsible for the amount, if any, the replacement cost exceeds the insurance proceeds), and casualty and public liability insurance coverage within each individual Unit and for activities of the Owner, not acting by the Association, with respect to the Common Area, unless the Association elects to arrange for such insurance pursuant to Section 11.02 hereof, and regardless of the Association's election, insurance coverage against loss from theft on all personal property, and insurance coverage on items of personal property placed in the Unit by Owner shall be the responsibility of the respective Owners. Owners shall require tenants to carry appropriate personal property insurance for the contents of their respective leased space as well as all other forms of insurance as are customary for, retail and/or office tenants, as the case may be, as shall be set forth in each such lease.

Section 11.05 Insurance Proceeds. The Association shall receive the proceeds of any casualty insurance payments received under policies obtained and maintained pursuant to this Article XI. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common Area. To the extent that reconstruction is required herein, the proceeds shall be used for such purpose. To the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed in the same manner herein provided in the event of sale of obsolete Condominiums, as set forth in Section 13.04. Each Owner and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

Section 11.06 Owner's Own Insurance. Notwithstanding the provisions of Sections 11.01 and 11.02 hereof, each Owner shall obtain insurance at the Owner's own expense providing coverage upon the Owner's Condominium, the Owner's personal property, for the Owner's personal liability, and covering such other risks as the Owner may deem appropriate, but each such policy shall provide that it does not diminish the insurance carrier's coverage for liability arising under insurance policies which the Association obtains pursuant to this Article XI. All such insurance of the Owner's Condominium shall waive the insurance company's right of subrogation against the Association, the other Owners, and the servants, agents, and guests of any of the Owners, the Declarant, and Mortgagee. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under the policies described in this section that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner shall be liable to the Association to the extent of any such diminution. In addition, any improvements made by a Owner within such Owner's Unit may be separately insured by the Owner, but such insurance shall be limited to the type commonly known as "tenant's improvements" insurance.

Section 11.07 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Unit Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a prorata share of any deductible paid by the Association.

Section 11.08 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Mortgagee at reasonable times.

ARTICLE XII

Casualty Damage or Destruction

Section 12.01 Affects Title. Title to each Condominium is hereby made subject to the terms and conditions hereof which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquires such Owner's Condominium.

Section 12.02 Association as Agent. All of the Owners irrevocably constitute and appoint the Association by and through the Association's elected officers as the Owners' true and lawful attorney-in-fact in the Owner's name, place, and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute such appointment.

Section 12.03 General Authority of the Association. As attorney-in-fact, the Association by and through the Association's elected officers 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 a Condominium Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs mean restoring the Project to 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 the Owners and all first Mortgagees unanimously agree not to rebuild in accordance with the provisions set forth hereinafter.

In the event any Mortgagee should not agree not to rebuild, the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners are in unanimous agreement not to rebuild. The Association shall obtain the funds for such purpose by special assessments under Article IX of this Declaration.

Section 12.04 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 the Association deems reliable and complete of the costs of repair or reconstruction of that part of the Project damaged or destroyed.

Section 12.05 Repair or Reconstruction. As soon as practicable after receiving these estimates the Association shall diligently pursue to completion the repair or reconstruction 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, however, in such latter event in the absence of the consent of each affected Owner, 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, and

the location of the Building shall be substantially the same as prior to damage or destruction.

Section 12.06 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 Article IX hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in Article IX. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

Section 12.07 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 12.06 constitute a fund for the payment of cost or 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 in proportion to the contributions by each Owner pursuant to the assessments by the Association under Section 12.06 of this Declaration.

Section 12.08 Decision Not to Rebuild. If the record Owners, as reflected on the real estate record of Blaine County, Idaho, representing sixty (60%) or more of the Membership Voting Interest set forth on attached Exhibit B, and all holders of first Mortgages on Condominiums agree not to rebuild, as provided herein, the Project shall be sold and the proceeds distributed in the same manner herein provided in the event of sale of obsolete Condominiums, as set forth in Section 13.04.

ARTICLE XIII

Obsolescence

Section 13.01 Adoption of a Plan. The record Owners, as reflected on the real estate record of Blaine County, Idaho, representing sixty percent (60%) or more of Membership Voting Interest set forth on attached Exhibit B may agree that the Project is obsolete and adopt a written plan for the renewal and reconstruction which plan has the unanimous approval of all first Mortgagees of record of Units at the time of the adoption of such plan. Written notice of adoption of such a plan shall be given to all Owners. Such plan shall be recorded in Blaine County, Idaho, real estate records.

Section 13.02 Payment for Renewal and Reconstruction. The expense of renewal or reconstruction shall be payable by all the Owners as assessment against their respective Condominiums in accordance with the proportions of Common Area as set forth in Exhibit B. These assessments shall be levied in advance pursuant to Article IX hereof and shall be allocated and collected as provided in Article IX.

Further levies may be made in like manner if the amounts collected prove insufficient to complete the renewal and reconstruction.

Section 13.03 Dissents From the Plan. An Owner not a party to such a plan for renewal or reconstruction may give written notice of dissent to the Association within fifteen (15) days after the recordation of such plan. The Association shall then give written advice of such dissents to all the Owners within five (5) days after the expiration of such fifteen (15) day period. Within fifteen (15) days of receipt of such notice from the Association, the record Owners representing sixty percent (60%) or more of the Membership Voting Interest set forth on attached Exhibit B, of the affected area may cancel the plan by written instrument recorded in Blaine County, Idaho, real estate records. If the plan is not cancelled, then the ownership interest of each dissenter shall be purchased according to the following procedures. If the Owner and the Association can agree on the fair market value thereof, then such sale and conveyance shall be completed within sixty (60) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he, she, or it is unable to agree with the other shall be the "Commencing Date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the Commencing Date each party shall nominate a qualified appraiser by written nomination and shall give notice of such nomination to the other. If either party fails to make such nomination, the appraiser nominated shall, within five (5) days after default by the other party appoint and associate with that appraiser another qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of default of one party, are unable to agree, the two appraisers shall appoint another qualified appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two (2) qualified appraisers, and from the names of the four persons so nominated one shall be drawn by lot by judge of any court of record in Idaho, and the person whose name is so drawn shall be the umpire. The nominations from among which the name of the umpire is to be drawn by lot shall be submitted within ten (10) days after the failure of the two appraisers to agree, which, in any event shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, the decision of such umpire shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within sixty (60) days after decision of the appraisers, and the Association as attorney-in-fact shall disburse the proceeds in the same manner provided in Section 13.04 of this Declaration. The obligation of the Association to make such purchase shall be conditioned on the fair market value of the affected ownership interest exceeding the obligations secured by liens on such ownership interest and upon the marketability of the title of the Owner. The Owner shall furnish the Association with an appropriate abstract of title or commitment for title insurance evidencing marketability of such Owner's title not less than fifteen (15) days prior to the date set for completion of the sale.

The Association, pursuant to Article IX hereof, may levy a special assessment sufficient to provide funds to pay for the ownership interests of the dissenters,

provided that such assessments shall not apply to any of the Owners who are among the dissenters and shall not be liens against the Condominium of such Owners as the dissenters.

Section 13.04 Sale of Obsolete Project. The Owners representing sixty percent (60%) or more of Membership Voting Interest set forth on attached Exhibit B, of the total square footage of the Project may agree that the Project is obsolete and that the Project should be sold. Such an agreement must have the unanimous approval of every first Mortgagee of record at the time such agreement is made. In such instance the Association shall forthwith record a notice setting forth such fact or facts. Upon the recording of such notice by the Association, the Project shall be sold by the Association as attorney-in-fact for all of the Owners free and clear of the provisions contained in this Declaration, the Condominium Map, and the Bylaws. The sale proceeds shall be apportioned among the Owners pro rata based on the percentage interest in common area as set forth in Exhibit B to this Declaration. Such apportioned proceeds shall be paid into separate accounts, each account representing one ownership interest. 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 13.05 Distribution of Excess. In the event amounts collected pursuant to Section 13.02 are in excess of the amounts required for renewal and reconstruction, the excess shall be returned to the Owners by the Association by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.

ARTICLE XIV

Condemnation

Section 14.01 Consequences of Condemnation. If at any time or times during the continuance of the ownership 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 shall apply.

Section 14.02 Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

Section 14.03 Complete Taking. In the event that the entire Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners pro rata based on the percentage interest in common area as set forth in Exhibit B to this Declaration, provided that if a standard

different from the value of the Project 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. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 13.04 of this Declaration.

Section 14.04 Partial Taking. In the event that less than the entire Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership 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 of each area as follows: (a) the total amount allocated to taking of or injury to the Common Area shall be apportioned equally among the Owners; (b) the total amount allocated to severance damages shall be apportioned to those Condominiums which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Condominium and/or improvements an Owner has made within such Owner's own Condominium shall be apportioned to the particular Owners involved; and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association 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. Distribution of apportioned proceeds shall be made in the same manner provided in Section 13.04 of this Declaration.

Section 14.05 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter the Association shall reallocate 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 reallocation to the Owners of remaining Condominiums for amendment of this Declaration as provided in Article XV hereof.

Section 14.06 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XII above.

ARTICLE XVI

Revocation or Amendment

This Declaration shall not be revoked, nor shall any of the provisions herein be amended unless the Owners representing sixty percent (60%) or more of Membership Voting Interest set forth on attached Exhibit B, consent and agree to such revocation or amendment by instruments duly recorded. Any such revocation or amendment shall be binding upon every Owner and every Condominium whether the burdens thereon are increased or decreased by any such amendment and whether or not the Owner of each and every Condominium consents thereto.

ARTICLE XVII

Period of Condominium Ownership

The Condominium ownership created by this Declarant and the Condominium Map shall continue until this Declaration is revoked in the manner provided in Article XV of this Declaration or until terminated in the manner provided in Article XII (Obsolescence) or Article XIV (Condemnation) of this Declaration.

ARTICLE XVIII

Miscellaneous

Section 18.01 Compliance With Provisions of Declaration and Bylaws of the Association. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, rules, and regulations of the Association and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief, or both, maintainable by the Association on behalf of the Owners or, in a proper case, by an aggrieved Owner.

Section 18.02 Registration of Mailing Address. Each Owner shall register such Owner's mailing address and email address with the Association. All notices or demands intended to be served upon any Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address and by email sent to the Owner at such email address. 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 as designated in the Articles of Incorporation or Annual Report of the Association (whichever is current) and by email to the email addresses of the President and Secretary of the Association. All notices or demands to be served on Mortgagees pursuant thereto 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 be entitled to receive none 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.

Section 18.03 Transfer of Declarant's Rights. Any right or any interest reserved hereby to the Declarant may be transferred or assigned by the Declarant, either separately or with one or more of such rights or interests, to any person or entity.

Section 18.04 Mediation. Except for any mechanics, labor and materialman's liens or liens by the Association for unpaid Assessments, the Association and all Owners agree to and shall mediate any controversy, dispute, or claim of whatever nature arising out of, in connection with, or in relation to the interpretation, performance or breach of this Agreement or such rules and regulations as the Association may promulgate under its responsibilities as set forth in this Agreement. The mediation shall be held prior to any court action or arbitration. The mediation shall be confidential. In the event the parties are not able to agree on a mediator within thirty days, a judicial and mediation service mutually acceptable to the parties shall appoint a mediator. In the event the mediator determines that a second mediation session is necessary, it shall be conducted in accordance with this paragraph. Should any party attempt an arbitration or a court action before attempting to mediate, THAT PARTY SHALL NOT BE ENTITLED TO ATTORNEYS FEES THAT MIGHT OTHERWISE BE AVAILABLE TO THEM IN A COURT ACTION OR ARBITRATION, AND IN ADDITION THERETO, THE PARTY WHO IS DETERMINED BY THE ARBITRATOR TO HAVE RESISTED MEDIATION SHALL BE SANCTIONED BY THE ARBITRATOR OR JUDGE AND THE COURT SHALL DISMISS THE ARBITRATION OR COURT ACTION WITHOUT PREJUDICE AND ORDER THE PARTY THAT ATTEMPTED THE ARBITRATION OR COURT ACTION TO PAY THE OTHER PARTY'S REASONABLE ATTORNEY'S FEES AND COSTS.

Section 18.05 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 or rented said interest as provided herein, but the Owner of a Condominium shall have no obligation for expenses or other obligations accruing after the Owner conveys such Condominium.

Section 18.06 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders

Section 18.07 Severability. If any of the provisions of this Declaration or any clause, paragraph, sentence, phrase, or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstance shall not be affected thereby.

Section 18.08 Construction by Declarant. Nothing in this Declaration or any action taken by the Association shall limit the right of Declarant to complete construction of the Project.

Section 18.05 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 or rented said interest as provided herein, but the Owner of a Condominium shall have no obligation for expenses or other obligations accruing after the Owner conveys such Condominium.

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Section 18.08 Construction by Declarant. Nothing in this Declaration or any action taken by the Association shall limit the right of Declarant to complete construction of the Project.

Section 18.09 Statute. The provisions of this Declaration shall be in addition and supplemental to the Condominium Property Act of the State of Idaho and to all other provisions of law.

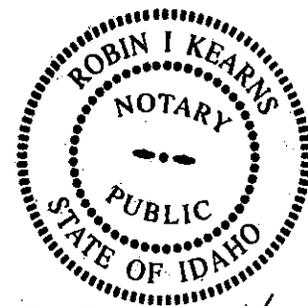
This Declaration is executed on this 3rd day of April, 2017.

Kneebone LLC, an Idaho Limited Liability Company

[Signature]
By Matthew McNeal

ACKNOWLEDGMENT

State of Idaho)
)ss
County of Blaine)



Robin I. Kearns

On this 3rd day of April, 2017, before me, Robin Kearns, a Notary Public, personally appeared Matthew McNeal, known or identified to me on the basis of satisfactory evidence to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

WITNESS my hand and official seal.

EXHIBIT A**LEGAL DESCRIPTION**

Ketchum Lot 8 Block 15, according to the official plat thereof, recorded as Instrument No. 302967, records of Blaine County, Idaho.

EXHIBIT B

Percentage of Ownership Interest in Common Area, Membership Voting Interest and Legal Descriptions of Condominiums. The percentage of ownership in the Common Area of the Project which is allocated to each Condominium for purposes of (1) tax assessment under Section 55-1514, Idaho Code; (2) liability as provided in Section 55-1515, Idaho Code; (3) assessment for Joint Common Area operation and maintenance; and for membership voting interests are as follows:

Unit Number		Percentage of Interest in Common Area of Project and Membership Voting Interest*	
101	914.1 sf	13.71%	
102	604.4 sf	9.06%	
201	1526.0 sf	22.89%	
202	1397.7 sf	20.96%	
301	2225.7 sf	33.38%	
Total	6667.9 sf	100.00%	

*The Percentage Interest In Common Area and the Membership Voting Interest are fixed by taking as a basis the square footage of the interior floor area of each Unit in relation to the square footage of the interior floor area of all of the Units as a whole, excluding Limited Common Area square footages, and excluding approximately 28 sq ft that has been added to the interior livable square footage of Unit 301 to compensate the owner of Unit 301 for the disproportionate designation of the two storage units to Unit Owners 101 and 201.

Elevator Limited Common Area Sharing Percentages

Units on the second and third floor share the use of the elevator as a Limited Common Area, and the percentage sharing of expenses and repairs related to the elevator shall be as follows: Unit #201: 29.53 %; Unit #202: 27.26 %: and Unit #301: 43.21%

The legal description of Units #101 and #102 is:

Condominium Unit ____, including Storage Unit, as shown on the Condominium Map for the Kneebone Building appearing in the records of Blaine County as Instrument No. _____, and as defined and described in that Condominium Declaration for the Kneebone Building in the records of Blaine County, Idaho, as Instrument No. _____.

The legal description of Units #201 and #202 is:

Condominium Unit ____ as shown on the Condominium Map for the Kneebone Building appearing in the records of Blaine County as Instrument No. _____, and as defined and described in that Condominium Declaration for the Kneebone Building in the records of Blaine County, Idaho, as Instrument No. _____.

The legal description of Unit #301 is:

Condominium Unit ____, including Garage, as shown on the Condominium Map for the Kneebone Building appearing in the records of Blaine County as Instrument No. _____, and as defined and described in that Condominium Declaration for the Kneebone Building in the records of Blaine County, Idaho, as Instrument No. _____.

EXHIBIT C

(Condominium Map)

EXHIBIT D

(By Laws and Articles of Incorporation)

BYLAWS**OF****KNEEBONE CONDOMINIUM OWNERS ASSOCIATION, INC.****ARTICLE I****Principal Office**

The Principal office of Kneebone Condominium Owners Association, Inc., (the "Association"), shall be in the City of Ketchum, County of Blaine, State of Idaho. The Association may have such other offices, either within or without the state of Idaho as the Board of Directors may determine or the affairs of the Association may require.

ARTICLE II**Board of Directors**

1. General Powers. The property, business, and affairs of the Association shall be controlled and managed by the Board of Directors.

2. Number. The Board of Directors shall consist of three (3) members. The Board of Directors may be increased by amendment of these Bylaws; provided however, the number of directors shall not be increased to more than five (5), and provided further, a reduction in the number of directors by amendment of these Bylaws shall not have the effect of reducing the term of an incumbent director.

3. Qualifications; Election; Term. Directors must be members of the Association and shall be elected by the members at their annual meeting. In the election

of members of the Board of Directors, the candidates receiving the highest percentages of Membership Voting Interest as set forth on Exhibit B of the Declarations shall be deemed elected. Directors shall serve the term of one (1) year or until their successors are duly elected and qualified.

4. Removal; Resignation. Any director may be removed with or without cause by a vote of sixty-six percent of the Membership Voting Interests entitled to be cast by the members of the Association at a meeting, called for that purpose. Any director may resign by submitting a written notice to the Board of Directors stating the effective date of that director's resignation, and acceptance of the resignation shall not be necessary to make it effective.

5. Vacancies. Any vacancy occurring on the Board of Directors whether by removal, resignation, death, or otherwise shall be filled by a majority of the remaining directors though less than a quorum of the Board of Directors. A director elected to fill a vacancy on the Board of Directors shall hold office until the next annual election of directors and until that director's successor is duly elected and qualified.

6. Meeting. There shall be a regular annual meeting of the Board of Directors immediately following the annual meeting of the members of the Association, and the Board of Directors may establish regular meetings to be held at such other places, in such other manners, including telephonically, and at such other times as the Board of Directors may determine from time to time. After the establishment of a time, place, and manner for regular meetings, no further notice thereof need be given. Special meetings of the Board of Directors may be called by the President or upon written request delivered to the Secretary-Treasurer by any two (2) directors.

7. Notices; Waiver. Five (5) days' notice of special meetings shall be given to each director by the Secretary-Treasurer. Such notice may be given orally to each director. Written waiver of notice signed by a director or attendance at a meeting of the Board of Directors by such director shall constitute a waiver of notice of such meeting, except where attendance is for the expressed purpose of objecting to the failure to receive such notice or to defects in said notice.

8. Quorum; Vote Required; Adjournment. At any meeting of the Board of Directors a majority of the qualified directors shall constitute a quorum. If a quorum is present, the action of a majority of the directors present and voting shall be the act of the Board of Directors. If a quorum is not present, the majority of directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting.

9. Action of Directors Without a Meeting. Any action required to be taken or any other action which may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by a majority of the directors entitled to vote in respect to the subject matter thereof.

ARTICLE III

Officers

1. General. The officers of the Association shall be a President, one or more Vice Presidents, and a Secretary-Treasurer, all of whom shall be elected by the Board of Directors to serve at the pleasure of the Board of Directors.

2. President. The President shall be the principal executive officer of the Association and subject to the control of the Board of Directors, shall direct, supervise, coordinate, and have general control over the affairs of the Association, and shall have the powers generally attributable to the chief executive officer of an Association. The President shall be a director and shall preside at all meetings of the members of the Association.

3. Vice President. A Vice President shall act in place of the President in case of the President's death, absence, inability, or failure to act and shall perform such other duties and have such authority as from time to time delegated to such Vice President by the Board of Directors or by the President. The Vice President shall be a director; however, if the Board of Directors elects more than one Vice President only one so elected need be a director.

4. Secretary-Treasurer. The Secretary-Treasurer shall be the custodian of the records and the seal of the Association and shall affix the seal to all documents requiring the same and shall see that all notices are duly given in accordance with the provisions of these Bylaws as required by law and that the books, reports, and other documents and records of the Association are properly kept and filed. The Secretary-Treasurer shall have charge and custody of and be responsible for all sorts of securities of the Association. The Secretary-Treasurer shall deposit all such funds in the name of and to the credit of the Association in such banks and depositories as shall be designated by the Board of Directors. The Secretary-Treasurer shall keep books of account and records of transactions and of the financial condition of the Association, shall submit such reports thereof as the Board of Directors may from time to time require, and in general shall perform all of the duties incident to the office of Secretary-Treasurer and such other duties as may from time to time be assigned to the Secretary-Treasurer by the Board of Directors or the President. The Board of Directors may appoint one or more Assistant Secretary-Treasurers who may act in the place of the Secretary-Treasurer in case of the Secretary-Treasurer's death, absence, inability, or failure to act.

5. Compensation. Agents and employees shall receive such reasonable compensation for their services as may be authorized by the Board of Directors. Appointment of any agent, or employee shall not in and of itself create contractual rights of compensation for services performed by such agent or employee.

6. Delegation of Powers. In case of absence of any officer of the Association or for any other reason that may seem sufficient to the Board of Directors, the Board of Directors may delegate that officer's duties and powers for the time being to any other officer or any director.

ARTICLE IV

Rights, Duties, and Obligations of the Members of the Association

1. Membership. Every owner of a Condominium in the Project shall be a member of the Association, and no person or entity other than an owner of a Condominium may be a member of the Association. If title to a Condominium is held by more than one person, the votes of such Condominium shall be shared by all such persons in the same proportionate interest as their ownership interest in such Condominium and by the same type of tenancy in which the title to the Condominium is held. Memberships in the Association shall not be transferred except in connection with the transfer of a Condominium; provided, however, the rights of membership may be assigned as further security for a loan secured by a lien on a Condominium.

2. Transfer of Membership. Transfer of membership in the Association shall occur upon the transfer of a title to a Condominium of the Project to which the membership pertains; however, the Association shall be entitled to maintain the person, persons, or entity in whose name or names the membership is recorded on the books and records of the Association until such time as evidence of the transfer of title satisfactory to the Association has been submitted to the Secretary-Treasurer. A transfer of membership shall not release the transferor from liability or obligation accrued and incidental to such membership prior to such transfer. In the event of dispute as to ownership of a Condominium and to the membership appurtenant thereto, title to the Condominium as shown on the public records of the County of Blaine, State of Idaho, shall be determinative.

3. Voting Rights. The voting rights of each member owner will not necessarily be equal to the voting rights of other members. The voting rights of a member of the Association shall be determined as set forth in Exhibit B of the Condominium Declaration and Covenants, Conditions and Restrictions for the Kneebone Building. Exhibit B of The Condominium Declaration sets forth the voting rights of each Owner of a Condominium in the Project. The voting rights and interests of new members shall be determined in the same way as such rights were determined for old members.

The total membership voting interest shall be 100% and attach to membership certificates to be exercised by members of the Association, all of which votes shall be exercised by the members of the Association from and after the date of the incorporation. Each Condominium shall be entitled to the membership voting interest as set forth in Exhibit B of the Condominium Declaration and Covenants, Conditions and Restrictions and shall be divided among the owners of such unit if the unit is held

by more than one person. Voting by proxy shall be permitted; however, proxies must be filed with the Secretary-Treasurer twenty-four (24) hours before the appointed time of each meeting.

4. Annual Meetings. An annual meeting of the members for the purpose of electing directors, establishing of the Budget for the current calendar year and transaction of such other matters as may properly come before the meeting shall be held at 9:00 a.m. on the last Thursday of February of each year or on such other convenient date as the members mutually agree in a convenient location in the County of Blaine, State of Idaho, or such other location as the members mutually agree. All business which may be lawfully transacted may be transacted at such meeting without any further or special notice.

5. Special Meeting. Special meetings of the members may be called any time by the Board of Directors or by written request of one-half (1/2) of the voting power of all the members and shall be held at a convenient location in the County of Blaine, State of Idaho. The Secretary-Treasurer shall forthwith give notice of such meeting at such time as the Secretary-Treasurer may fix, not less than ten (10) or more than thirty-five (35) days after the receipt of said request and if the Secretary-Treasurer shall neglect or refuse to issue such call, the Board of Directors or members making request may do so.

6. Notice; Waiver. Notice of annual and special meetings of the members must be given in writing and must state the date, hour, and place of the meeting and generally describe the nature of the business to be transacted. Such notice shall be delivered personally to or deposited in the mail, postage prepaid, and addressed to the last known address, as shown on the books of the Association, to the owners or any one of the co-owners of each membership, as shown on the books of the Association, and shall be delivered or deposited in the mail at least ten (10) days prior to the date of the meeting.

In the event that a special meeting is called by the members as aforesaid, they shall notify the Secretary-Treasurer in writing of the time, place, and purpose of the meeting in sufficient time to permit the Secretary-Treasurer to give notice to all members in accordance with these Bylaws.

Written waiver of notice signed by or attendance at a meeting by the owners or any one of the co-owners of a membership shall constitute a waiver of notice of such meeting, except where attendance is for the express purpose of objecting to the failure to receive such notice or to defects in the notice.

7. Quorum; Vote Required; Adjournment. Two-thirds (2/3) of the membership voting interest entitled to vote represented in person or by proxy shall constitute a quorum at any meeting of the members. If a quorum is present, the action of a majority of the membership voting interest present and voting shall be the act of the members. If a quorum is not represented at a meeting, a majority of the membership voting interest

present in person or by proxy may adjourn the meeting from time to time without notice other than announcement at the meeting.

8. Certificates Held. Membership certificates held in estates or trust may be voted by the administrator, executor, guardian, trustee, conservator, or receiver thereof without such membership or title to the Condominium being transferred to said person.

9. Conduct of the Meeting. The meeting will be conducted by the officers in order of their priority. The order of business shall be a call of the roll, a reading of the notice and proof of the call, report of officers, report of committees, unfinished business, new business, election of directors, and miscellaneous business.

ARTICLE V

Incorporation by Reference to Condominium Declaration

Pursuant to Article X of the Articles of Incorporation of this Association, the Condominium Declaration and Covenants, Conditions and Restrictions for Kneebone Building (“Declarations”) is hereby incorporated by reference and made a part of these Bylaws as if set out in full herein, including, but not limited to, articles entitled "Nature and Incidents of Condominium Ownership" (Article IV), "The Association" (Article VII), "Certain Rights and Obligations of the Association" (Article VIII), "Assessments" (Article IX), and "Use of Condominiums" (Article X).

ARTICLE VI

Contracts, Conveyances, Checks, & Miscellaneous

1. Contracts. The Board of Directors may authorize any officer of the Association to enter into any contract or execute any instrument in the name of the Association except as otherwise specifically required by the Articles of Incorporation or by the Condominium Declaration for the Kneebone Building.

2. Conveyances and Encumbrances. Association property may be conveyed or encumbered by authority of the Board of Directors by resolution of the Board of Directors. Conveyances or encumbrances shall be executed by instrument by the President or a Vice President and by the Secretary-Treasurer of the Association.

3. Checks. All checks, drafts, notes, and orders for the payment of money shall be signed by such persons as the Board of Directors may authorize.

4. Fiscal Year. The fiscal year or business year of the Association shall begin on the first day of January and end on the last day of December following.

5. Records. The Association shall maintain accurate and correct books, records, and accounts of the Association's business and properties, and they shall be kept at such place as is from time to time fixed and designated by the Board of Directors.

6. Seal. The Board of Directors may adopt an Association seal of such design as may be appropriate.

ARTICLE VII

Amendments

These Bylaws may be amended, altered, or repealed from time to time by a sixty percent (60%) or more vote of the membership voting interest of the Association in accordance with the provisions of Article VII of the Articles of Incorporation and Exhibit B of the Declarations at any annual or special meeting provided that the notice of such meeting states that such amendment, alteration or repeal is to be considered.

APPROVED AND ADOPTED this ____ day of _____, 2017, by the undersigned members of the initial Board of Directors of the Association.

Matthew McNeal

Stephen Kearns

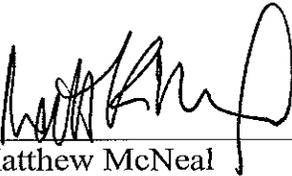
Robin Story

JWP Draft

ARTICLE VII**Amendments**

These Bylaws may be amended, altered, or repealed from time to time by a sixty percent (60%) or more vote of the membership voting interest of the Association in accordance with the provisions of Article VII of the Articles of Incorporation and Exhibit B of the Declarations at any annual or special meeting provided that the notice of such meeting states that such amendment, alteration or repeal is to be considered.

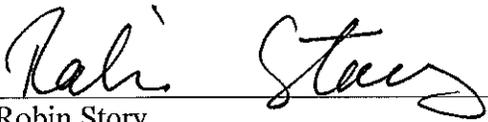
APPROVED AND ADOPTED this 3rd day of April, 2017, by the undersigned members of the initial Board of Directors of the Association.



Matthew McNeal



Stephen Kearns



Robin Story

JWP Draft

Electronically recorded – Do not remove the county stamped first page as it is now incorporated as part of the original document.



WARRANTY DEED

Corporate

Seaboard Investments, Inc., an Idaho Corporation, a Corporation duly organized and existing under and by virtue of the laws of the State of Idaho, with its principal office at PO Box 3510, Ketchum, ID 83340

grantor, hereby CONVEYS or GRANTS and WARRANTS to

Kneebone, LLC, an Idaho Limited Liability Company

grantee, whose current address is: PO Box 3233, Ketchum, ID 83340

the following described premises, to-wit:

Lot 8 in Block 15, of the CITY OF KETCHUM, according to the official plat thereof, on file and of record in the office of the County Recorder, Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that it is the owner in fee simple of said premises; that said premises are free from all encumbrances and that the Grantor will warrant and defend the same from all lawful claims whatsoever.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, the grantor has caused its corporate name to be hereunto subscribed by its authorized officers, this 20th day of September, 2015.

SEABOARD INVESTMENTS, INC.

H. G. Hawn

Happy Gayton Hawn
Vice President



City of Ketchum

April 3, 2017

Planning and Zoning Commission
City of Ketchum
Ketchum, Idaho

Mayor Jonas and City Councilors:

**STAFF REPORT
KETCHUM CITY COUNCIL
REGULAR MEETING OF APRIL 3, 2017**

- PROJECT:** Emergency Ordinance #1172: city-initiated text amendments to Title 17, Chapters 17.88, Floodplain Management Overlay Zoning District
- REPRESENTATIVE:** City of Ketchum Planning and Building Department
- DESCRIPTION:** Emergency ordinance to amend Title 17, Zoning Regulations, Chapter 17.88, Floodplain Management Overlay Zoning District, finding an imminent peril to the public health, safety, or welfare due to anticipated flooding caused by Wood River Valley snowpack being 180% above normal
- PLANNER:** Micah Austin, Planning and Building Director
Brittany Skelton, Senior Planner
- ATTACHMENTS:** 1. Ordinance 1172
- NOTICE:** Public notice was published in the Idaho Mountain Express on March 29, 2017 and was posted in three public locations and mailed to outside agencies on March 29, 2017.
- PUBLIC HEARINGS:** City Council
- April 3, 2017

INTRODUCTION AND HISTORY

It is anticipated that some amount of flooding will occur this spring and summer within Ketchum city limits. As of March 16, 2017 the snowpack in the Wood River Valley, as measured at the Natural Resources Conservation Service Chocolate Gulch SNOTEL monitoring site, was 180% of normal. As of March 24, 2017 the water discharge rate on the Big Wood River, as measured from the Ketchum gauge station, is 198 cubic feet per second (cfs); the previous highest recorded on this date was 142 cfs and the mean discharge on this date is 55 cfs. The 198 cfs reading is 360% of normal discharge for this date. As of March 24, 2017 the water discharge rate on the Big Wood River, as measured from the Hailey gauge station, is 1,050 cubic feet per second (cfs); the previous highest recorded on this date was 504 cfs (1986) and the mean discharge on this date is 216 cfs. The 1,050 cfs reading is 486% of normal discharge for this date.

Additionally, on March 22nd the Blaine County Sheriff's Office reported flooding in the south county in and around the City of Carey. Several roads were closed due to high water flooding the roadways and some roads remained closed as of March 24, 2017.

The date of high water on the Big Wood River during the ten (10) highest water events recorded has occurred between the dates of May 21 to June 18. In preparation for anticipated flooding, the City of Ketchum has updated its emergency response plan. The City is also working with the Local Emergency Planning Committee (LEPC) and organizations such as the Idaho chapter of the American Red Cross in order to plan for pre-, during, and post-flood responses.

While City Council recently approved minor amendments to the Title 17, Chapter 17.88, Floodplain Management Overlay Zoning District, those amendments dealt with existing procedures regulated by the ordinance. Those amendments did not address procedure to review and approve emergency actions that may be necessary to protect the health, safety or welfare of the public, or to protect infrastructure such as city property, during flood events.

Currently, the city's Floodplain Ordinance contains a procedure for approval of one type of flood related emergency: emergency streambank stabilization. The emergency streambank stabilization does not cover the full scope and breadth of emergency situations that may arise during a flood event.

Summary of Request

Due to anticipated flooding, the City must act now in order to reduce the potential damages to property, health, safety, welfare and infrastructure that arise during flood emergencies.

Staff recommends interim standards, as amendments to the floodplain ordinance, which create two new emergency review and approval processes:

1. Emergency Riparian Alteration
 - a. Creates a process to receive emergency review and approval for alteration to riparian areas, such as the removal of trees that have fallen, debris that has accumulated, or trees that are in imminent danger of falling as advised by the City Arborist and determined by the administrator.
 - b. Uses the same criteria for determining when the emergency permit is applicable as is used for the existing Emergency Streambank Stabilization permit, uses the same procedure for obtaining a permit, and the same application criteria, site inspection requirements, basis for denial, condition of approval and enforcement as well.
2. Emergency City Initiated Actions
 - a. Creates a process to allow the City to take emergency action in order to prevent or mitigate imminent threat to the health, safety, and welfare of the public.

- b. Uses similar criteria for determining when the emergency actions can occur, but allows the city administrator or his or her designee to determine local, site specific emergencies.
- c. Requires the city to submit the appropriate emergency streambank stabilization or riparian alteration permit application but waives the application fee.
- d. Does not require a site inspection to be conducted by the Planning and Building department director (administrator of the zoning code) but does require the application to include a description of the existing conditions that pose imminent emergency impact and the other application requirements for emergency streambank and riparian applications.
- e. Cites the same conditions of approval that may be applied as the emergency streambank and riparian applications, less the condition to post a financial security to mitigate the potential impacts of the emergency work.

As proposed, these interim standards would apply to applications during flood events for alteration of the riparian area that do not include streambank stabilization and city initiated emergency actions.

Because flooding could occur at a date prior to the historic date of high water, staff recommends the Council conduct two readings and waive one reading of the ordinance so the standards are in effect by mid-April.

These standards would be adopted as interim standards, in place for up to one hundred and eight-two days, in accordance with Idaho Code § 67-6523.

Financial Impact

There is no financial impact as a result of this recommendation.

Recommendation and Motion

"I MOVE TO APPROVE the first reading of Ordinance 1172, an Emergency Ordinance of the City of Ketchum, Blaine County, Idaho finding an imminent peril to the public health, safety, or welfare due to anticipated flooding caused by Wood River Valley snowpack being approximately 180% above normal and therefore amending Ketchum City Code 17.88 to provide for emergency procedures for riparian alteration and emergency city actions; providing a savings and severability clause; and providing an effective date."



Planning and Zoning

Regular Meeting

~ Minutes ~

Monday, March 13, 2017

5:30 PM

Ketchum City Hall

Commissioners Present: Jeff Lamoureux, Chairperson
Matthew Mead, Commissioner
Betsey Mizell, Commissioner
Neil Morrow, Commissioner

Commissioners Absent: Erin Smith, Vice-Chairperson

Staff Present: Micah Austin, Director of Planning & Building
Brittany Skelton, Senior Planner
Carl Anderson, Associate Planner
Keshia Owens, Planning Technician

Members of the Public

1. **5:00 PM- SITE VISIT: Sun Valley Mixed Use Project - 231 Sun Valley Road, Ketchum Idaho (Lot 8 Remainder, Block 17, Section 18, Township 4)**
2. **5:15 PM- SITE VISIT: Angel Wings Retail Addition - 320 North Leadville Ave, Ketchum Idaho (Ketchum Lot 2 Block 24))**
3. **5:30 PM - CALL TO ORDER: City Hall, 480 East Avenue North, Ketchum, Idaho**
Commissioner Lamoureux called the meeting to order at 5:33 PM.
4. **PUBLIC COMMENT - Communications from the public for items not on the agenda.**
5. **COMMUNICATIONS FROM STAFF**
 - a. **Discussion on Emergency Ordinance 1169 of the City of Ketchum, Finding an Imminent Peril to the Public Health, Safety or Welfare Due to Pending Litigation and Therefore Amending Ketchum City Code 17.124.040 To Provide for A Floor Area Exceedance Agreement and Clarify the Administrative Procedures of Such Chapter; Providing a Savings and Severability Clause; And Providing An Effective Date - City Administrator Suzanne Frick and Matthew Johnson, City Attorney**

Suzanne Frick, City Administrator, said that the city has been sued because of the in-lieu housing fee. She explained the construct of the current ordinance is that development can proceed a one-point-zero floor area ratio if a developer would like a density bonus they would need to mitigate and offset the housing requirement and-to go up to a maximum of two-point-twenty-five in the Community Core. She commented that the City has been sued because the density bonus and the requirement for inclusionary housing is an unlawful tax. She stated that Council considered four basic options in looking at the City's options, which included a moratorium to shut down development while the law suit is pending, or revert down to the one-point-zero floor area ratio for all development moving forward, or repeal the existing ordinance that allows the one-point-zero plus the density bonus and replace that with

something else, or an emergency ordinance that sets forth one can do one-point-zero floor area development, but if they choose to go up to two-point-twenty-five they must enter into an exceedance agreement. She explained that the fourth option was enacted by Council and the exceedance agreement will be a contract between the City and a developer in exchange for going the additional density, which will offset that requirement with the housing. She then commented that the fourth option was enacted by Council on Monday, March 6, 2017 and will come back for another reading at the meeting on Monday, March 20, 2017 with an example of the exceedance agreement. She noted the goal of the exceedance agreement will be reviewed and approved by Council before developments are submitted and if Council agrees to a proposed exceedance agreement the project will move through the Planning Commission process with the Council retaining review authority over the project. She also pointed out that Council is only looking at developments initially to determine if development can go above the one-point-zero floor area ratio and enter into an exceedance agreement. She then stated that this exceedance agreement could be in place for one to two years, depending upon the timeline of the lawsuit.

Commissioner Morrow asked if the exceedance agreement is put in place will the law suit go away.

Matt Johnson, City Attorney, said that this would not appeal the exceedance agreement approach. He later added that the existing code language provides already wiggle room, so the agreement is not much different from what is in place. He then explained that this is an opportunity to provide a level of protection for the city.

- b. Public Hearing - Continued from February 13, 2017, and February 27, 2017: Knudson Conditional Use Permit 491 East 10th Street, Ketchum, Idaho (Tenth St Light Industrial Complex, Building A Unit 1): The Commission will consider and take action on an application for a Conditional Use Permit application for a live-work studio.**

COMMENTS:

Carl Anderson, Associate Planner, said that the project is located at the corner of Tenth Street and Main Street and the applicant is requesting conditional use permit approval for four-hundred-and-sixty-one square feet of live-work residential space in the Light Industrial Two District. He provided additional background on the project and explained that staff finds that the project meets the standards of the 2014 Comprehensive Plan Alignment. He detailed the layout of the building and stated that staff recommends approval of the project with conditions detailed in the presentation and staff report.

City Department comments:

Fire

- If the kitchen is used for commercial use such as cooking classes, the kitchen exhaust hood and duct system required by Section 609 to have a Type I hood shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code.

Building

Provide documentation of total construction cost of actual work completed, which includes material and labor

- Water heater seismic strap installed
- Handrails installed
- Emergency egress window in bedroom
- Provide an accurate floor plan by a design professional

- Must secure a conditional use permit

Public Comment:

Lynn Knudson, owner, said that this is very thorough, transparent and she would love for the project to be completed.

Commissioner Mead thanked the applicant for updated plans and said that having good work spaces is a valuable asset to the community.

Commissioner Mizell made a motion to approve the application from owner Lynn Knudson for a Conditional Use Permit application for a residential live-work unit in the Light Industrial Two (LI-2), finding the application does meet the standards for approval under Chapter 17.116 of Ketchum Zoning Code, only if the following conditions are met: one through ten.

Commissioner Morrow seconded.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Betsy Mizell, Commissioner
SECONDER:	Neil Morrow, Commissioner
AYES:	Morrow, Mead, Lamoureux, , Mizell

- c. **Sun Valley Mixed Use Project, 231 Sun Valley Road, Ketchum, Idaho (Lot 8 Remainder, Block 17, Section 18, Township 4): The Commission will consider and take action on Design Review approval for a new two story building to be used for residential and commercial use.**

COMMENTS:

Micah Austin, Planning Director, said that this is the second project at 231 Sun Valley Road that the Commission has considered in less than two years. He explained that the first project was approved in 2015 for pre-application and design review, but the applicant chose to not pursue a building permit at that time. He then stated that this is a redesign of that approved project that will not need to go through pre-application design review and further explained changes to the original project.

Carl Anderson, Associate Planner, said that the applicant is requesting a design review approval for a two-story mixed use unit and the requirement for pre-application design review has been waived. He commented that staff has found that the project meets regulations contained within the Design Review chapter 17.96. He also commented that staff recommends approval as is pending a stamped set of floor plans are received and with conditions listed in the presentation and staff report.

Applicants Comments:

Kjell Ooms, Conrad Brothers, explained that all the exterior scones are dark sky compliant. He explained the various materials used throughout the proposed structure consist of brick, horizontal wood siding, standing seam metal, exposed knee braces, and painted steel.

Paul Conrad, Conrad Brothers, said that the Commission is not seeing more material palettes because the project has come through before. He suggested come up with something creatively like colors, instead of material boards because of budget constraints. He suggested lowering the parapet and add a horizontal railing to add in some color

Directives:

- Drop parapet and include a steel rail
- Provide stamped drawings prior to the findings of fact

- Provide a materials board, which may be electronic

Commissioner Morrow moved to approve the application from the owner Devin Piscitelli for the Design Review application for 231 E. Sun Valley Road, finding the application meets the standards for approval under Chapter 17.96 of Ketchum Zoning Code with the following conditions: one through thirteen.

Commissioner Mead seconded.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Neil Morrow, Commissioner
SECONDER:	Matthew Mead, Commissioner
AYES:	Morrow, Mead, Lamoureux, , Mizell

- d. **Angel Wings Retail Addition, 320 North Leadville Ave Ketchum, Idaho (Ketchum Lot 2 Block 24) The Commission will consider and take action on Design Review approval for a commercial addition.**

COMMENTS - Current Meeting:

Rebecca Bundy, Architect, said that this is a 408-square foot addition, completely underneath the second story of the existing building. She explained that the addition doesn't expand the footprint or height, but it does increase the floor area ratio, which the applicant fully understands. She then stated that the proposal is to infill the colonnade, move the existing front door to a newly created front and move an existing window within the colonnade to a location under the far north of the existing facade.

Carl Anderson, Associate Planner, said that the applicant is requesting design review approval for 407.7 square foot addition. He stated that the project complies with design review elements except for removal of street trees and staff does not recommend bike racks located in the public right of way, but one bike rack should be located on site. He also said that staff recommend approval of the project with conditions noted in the presentation and staff report.

Commissioner Mead made a motion to approve the application from the owner TASZO LLC for the Design Review application, finding the application meets the standards for approval under Chapter 17.96 of Ketchum Zoning Code with the following conditions: one through eight.

Commissioner Mizell seconded.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Matthew Mead, Commissioner
SECONDER:	Betsy Mizell, Commissioner
AYES:	Lamoureux, , Mizell

- e. **Zoning Code Amendments, Phase II - Dark Sky Chapter Text Amendment: Text amendments to the City of Ketchum Municipal Code to amend Ordinance 1135, Title 17 Zoning Code, Chapter 17.132 "Dark Skies"; proposed amendments Section 17.132.010 "General Provisions" and Section "17.132.020 "Criteria." The proposed amendments to Chapter 17.132 "Dark Skies" will include amendments to establish a dark sky lighting curfew, establish standards for holiday lighting, and establish lighting color temperature.**

COMMENTS:

Micah Austin, Planning Director, said that this is the public hearing for the Dark Sky Ordinance discussed at the last meeting. He explained that as with all ordinance revisions, staff tried to align this ordinance with the Comprehensive Plan. He stated that staff feels that this ordinance meets night sky conservation goals, natural resources and stewardship goals, and the goals the staff put forth outside of the Comprehensive Plan. He commented there is a regional effort to create a dark sky reserve, but there are also efforts to make Ketchum a dark sky community. He noted that wording like "encouraged" and "discourage" has been removed, downcast sensor lighting will be allowed, holiday lighting was addressed, and color-temperature was added. He commented that old/outdated technological references were removed and all lighting must be shielded with a few exemptions.

Commissioner Mizell made a motion to recommend approval of the City initiated Text Amendment to Title 17, Zoning Chapter 17.132 Dark Skies of Ketchum Municipal Code to City Council.

Morrow seconded.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Betsy Mizell, Commissioner
SECONDER:	Neil Morrow, Commissioner
AYES:	Lamoureux, Mizell

6. CONSENT CALENDAR

a. Minutes: February 13, 2017

COMMENTS:

Commissioner Lamoureux said that there was some language added into the minutes addressing his concerns about the nonconformity. He clarified it was an increase in the nonconformity because of the height of the nonconforming portion of the wall was actually increasing through the proposal and creating an increase in the nonconformity.

Commissioner Lamoureux motioned to approve the February 13, 2017 minutes. Commissioner Mizell seconded.

b. Minutes: February 27, 2017

COMMENTS - Current Meeting:

Commissioner Lamoureux made a motion to approve the minutes from February 27, 2017. Commissioner Morrow seconded.

c. Argyros Performing Arts Center Design Review (Ketchum Lot 4, Block 1, West 10' of Alley and Ketchum Lot 8, Block 1, East 10' of Alley): Findings

Micah Austin, Planning Director, said that the Commission wanted the construction activity plan brought back and staff wanted to bring it back tonight. He explained that staff has been working with the Argyros team for the last two weeks and they have gone through four revisions of the plan and staff is still working with the applicant to meet the very specific criteria. He then stated that the Argyros team was disappointed they were not on the agenda for tonight, but staff could not recommend approval of the plan. He commented that staff hopes to bring this back to the Commission for the April 10, 2017 meeting, which will not slow their building permit process approval and added that the Commission can delay approval of findings to the next meeting. Austin then explained that the Argyros team was

informed of the potential delay and that staff plans on bringing the construction activity plan back to the Commission, regardless of findings.

Commissioner Lamoureux stated the Commission does not have to take any action at this time.

7. FUTURE PROJECTS AND NOTICING REQUIREMENTS

- Franz Dental Project

8. STAFF REPORTS & CITY COUNCIL MEETING UPDATE

- Floodplain and Design Review
- Kneebone Preliminary Plat
- Gas stations prohibited on Highway 75

9. Commission reports and ex parte discussion disclosure

10. ADJOURNMENT

Commissioner Mizell made a motion to adjourn and Commissioner Morrow seconded.

Jeff Lamoureux
Planning and Zoning Commission Chair



City of Ketchum
Planning & Building

IN RE:)
)
 Knudson Conditional Use Permit)
 Conditional Use Permit) **KETCHUM PLANNING AND ZONING COMMISSION**
 Date: April 10, 2017) **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
) **DECISION**
 File Number: #17-001)

BACKGROUND FACTS

PROJECT: 491 E. 10th Street

FILE NUMBER: #17-001

**OWNER/
Representative:** Lynn Knudson

REQUEST: Conditional Use Permit (CUP) for residential use in the Light Industrial-Number Two (LI-2) zoning district.

LOCATION: 491 E. 10th Street
(Tenth St Light Industrial Building A Unit 1)

ZONING: Light Industrial District Number Two (LI-2)

OVERLAY: None

NOTICE: Notice was mailed to Property owners within 300 foot radius of subject property were mailed notice on January 23rd, 2017. Notice was posted in three public City locations on January 23rd, 2017 and on site on January 23rd, 2017. Continuation of the public hearing from February 13, 2017 to February 27, 2017 was announced at the February 13, 2017 meeting. Continuation of the public hearing to March 13, 2017 was announced at the February 27, 2017 meeting.

NOTICE OF CONSIDERATION BEFORE THE PLANNING AND ZONING COMMISSION

Meeting Date:	February 13, 2017
Meeting Time:	5:30 PM, or thereafter as the matter can be heard.
Meeting Location:	City Hall Council Chambers, 480 East Avenue North, Ketchum, Idaho
Project Name:	Knudson Conditional Use Permit
Project Location:	491 East 10 th Street, Ketchum, Idaho (Tenth St Light Industrial Complex, Building A Unit 1)
Applicant:	Lynn Knudson
Application Type:	Conditional Use Permit

Project Description: The Commission will consider and take action on an application for a Conditional Use Permit application for a live-work studio.

BACKGROUND

1. The applicant is requesting a conditional use permit (CUP) for one (1) 461 sq. ft. live-work residential unit within the Light Industrial-Number Two (LI-2) zoning district. Residential uses within the LI-2 are permitted as a conditional use in this zone with restrictions. The site property is located at 491 E. 10th Street (Tenth St. Light Industrial Building A Unit 1).
2. Recently, the applicant planned for a family member to occupy the property as an art studio/live-work unit and discovered that there had been no application for a conditional use permit filed with the City of Ketchum permitting the residential use of the property. Plans were submitted, and a building permit had been approved for the addition of a single garage door, the replacement of a second garage door with one of the same size, the removal of an existing window on the second level, and the demolition of interior walls on the upper level. Upon final inspection, the Fire Marshal found that the interior had been prepared for residential use. The Ketchum Building Official inspected the property and determined that the unit was not code compliant and that certain work needed to be performed.
3. The applicant is currently working with Ketchum Building Official in determining the necessary changes to bring the residential unit into code compliance. Upon approval of the conditional use permit, the applicant will proceed with plans and building permit submittal.
4. The Conditional Use Application was continued at the February 13th meeting to the February 27th Planning and Zoning meeting. The Conditional Use Application was continued at the February 27th meeting the March 13th Planning and Zoning meeting.

COMPREHENSIVE PLAN ANALYSIS

The proposed residential unit, which is located in a land use district designated by the Comprehensive Plan for Mixed-Use Industrial use is consistent with the uses, goals and policies listed below as specified within the 2014 Comprehensive Plan.

SUPPORTING SECTION	KETCHUM 2014 COMPREHENSIVE PLAN
Future Land Use	
Mixed Use Industrial	<p>Primary Uses: Light manufacturing, wholesale, services, automotive, workshops, studios, research, storage, construction supply, distribution and offices make up the bulk of development with this district.</p> <p>Secondary Uses: A limited range of residential housing types, and supporting retail are provided for within this category. Uses should generate little traffic from tourists and the general public.</p> <p>Characteristics and Location: The Mixed-Use industrial category is intended to provide critical lands for Ketchum’s economic growth and entrepreneurial opportunity within a vibrant business district where people can work and live in the same area.</p>
Community Design and Neighborhoods	
Policy CD-1.1 Unique Design Elements for Identifiable Neighborhoods	Each neighborhood or district should include a mix of design elements that will reinforce its unique design quality.
Policy CD-1.3 Compatible Infill and Redevelopment Projects	Infill and redevelopment projects should be contextually appropriate to the neighborhood and development in which they will occur. Context refers to the natural and manmade features adjoining a development site; it does not imply a certain style.

A Strong and Diverse Economy	
Policy E-2 (e) Live-Work Opportunities and Home Businesses	Support small home-based businesses that allow people to live and work from their residences and evaluate existing home-occupation, live/work, and related land use standards.

FINDINGS OF FACT

Table 1: Requirements for All Applications

City Department Comments				
Compliant				
Yes	No	N/A	City Code	
			City Standards and <i>Staff Comments</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.040	Complete Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Police Department: <i>None at this time.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Fire The above project shall meet all 2012 International Fire Code requirements in addition to specific City Building and Fire Ordinances.</p> <p>IF a monitored fire detection system exists or is installed, it shall meet NFPA 72 and be monitored by an approved alarm monitoring station. Smoke detectors shall be installed as follows:</p> <ol style="list-style-type: none"> 1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms. 2. In each room used for sleeping purposes. <p>Fire extinguishers shall be installed and maintained per 2012 IFC Section 906 both during construction and upon occupancy of the building.</p> <p>The appropriate keys, for emergency fire department access, shall be provided and installed in the existing Knox box.</p> <p>if the kitchen is used for commercial use such as cooking classes, the kitchen exhaust hood and duct system required by Section 609 to have a Type I hood shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code.</p>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Public Works: <i>No Comment at this time.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Utilities: <i>None at this time.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Parks/Arborist: <i>None at this time.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Building: Occupancy can be issued, when the following code requirements are met:</p> <ol style="list-style-type: none"> 1. Provide documentation of total construction cost of actual work completed, which includes material & labor. 2. Water heater seismic strap installed. 3. Handrails installed. 4. Emergency egress window in bedroom. 5. The building inspector wants the applicant to provide an accurate floor plan by a design professional. 6. Must secure a conditional use permit. 	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Planning and Zoning: Comments are denoted throughout the staff report.	

Table 2: Zoning Standards Analysis

Compliance with Zoning Standards				
Compliant			Standards and Commission Comments	
Yes	No	N/A	Guideline	City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Lot Area
			Commission Comments	Required: 8,000 square feet minimum. Existing: No change to existing.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030 & 17.128.020.C	Setbacks and Supplementary Yard Requirements
			Commission Comments	Not applicable; there is no change to the existing building coverage.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Building Coverage
			Commission Comments	Permitted: 75% Proposed: Not applicable; there is no change to the existing building coverage.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.030	Building Height
			Commission Comments	Required: Maximum building height permitted in the LI-2 is 35', but a 5' increase in height is permitted when the maximum vertical distance from the lowest exposed finished floor to the highest point of the roof shall be no more than five feet (5') greater than the maximum height permitted in the zoning district. Proposed: No Change to existing.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.030.H	Curb Cut
			Commission Comments	Required: 17.125.030 H: Off Street Parking Space H. A maximum of thirty five percent (35%) of the linear footage of any street frontage can be devoted to access to off-street parking. Corner lots that front two (2) or more streets may select either or both streets as access but shall still not devote more than thirty five percent (35%) of the total linear footage of street frontage to access to off-street parking. Proposed: No Change to existing.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.020.A. 2 & 17.125.050	Parking Spaces
			Commission Comments	Required: Off-Street parking standards of this chapter apply to any new development and to any new established uses. The applicant is establishing a commercial studio use and dwelling unit. "Commercial studio" is a permitted use in the LI-2 district. Encompassed in the definition of "commercial studio" are artists and artisans, including individuals practicing, teaching, or demonstrating in one of the fine arts or performing arts, or skilled in an applied art or craft, and recording studios. The Off Street parking Matrix (17.125.050G) does not specify a parking ratio for Commercial Studios, but a parking ratio for Recording Studio is defined as 1 space per 500 square feet + adequate loading area for trucks. Since the commercial studio use is related to fine art and not a recording studio, and bulky recording studio equipment and instruments will not be a part of the use, the Commission is calculating parking for the commercial studio at 1 space per 500 square feet. Residential Units, Industrial Districts: One (1) space per bedroom.

				<table border="1"> <thead> <tr> <th><i>Use</i></th> <th><i>Square Footage/# of bedrooms</i></th> <th><i>Parking Spaces Required</i></th> </tr> </thead> <tbody> <tr> <td><i>Dwelling Unit</i></td> <td><i>1 bedroom</i></td> <td><i>1 parking space</i></td> </tr> <tr> <td><i>Commercial Studio</i></td> <td><i>668 square feet</i></td> <td><i>1.34 parking spaces</i></td> </tr> <tr> <td>Total</td> <td></td> <td><i>2 parking space</i></td> </tr> </tbody> </table>	<i>Use</i>	<i>Square Footage/# of bedrooms</i>	<i>Parking Spaces Required</i>	<i>Dwelling Unit</i>	<i>1 bedroom</i>	<i>1 parking space</i>	<i>Commercial Studio</i>	<i>668 square feet</i>	<i>1.34 parking spaces</i>	Total		<i>2 parking space</i>
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Total		<i>2 parking space</i>														
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.040	<p>Off Street Loading Areas</p> <p>Existing: <i>There are three (3) parking spaces on the west-side of the property on the lower-level: one (1) parking space adjacent to the building and two (2) interior parking spaces.</i> Total: 3</p>												
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Commission Comments	<p>Required: <i>In the LI-1, LI-2 and LI-3 districts, off street loading areas (containing 180 square feet with no 1 dimension less than 10 feet) shall be required as an accessory use for new construction or major additions involving an increase in floor area, as follows: One off street loading space for floor area in excess of two thousand (2,000) square feet, provided no loading space occupies any part of a public street, alley, driveway or sidewalk; except, that where practicable to do so, an alley may be used in lieu of the requirement of this section if prior permission is granted by the commission.</i></p> <p>Proposed: <i>Not applicable; this application does not include new construction or an addition.</i></p>												
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.18.140, 17.12.020, & 17.08.020	Zoning Matrix & Definitions												
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Commission Comments	<p>17.18.150 - A. Purpose. <i>The LI-2 light industrial district number 2 is established to provide for a permanent year round employment base and the location of light manufacturing, wholesale trade and distribution, research and development, service industries, limited related, bulk retail and offices related to building, maintenance and construction and which generate little traffic from tourists and the general public.</i></p> <p>17.12.020 Dwelling, multi-family: Multi-family dwelling units are allowed in the LI-2 district with a conditional use permit. See section 17.124.090 for development standards for industrial district residential. Proposed: <i>The applicant is proposing a live-work unit which will devote 440 sq. ft., of the existing structure, to be utilized as shared residential use, in conjunction with the existing commercial uses on site.</i></p> <p>17.08.020 – Definitions Mixed Use: Properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.</p> <p>Studio, Commercial: Work space within an enclosed structure for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft. Also includes recording studios. Incidental retail sales of items produced on the premises is allowed. A commercial studio may hold occasional events solely and exclusively in connection with the permitted uses conducted by the commercial studio. The events shall be subordinate in nature to the commercial studio and subject to the standards of section 17.124.150 of this title.</p>												

			<p>Dwelling, multi-family: A building, under single or multiple ownership, containing two (2) or more Dwelling Units used for Residential Occupancy.</p> <p>Short Term Occupancy: The rental or lease of any unit or structure or portion for a period of not more than thirty (30) days. See also Tourist Housing Accommodation.</p>
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Table 3: Standards for Residential, Light Industrial Districts

IMPROVEMENTS AND STANDARDS: 17.124.090 – RESIDENTIAL, LIGHT INDUSTRIAL DISTRICTS:				
Residential units in the light industrial districts shall comply with the following minimum criteria:				
Yes	No	N/A	City Code	City Standards and Commission Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (1)	<p>1. Dwelling units shall not occupy the ground floor.</p> <p><i>Commission Comments</i> As the property address is 491 E. 10th Street, the lower level has been determined to be the ground floor. There are no dwelling units proposed on the lower level. The residential space (bedroom/office and shared bathroom) for the proposed project is primarily located on the middle/mezzanine floor, with a shared kitchen located on the top floor.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (2)	<p>2. Design review under chapter 17.96 of this title shall be required whether new building, addition to existing building or remodel of existing building.</p> <p><i>Commission Comments</i> Due to the nature of the project, which is an interior remodel only, the requirement for Design review under chapter 17.96 is has been waived for this project by the administrator.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (3)	<p>3. Up to fifty percent (50%) of any light industrial building may be devoted to dwelling units, unless otherwise specified in the section.</p> <p><i>Commission Comments</i> The proposed gross square footage of the building is 2,040sf. The breakdown of the total square footage is as follows: (Level 3) Top floor: 969 sf (Level 2) Middle/mezzanine floor: 486 sf (Level 1) Lower level: 956 sf Total sf = 2411sf Residential: Bedroom: 203 sf. Shared Bathroom: 93 sf Shared Kitchen: 96 sf Connecting Hall from bedroom to bathroom: 69 sf Total residential sf = 461 The applicant proposes devoting 19.12% of the building to residential use. The total residential square footage devoted to residential space is 461sf. Approximately 1,950 square feet of the building is devoted to a combination of storage/parking and commercial studio (art studio) space. Note: Parking areas covered by a roof or portion of the building and enclosed on three (2) or more sides by building walls are included into the gross floor area calculation. See Ketchum code 17.08.020 Definitions: Floor Area, Gross for full definition.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (4)	<p>4. Dwelling units shall be owner occupied or used for "long term occupancy", defined as a minimum of ninety (90) consecutive days, and shall not be separated in any manner for sale as individual units.</p> <p><i>Commission Comments</i> The applicant has stated that the dwelling unit shall be used for long term occupancy by the owner and/or immediate family member(s). No portion of the space may be devoted to short term occupancy as defined by city of Ketchum Code Ch. 17.08.020 Short Term Occupancy: The rental or lease of any</p>

				<i>unit or structure or portion for a period of not more than thirty (30) days. See also Tourist Housing Accommodation.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (5)	5. Dwelling units shall be a minimum of four hundred (400) square feet and shall not exceed one thousand (1,000) square feet total and shall contain not more than two (2) bedrooms, unless otherwise specified in this section.
			Commission Comments	<i>The proposed dwelling unit is above the minimum of four hundred (400) square feet and does not exceed one thousand (1,000) square feet total. The proposed dwelling unit has one (1) bedroom and therefore does not contain more than two (2) bedrooms. See staff comments in section 17.124.090 A (3) for a breakdown of residential unit square feet.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (6)	6. The applicant is aware the mixed use of the property can result in conflict, that the light industrial use may on occasion or in certain respects be incompatible with the quiet enjoyment of the dwelling units, that due to the subordinate and junior nature of the residential use to the light industrial use, the city will not condition, limit, restrict or otherwise interfere with any lawful light industrial use solely because it interferes with a residential use.
			Commission Comments	<i>The applicant is aware of this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (7)	7. All persons who rent or sublet any residential living unit within the light industrial zones shall provide the tenant, lessee or subtenant with written notice that such unit is located within the light industrial zone and, as such, is junior and, therefore, subordinate in nature to all legal light industrial activities.
			Commission Comments	<i>All persons who rent or sublet any residential living unit will notify the tenant, lessee or subtenant with written notice that the unit is located within the light industrial zone, and is therefore subordinate in nature to all legal light industrial activities.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (8)	8. Each and every real estate agent, sales person and broker and each and every private party who offers for rent or shows a parcel of real property and/or structure for lease or rent within such light industrial zones shall, upon first inquiry, provide the prospective lessee or tenant, prior to viewing such real property, with written notice that such real property and/or structure is located within such light industrial zone
			Commission Comments	<i>All future real estate agents, sales person, broker, and/or each private party who offers for rent or show any of the dwelling units located in the proposed building, shall provide written notice that the building is located within such light industrial zone.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.090 A (9)	9. All brochures and other printed materials advertising rental or lease of a living unit within the light industrial zones shall contain a provision designating that such unit or units are located within the light industrial zone and are within a mixed use area. Lessees and tenants shall be notified that the residential uses within the light industrial zone are subordinate and, therefore, junior in nature to the legal light industrial activities within the zone.
			Commission Comments	<i>The applicant will meet this requirement.</i>

Table 4: Conditional Use Permit Requirements

Conditional Use Requirements				
EVALUATION STANDARDS: 17.116.030 and § 67-6512 of Idaho Code				
A conditional use permit shall be granted by the commission only if the applicant demonstrates the following:				
Compliance and Analysis				
Yes	No	N/A	Code	City Standards and Commission Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(A) CONDITIONAL USE	The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.

			Commission Comments	<p><i>The Light Industrial two (LI-2) district allows for one of the widest varieties of uses in the zoning code use matrix; uses ranging from manufacturing to personal service to warehousing and wholesaling to automotive uses are permitted.</i></p> <p><i>Multi-family dwelling units are permitted only with a conditional use permit in the LI-1, LI-2 and LI-3 with the condition that they comply with Ketchum zoning code 17.124.090, the Residential Development Standards for the light industrial districts. For residential development in the light industrial, up to fifty percent (50%) of any light industrial building may be devoted to dwelling units, unless otherwise specified in the section.</i></p> <p><i>The proposed project is compliant with all standards from Ketchum zoning code 17.124.090. For Commission comment, see Table 3: Standards for Residential, Light Industrial Districts.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(B)	<p>The conditional use will not materially endanger the health, safety and welfare of the community.</p> <p>Commission Comments</p> <p><i>The proposed live-work space is well suited for the location at 491 E. 10th Street. The property is on the edge of the LI-2 district and has access from both E. 10th Street and State Highway 75. The building is surrounded by a mix of both industrial and office use, with some residential uses in close proximity, and is anticipated to be well suited for the neighborhood.</i></p> <p><i>The property is an existing use and the building is currently being supported by adequate public facilities and services.</i></p> <p><i>The Tenth Street Light Industrial Building currently has one similar live-work unit in existence that has received conditional use approval for the residential use of the space. This project was approved in 2011 under similar circumstances.</i></p> <p><i>The proposed project is consistent with the types of uses in the neighborhood. The proposed residential use, in the form of a live-work unit, is not expected to materially endanger the health, safety and welfare of the community.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(C)	<p>The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.</p> <p>Commission Comments</p> <p><i>The proposed project is not anticipated to significantly increase the amount of pedestrian and/or vehicular traffic associated with the existing use.</i></p> <p><i>The total residential square footage devoted to residential space is 461 square feet. Approximately 1,950 square feet of the building is devoted to a combination of commercial storage, and art studio space.</i></p> <p><i>The conditional use to utilize 461 square feet of the proposed unit is not anticipated to be hazardous or in conflict with existing and anticipated traffic in the neighborhood.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(D)	<p>The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.</p> <p>Commission Comments</p> <p><i>The building is currently being supported by public facilities and services. The conditional uses can continue to be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area.</i></p> <p><i>The fire department has reviewed the application and has determined that they can provide adequate services to the project. The police department has no comment on the project.</i></p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>17.116.030(E)</p> <p>The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this Section.</p>	<p>Commission Comments</p> <p><i>The Comprehensive Plan designates the property for mixed-industrial use. Primary uses specified include: light manufacturing, wholesale services, automotive, workshops, studios, research, storage, construction supply, distribution and offices make up the bulk of development within this district. Secondary uses specified include: a limited range of residential housing types, and supporting retail are provided for within this category. Uses should generate little traffic from tourists and the general public.</i></p> <p><i>The Comprehensive Plan also designated that the Mixed-Use Industrial category is intended to provide critical lands for Ketchum’s economic growth and entrepreneurial opportunity within a vibrant business district where people can work and live in the same area.</i></p> <p><i>The project contains both a designated primary use of a studio and a designated secondary use of a housing type. Therefore, the proposed live-work project is consistent with the uses specified within the Comprehensive Plan, as well as Policy E-2 (e) Live-Work Opportunities and Home Businesses which states,: “support small home-based businesses that allow people to live and work from their residences and evaluate existing home-occupation, live/work, and related land use standards.” (Ketchum 2014 Comprehensive Plan, pg. 17).</i></p> <p><i>The Commission has found that the uses proposed are appropriate for the site.</i></p>
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CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code;
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning ordinance, Title 17;
3. The Commission has authority to hear the applicant’s Design Review Application pursuant to Chapter 17.96 of Ketchum Code Title 17;
4. The Planning and Zoning Commission’s February 13, 2017 public hearing and consideration of the applicant’s Conditional Use Permit application was properly noticed pursuant to the Local Land Use Planning Act, Idaho Code Section 67-6512;
5. The application **does** meet the standards of approval under Chapters 17.116 and 17.124.090 of Ketchum Zoning Code Title 17 and the Ketchum Comprehensive Plan;
6. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite; and
7. Per Title 17, Section 17.116.080: TERM OF PERMITS: Conditional Use Permit approval shall expire one (1) year from the date of approval if not acted upon within that time frame.

DECISION

THEREFORE, The Ketchum Planning and Zoning Commission **approves** this Conditional Use Permit (CUP) this 10th day of Aril, 2017, provided the following conditions are met:

1. Ketchum City Engineer, Streets, Utilities, Fire, Planning and Building Department requirements shall be met, including all departmental conditions as described in Table 1;
2. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite;
3. This Conditional Use Permit approval is based on representations made and other components of the application presented and approved at the meeting on March 13th, 2017. Any building discrepancies which do not conform to the approved plans will be subject to removal;
4. Dwelling units shall be owner occupied or used for “long-term occupancy” defined as a minimum of ninety (90) consecutive days, and shall not be separated in any manner for sale as individual units;
5. No greater than fifty (50) percent of the building shall be devoted to dwelling units;
6. All rental, sales and marketing of dwelling units shall include notice of the unit’s location within the light industrial district and that conflict may arise between light industrial uses and residential uses;
7. The city of Ketchum will not condition, limit, restrict or otherwise interfere with any lawful light industrial use solely because it interferes with a residential use;
8. Conditional Use Permit elements shall be completed prior to final inspection/occupancy; and
9. Plans shall be stamped by an architect, licensed in the state of Idaho, prior to the issuance of a Certificate of Occupancy.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux
Planning and Zoning Commission Chairperson



**City of Ketchum
Planning & Building**

IN RE:)
)
 231 Sun Valley)
 Design Review) **KETCHUM PLANNING AND ZONING COMMISSION**
 Date: April 10, 2017) **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
) **DECISION**
 File Number: #17-009)

BACKGROUND FACTS

PROJECT: 231 E. Sun Valley Road Mixed Use Project

FILE NUMBER: #17-009

OWNER: Devin Piscitelli

REPRESENTATIVE: EOS Architecture, INC.

REQUEST: Design Review approval for a new two story mixed-use residential and commercial building with a third floor roof deck.

LOCATION: 231 E. Sun Valley Road
(Ketchum, Lot E 75' of Lot 8 BLK 17)

ZONING: Community Core sub district Urban Residential (CC-C)

OVERLAY: None

NOTICE: Notice was mailed to Property owners within 300 foot radius of subject property were mailed notice on February 28th, 2017. Notice was posted in three public City locations on February 28th, 2017.

NOTICE OF CONSIDERATION BEFORE THE PLANNING AND ZONING COMMISSION: SITE VISIT AND REGULAR MEETING

Site Visit Date:	March 13, 2017
Site Visit Time:	5:00 PM
Meeting Location:	231 Sun Valley RD (Lot 8 Remainder, Block 17, Section 18, Township 4)
Meeting Date:	March 13, 2017
Meeting Time:	5:30 PM, or thereafter as the matter can be heard.
Meeting Location:	City Hall Council Chambers, 480 East Avenue North, Ketchum, Idaho
Project Name:	Sun Valley Mixed Use Project
Project Location:	231 Sun Valley RD (Lot 8 Remainder, Block 17, Section 18, Township 4)
Applicant:	Devin Piscitelli

Representative:	EOS Architecture, INC.
Application Type:	Design Review
Project Description:	Design Review approval for a new two story building to be used for residential and commercial use.

BACKGROUND

The site property is located in the Community Core Urban Residential Sub-district (CC-C). The lot is currently a non-conforming lot with a total of 4,124 square feet and is, located at 231E. Sun Valley Road (Ketchum, Lot E 75’ of Lot 8 Block 17). The applicant is proposing to construct a two-story mixed used building, which will have a total square footage of 4,928 square feet. The applicant is proposing to use the ground floor be as retail space and to use the second floor for one residential condominium unit. The third floor contains 238 square feet which is primary used as a stairwell and circulation area to provide access to the third floor roof deck.

The site received Design Review approval on August 10th, 2015. The approval was for a 7,826 square foot mixed use residential and commercial building. The approval expired one year from the approval date and no request to extend the approval was submitted to the City of Ketchum Planning and Building Department. Additionally, the revisions to the proposed mixed-use building are significant and require Design Review approval from the Planning and Zoning Commission. The requirement for Pre-Application Design Review has been waived for this project.

COMPREHENSIVE PLAN ANALYSIS

Staff finds the proposed new construction of the mixed-use of retail space is consistent with the uses, goals and policies listed below as specified within the 2014 Comprehensive Plan.

SUPPORTING SECTION	SUMMARY OF COMPLIANCE OF PROPOSED AMENDMENTS WITH THE 2014 COMPREHENSIVE PLAN
Future Land Use	
Mixed-Use Commercial	<p>Primary Uses: The Mixed-Use Commercial category is intended to promote a wide range of land uses, including offices, medical facilities, health/wellness-related services, recreation, government, residential, and services. General retail is limited to the downtown core (Areas in the ACI with this designation will require evaluation with regard to the provision of access, utility service, safety, and environmental impacts.)</p> <p>Secondary Uses: Open space, places of worship and public uses are also appropriate.</p> <p>Characteristics and location: The intent of the Mixed-Use Commercial category is to improve two areas: 1) the downtown area outside the retail core, and 2) the area surrounding St. Luke’s Hospital where development must be sensitively sited for viewshed and wildlife habitat protection.</p>
Retail Core	The community’s primary shopping district is the Retail Core. The Retail Core provides a variety of mixed-use buildings that have ground-floor storefronts. Specialty shops, restaurants, and outdoor seating areas line the sidewalks, creating an active pedestrian-friendly environment. Convenient shopping and dining served by sidewalks, parking, and bike access. Upper floors include a mix of residential uses and offices.
Community Design and Neighborhoods	
Policy CD-1.1 Unique Design Elements for Identifiable Neighborhoods	Each neighborhood or district should include a mix of design elements that will reinforce its unique design quality.

Policy CD-1.3 Compatible Infill and Redevelopment Projects	Infill and redevelopment projects should be contextually appropriate to the neighborhood and development in which they will occur. Context refers to the natural and manmade features adjoining a development site; it does not imply a certain style.
Housing	
Policy H-1.4 Integrated Housing in Business and Mixed-Use Areas	Housing should be integrated into the downtown core and light industrial areas, and close to the ski base. The resulting mix of land use will help promote a greater diversity of housing opportunities as well as social interactions.
Mobility	
Policy M-1.3 Compact Development and Housing Downtown and in Activity Centers	Encourage compact development, mixed uses, and additional housing density in the downtown and in high-activity areas. This will increase opportunities for walking, bicycling and transit ridership and reduce vehicle traps.
A Strong and Diverse Economy	
Policy E-1 (b) Downtown as a Major Community Asset and Tourism Attraction	The community will strive to maintain a single concentrated commercial and retail core . The city will reinforce the downtown core’s role as a more asset and visitor attraction by encouraging businesses that fit the downtown character and by developing policies, programs, investment strategies, and organizations that help retain downtown business.

FINDINGS OF FACT

Table 1: Requirements for All Applications

City Department Comments			
Compliant			
Yes	No	N/A	City Code City Standards and Staff Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.040 Complete Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Police Department: No Comment at this time.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fire Department: The above project shall meet all 2012 International Fire Code requirements in addition to specific City Building and Fire Ordinances. Approved address numbers shall be placed in such a position to be plainly visible and legible from the road fronting the property. Numbers and letters shall be a minimum of four (4) inches tall, contrast with their background and be positioned a minimum of forty-eight (48) inches above final grade. Vehicle parking and material storage during construction shall not restrict or obstruct public streets or access to any building. A minimum twenty-foot travel lane for emergency vehicle access shall be maintained clear and unobstructed at all times. All required Fire Lanes, including within 15 feet of fire hydrants, shall be maintained clear and unobstructed at all times.

		<p>An approved automatic fire sprinkler system shall be installed throughout the building per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the National Fire Protection Association Standard 13. An approved fire sprinkler flow bell, Knox box and Fire Department Connection shall be installed in an approved location visible to approaching firefighters. Water service lines to structures shall be hydraulically calculated for size to meet fire sprinkler flow requirements. Fire sprinkler systems shall be annually tested and maintained per NFPA 25. An approved fire department connection and flow bell shall be installed in a location approved by the fire department and the system shall be supervised by an approved alarm system.</p> <p>NOTE: One electronic set of fire sprinkler system plans must be submitted to the Ketchum Fire Department as well as the State Fire Marshal’s office and a Ketchum Fire Department Permit must be obtained prior to installation of fire sprinkler systems. Inspections of fire sprinkler systems by the Fire Chief or an appointee are required. Inspections must be scheduled at least 48 hours in advance.</p> <p>An approved monitored fire sprinkler alarm system shall be installed per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the requirements of NFPA 72. Two (2) sets of alarm system plans shall be submitted to the Ketchum Fire Department for approval and a permit is required prior to installation of alarm systems. Inspections of fire detection systems by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance.</p> <p>Fire extinguishers shall be installed and maintained per 2012 IFC Section 906 both during construction and upon occupancy of the building.</p> <p>Spark arresters are required on all solid fuel burning appliance chimneys to reduce potential fires from burning embers.</p> <p>An approved key box shall be installed, with the appropriate keys, for emergency fire department access in a location approved by the fire department. The key box shall be a Knox box brand and sized to accommodate keys to every door of the project.</p> <p>Inspections of fire department permit required installations shall be scheduled at least 48 hours in advance.</p> <p>An 8 ½ by 11 color coded site map of this project shall be provided on paper and electronically to the fire department. This site map shall show the locations of gas shut-offs, power shut-offs, fire sprinkler riser rooms, fire department connections, alarm panels, Knox boxes, access doors, egress windows, stairways and any additional fire department requirements. Exact details for color coded “On-Sites” can be found at www.ketchumfire.org.</p> <p>Final inspections of all fire department permit required installations by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance. A Final Inspection Checklist can be found at www.ketchumfire.org.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Public Works: Gates from the construction fencing, cannot encroach into the ROW. Maximum encroachment into SVRD will be 8’. Any concrete or asphalt that is damaged by construction activities will need to be replaced to city standards. The valley gutter in the alley will need to be made of concrete and detailed for city approval. We recommend that the sidewalk on SVRD from the alley West to the curb cut, be replaced.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Utilities:</p>

			Records show a sewer service to the main in the alley. The property had once been served by the KSW system. Each residential unit will require its own water meter and a separate meter for the commercial usage. One impact fee will be waived due to prior KSW service. If any cover is taken off the alley elevation the old KSW line in the alley will need to be lowered to 6'. All water meters will be located in the fire sprinkler room
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Parks/Arborist: Varieties of green ash are no longer acceptable, please identify alternate proposed species and provide planting detail per International Society of Arboriculture planting standards.</p> <p>The applicant has proposed an alternate species and received approval from the City Arborist. The alternate species is the <i>Tilia cordata</i> little leaf Linden.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Building: Building must meet 2012 International Building Codes.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Planning and Zoning: Comments are denoted throughout the staff report.</p>

Table 2: Zoning Standards Analysis

Compliance with Zoning Standards				
Compliant			Standards and Commission f Comments	
Yes	No	N/A	Guideline	City Standards and Commission Comments
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.12.040	Minimum Lot Area
			<i>Commission Comments</i>	Required: 5,500 square feet minimum. Existing: 4,125 square feet (Existing non-conforming lot size.)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Minimum Building Setbacks
			<i>Commission Comments</i>	Required: Front (south): 5' avg. Adjacent to alleyway (east): 3' Interior Side (west): 0' Rear (north): 0' Proposed: Front (Sun Valley Road): 5' Adjacent to alleyway: 12'- 0.75" Interior Side: 0' Rear: 0'
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Building Height
			<i>Commission Comments</i>	Required: Maximum building height permitted in the Community Core is forty-two feet (42'), but a five-foot (5') increase in height is permitted when the maximum vertical distance from the lowest exposed finished floor to the highest point of the roof shall be no more than five feet (5') greater than the maximum height permitted in the zoning district. Proposed: The highest point of the proposed building is thirty-nine feet and six inches (39'-6") and forty feet and three-quarters of an inch (40'-0.75') at the parapet.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.040.H	Curb Cut
			<i>Commission Comments</i>	Required: A total of 35% of the linear footage of any street frontage can be devoted to access to off street parking. Proposed: No curb cut is proposed. The applicant is proposing to remove the existing driveway cut along Sun Valley Road and to replace it with 5" curb and gutter. Vehicular access to the project will be provided from the alley.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.125.020.A.2 & 17.125.050	Parking Spaces
			<i>Commission Comments</i>	Required: Off-street parking standards of this chapter apply to any new development and to any new established uses. Retail Trade, CC District: Two (2) spaces per 1,000 gross square feet. Residential, CC District: One (1) space per 1,500 net square feet. Proposed: Retail Trade gross square feet: 1,497 = 1.5 parking spaces required Residential, net square feet: 2,102 = 1.4 parking spaces required Total: 3 parking spaces required The applicant is proposing four (4) on-site parking spaces on-site.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.040	Floor Area Ratios and Community Housing

			<p>Commission Comments</p>	<p>The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project.</p> <p>Permitted in CC <i>Permitted Gross FAR: 1.0</i> <i>Inclusionary Housing Incentive: 2.25</i></p> <table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="border-top: 1px solid black; border-bottom: 1px solid black; text-align: center;">Total Floor Area</th> </tr> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;"><i>Proposed</i></th> <th style="width: 35%; text-align: center;"><i>Existing</i></th> </tr> </thead> <tbody> <tr> <td>Basement</td> <td style="text-align: center;">N/A</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>1st Floor</td> <td style="text-align: center;">1,975 GSF</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>2nd Floor</td> <td style="text-align: center;">2,037 GSF</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>3rd Floor</td> <td style="text-align: center;">113 GSF</td> <td style="text-align: center;">N/A</td> </tr> <tr> <td>Total</td> <td style="text-align: center;">4,125 GSF</td> <td style="text-align: center;">N/A</td> </tr> </tbody> </table> <p>Proposed FAR: 1.00 (4,125 sf/4,125 sf) Note: excludes two garage parking spaces, and stair-well above ground floor.</p> <p>Community Housing <i>None at this time.</i></p>	Total Floor Area				<i>Proposed</i>	<i>Existing</i>	Basement	N/A	N/A	1 st Floor	1,975 GSF	N/A	2 nd Floor	2,037 GSF	N/A	3 rd Floor	113 GSF	N/A	Total	4,125 GSF	N/A
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Total	4,125 GSF	N/A																							
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>17.18.130 & 17.08.020</p> <p>Commission Comments</p>	<p>Zoning Matrix & Definitions</p> <p>17.18.130: Community Core District (CC) A. Purpose. The purpose of the CC community core district is to promote a compact and cohesive center of commerce and culture, to promote an attractive and safe pedestrian environment which includes sidewalks, gathering spaces, streetscape amenities and landscaping, to retain the unique small town scale and character and to encourage buildings which respect Ketchum’s historical and geographic context while providing diversity. Compatible mixed uses including retail, office, residential and cultural uses are encouraged. Commercial uses are concentrated in the CC district which is consistent with the city’s comprehensive plan and the downtown master plan. D. Subdistricts. Subdistricts specify areas of special characteristic within the community core which are designated on the City of Ketchum Zoning Map.</p> <p>17.08.020 – Definitions Mixed Use: Properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. Floor Area, Gross: The sum of the horizontal area of the building measured along the outside walls of each floor of a building or portion of a building, including stair towers and elevators on the ground floor only, and fifty percent (50%) of atriums over eighteen feet (18’) plate height, but not including basements, underground parking areas or open unenclosed decks. Parking areas covered by a roof portion of the building and enclosed on three (3) or more sides by building walls are included. Four (4) parking stalls for developments on single Ketchum town site lots of five thousand six hundred (5,600) square feet in size or less are not included in the gross floor area calculation.</p>																					

Table 3: Design Review Standards for all projects

Design Review Requirements IMPROVEMENTS AND STANDARDS: 17.96.060				
Yes	No	N/A	City Code	City Standards and Commission Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(1) Streets	The applicant shall be responsible for all costs associated with providing a connection from an existing city street to their development.
			<i>Commission Comments</i>	<i>The property is currently served by a public road. This standard has been met.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(2) Streets	All street designs shall be approved by the City Engineer.
			<i>Commission Comments</i>	<i>The applicant has not proposed any changes to the existing public street design. The proposed Design has been reviewed by the Public Works Department.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(B)(1)	All projects under 17.96.010(A) that qualify as a “Substantial Improvement” shall install sidewalks as required by the Public Works Department.
			<i>Commission Comments</i>	<i>Sidewalks currently serve the site along Sun Valley Road and the sidewalks will be reconstructed to meet current right-of-way standards, subject to modifications as approved by the City Engineer / Public Works Director.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(2)c	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>Commission Comments</i>	<i>Sidewalks will be reconstructed to conform to City’s right-of-way standards, subject to modifications as approved by the City Engineer / Public Works Director.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060 (B)(3)	Sidewalks may be waived if one of the following criteria is met: <ul style="list-style-type: none"> a. The project comprises an addition of less than 250 square feet of conditioned space. 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>Commission Comments</i>	<i>N/A.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(4)	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>Commission Comments</i>	<i>The proposed reconstructed sidewalk will meet this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(5)	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>Commission Comments</i>	<i>The proposed reconstructed sidewalks will meet these requirements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(6)	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 City Engineer. Any approved in-lieu contribution shall be paid before the City issues a certificate of occupancy.
			<i>Commission Comments</i>	<i>Staff does not recommend a contribution in-lieu for this project.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(1)	All storm water shall be retained on site.
			<i>Commission Comments</i>	<i>The applicant has satisfied this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(2)	Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.
			<i>Commission Comments</i>	<i>All drainage improvements meet this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(3)	The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.

			<i>Commission Comments</i>	<i>Additional drainage improvements are not recommended at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(4)	Drainage facilities shall be constructed per City standards.
			<i>Commission Comments</i>	<i>The proposed drainage facilities meet this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(1)	All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.
			<i>Commission Comments</i>	<i>The applicant is aware of this requirement and the plans show all utilities location. See comments from the City Utilities department for additional comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(2)	Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.
			<i>Commission Comments</i>	<i>The site is currently served by utilities that have been located underground and/or concealed from public view, with the exception of the powerline that runs north to south. The applicant has stated that the overhead powerline remain above ground. For reference, the site plan (SP1) indicates that overhead utilities will be located underground, and existing utilities serving 231 Sun Valley Road will be located underground. Should Idaho Power require that the overhead power lines be located underground, the applicant will comply with this requirement prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(3)	When extension of utilities is necessary all developers will be required to pay for and install two (2") 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>Commission Comments</i>	<i>The applicant is aware of this requirement and will comply with these standards and receive approval from the City Engineer prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(1)	The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.
			<i>Commission Comments</i>	<i>As indicated in the renderings, materials appear to be in keeping with the architecture and overall design of the surrounding properties, and the proposed signing does not conflict with the adjoining structures.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(2)	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>Commission Comments</i>	<i>There are no identified landmarks on the property.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(E)(3)	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>Commission Comments</i>	<i>N/A.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(1)	Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.
			<i>Commission Comments</i>	<i>The proposed building provides unobstructed pedestrian access to the sidewalk adjacent and parallel to Sun Valley Road.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(2)	The building character shall be clearly defined by use of architectural features.
			<i>Commission Comments</i>	<i>The south facing façade, which is facing Sun Valley Road, is considered the front façade. The form of the structure is broken up into two distinctive masses, which consist of retail space and a garage on the ground floor, and residential space on the second floor. An ancillary mass on the third floor is 234 square feet in size and will be used to access the rooftop deck.</i> <i>The ground level façade is clad in a beige hued rustic, reclaimed brick material that is arranged horizontally and incorporates vertical windows along the length of the building.</i> <i>The second floor façade is clad in a light grey horizontal siding, which is complementary to the beige brick material below. Additionally, balcony space defined</i>

				<p>by horizontal railing is incorporated into the second floor, which provides further definition to the second floor facade while the balcony overhang provides pedestrian shelter over the ground floor entrance below. The combination of architectural elements provide depth to the building and reduce the appearance of bulk.</p> <p>On the third floor the applicant has provided glazing on the stairwell that provides access to the rooftop deck space. The rooftop deck space is enclosed by a metal guardrail with steel posts and cable rail with a decorative design.</p> <p>Windows with black steel casings are proposed along the east (alley facing) and north facing facades and at the second floor of the south facing facade. The same materials used at the front facing facade are incorporated at the east facing facade, which fronts the alleyway. Additionally, vertical cables clad in Hilliana Japanese honeysuckle vine are proposed along all sides of the third story circulation space and the edges of the deck at the second floor.</p> <p>The north facade, which faces toward a parking area on the adjacent lot to the north, is clad in a lighter hand trowled smooth stucco finish. On the north facade the applicant has included windows at the second and third levels of the proposed building. The second and third floor will be stepped back slightly to reduce the appearance of bulk.</p> <p>The western facing facade abuts an existing adjoining building and the ground level and second floors are hidden from view.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(3)	<p>There shall be continuity of materials, colors and signing within the project.</p> <p><i>Commission Comments</i> The proposed materials, colors and signing of the project satisfy this requirement. The applicant has utilized a light grey horizontal siding, rustic reclaimed brick in beige, steel C-Channel beams and columns, a steel plate guardrail used as the second-floor deck guardrail, and vertical cables that will be clad in Hilliana Japanese honeysuckle vine and will be located along the third floor circulation space and the second floor deck, flashings, parapet caps, railings, and perforated guardrails throughout the facade of the buildings. Metal roof awnings with a blackened steel angle brace have been included throughout the building.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(4)	<p>Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.</p> <p><i>Commission Comments</i> The proposed landscape features, which primarily front Sun Valley Road, serve to compliment the principal building.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(5)	<p>Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.</p> <p><i>Commission Comments</i> The proposed elevation views provided by the applicant show that all building walls provide undulation and relief, serving to reduce the appearance of bulk and flatness. The variation in material and material color palette at the along the south and east facing facades provides depth to all facades of the building.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(6)	<p>Building(s) shall orient towards their primary street frontage.</p> <p><i>Commission Comments</i> The front entrance of the building orients towards Sun Valley Road.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(7)	<p>Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.</p> <p><i>Commission Comments</i> Plans indicate that garbage storage areas are indicated to be screened and enclosed at the southeast portion of the property.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(8)	<p>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.</p> <p><i>Commission Comments</i> The design of the building is such that pedestrian gathering areas are covered by a roof overhang.</p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(1)	Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.
			<i>Commission Comments</i>	<i>There are multiple pedestrian access points which are located in such a way as to connect with existing sidewalks that run parallel to the subject property. There are no existing, or anticipated easements on the site.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(G)(2)	Awnings extending over public sidewalks shall extend five (5') feet or more across the public sidewalk but shall not extend within two (2') feet of parking or travel lanes within the right of way.
			<i>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(3)	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>Commission Comments</i>	<i>The proposed parking areas are located off of the adjacent alleyway from the site. The four on-site parking spaces, which are accessed from the ally, are unlikely to significantly impede pedestrian or vehicle circulation around the site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(4)	Curb cuts and driveway entrances shall be no closer than twenty (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>Commission Comments</i>	<i>No curb cut to Sun Valley Road is proposed.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(5)	Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.
			<i>Commission Comments</i>	<i>Emergency and service vehicles can access the site from both Sun Valley Road (south) and a side alleyway (east), providing unobstructed access for emergency vehicles, snowplows, and garbage trucks.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(1)	Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.
			<i>Commission Comments</i>	<i>N/A. The applicant is proposing snow melt on all paved surfaces.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(2)	Snow storage areas shall be provided on-site.
			<i>Commission Comments</i>	<i>N/A. The applicant is proposing snow melt on all paved surfaces.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(3)	A designated snow storage area shall not have any dimension less than five (5') feet and shall be a minimum of twenty five (25) square feet.
			<i>Commission Comments</i>	<i>N/A. See above comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(4)	In lieu of providing snow storage areas, snow melt and hauling of snow may be allowed.
			<i>Commission Comments</i>	<i>The applicant is proposing snow melt on all paved surfaces. Additional snow hauling is not recommended at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(1)	Landscaping is required for all projects.
			<i>Commission Comments</i>	<i>Landscaping is provided and denoted in the landscaping plans.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(2)	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>Commission Comments</i>	<i>See comment from the City Arborist located in Table 1. The applicant shall replace the proposed green ash with the proposed alternative Tilia cordata little leaf Linden All other landscaping materials and vegetation types satisfy this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(3)	All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.
			<i>Commission Comments</i>	<i>See above.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(4)	<p>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.</p> <p><i>Commission Comments</i> Substantial landscaping is proposed along Sun Valley Road Street frontage, which serves to provide a buffer between the proposed residential and retail uses of the site and the adjacent pedestrian and vehicular traffic.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(J)(1)	<p>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.</p> <p><i>Commission Comments</i> No additional amenities are proposed.</p>

Table 4: Design Review Standards for Community Core Projects

IMPROVEMENTS AND STANDARDS: 17.96.070 - Community Core (CC) Projects				
<p>In addition to the requirements of section 17.96.060 of this chapter, unless otherwise specified, the standards of this section apply to projects in the Community Core district. The purpose of this section is to ensure the addition of high quality architecture for new development, while maintaining the unique character of existing building stock found in the Community Core.</p>				
Yes	No	N/A	City Code	City Standards and Commission Comments
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 A(1)	<p>Street trees, street lights, street furnishings, and all other street improvements shall be installed or constructed as determined by the Public Works Department.</p> <p><i>Commission Comments</i> See comment from the City Public Works Department located in Table 1. The applicant shall address all concerns stated by the Public Works Department. The applicant is currently proposing to reconstruct the sidewalk along Sun Valley Road, as recommend by the Public Works Department. All final street trees, street lights, and street furnishings, and other street improvements shall be approved by the Public Works Department upon final inspection, and prior to the issuance of a Certificate of Occupancy.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(A)(2) Streets	<p>Street trees with a minimum caliper size of three (3") inches, shall be placed in tree grates.</p> <p><i>Commission Comments</i> The City Arborist has reviewed the street tree location and has no concerns regarding tree location at this time. The final street tree caliper size shall be approved by the City Arborist upon final inspection, and prior to the issuance of a Certificate of Occupancy.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(A)(3)	<p>Due to site constraints, the requirements if this subsection 17.96.070.A may be modified by the Public Works Department.</p> <p><i>Commission Comments</i> N/A. No modifications to the requirements of this subsection 17.96.070.A have been recommended by the Public Works Department at this time.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(1)	<p>Facades facing a street or alley or located more than five (5') 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 façade.</p> <p><i>Commission Comments</i> The north, east and south facades have been designed to include both solid surfaces and window openings intended to avoid the creation of blank walls. See staff comment in Table 3, section 17.96.060(F) (3) for further detail. The west wall adjoins an interior side property line and will be designed to meet building code fire separation requirements.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(2)	<p>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.</p> <p><i>Commission Comments</i> The applicant has included storefront windows and doors into the main retail entrance of the proposed building. The proposed design includes ground floor</p>

				<i>storefront windows and doors with a clear transparent glass. Landscaping planters have been included in the proposed design of the plaza area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(3)	For nonresidential portions of buildings, front facades shall be designed to not obscure views into windows.
			<i>Commission Comments</i>	<i>The proposed design of the front facing façade (Sun Valley Road) does not obscure views into windows.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(4)	Roofing forms and materials shall be compatible with the overall style and character of the structure. Reflective materials are prohibited.
			<i>Commission Comments</i>	<i>The applicant is proposing the use of a flat top roof which is compatible with the overall style and character of the structure. The roof will also serve as a deck for the residence of the property. No reflective materials have been proposed at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(5)	All pitched roofs shall be designed to sufficiently hold all snow with snow clips, gutters, and downspouts.
			<i>Commission Comments</i>	<i>The applicant is proposing a flat top roof with a portion of it designated to be used as a deck for the on-site residence.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(6)	Roof overhangs shall not extend more than three (3') feet over a public sidewalk. Roof overhangs that extend over the public sidewalk shall be approved by the Public Works Department.
			<i>Commission Comments</i>	<i>No roof overhangs over a public sidewalk are proposed at this time.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070 (B)(7)	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>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(1)	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>Commission Comments</i>	<i>The proposed trash disposal area is located at the south-east corner of the principal building. The trash disposal area is fully enclosed within the building, and is proposed to be screened from public. The trash disposal area is not proposed to be located within the public right of way.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(2)	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>Commission Comments</i>	<i>The applicant will work ensure that all roof and ground mounted mechanical and electrical equipment be fully screened from public view. Mechanical equipment will not exceed ten-feet (10') over the maximum building height and must be set back a minimum of ten-feet (10') from property lines. All roof and ground mounted mechanical and electrical equipment shall be fully screened from public view. The final screening, location and height of all ground and roof mounted mechanical equipment shall be approved upon final inspection and prior to the issuance of a Certificate of Occupancy.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(1)	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>Commission Comments</i>	<i>N/A. No healthy/mature trees have been identified on-site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(D)(2)	Trees that are placed within a courtyard, plaza, or pedestrian walkway shall be placed within tree wells that are covered by tree grates.
			<i>Commission Comments</i>	<i>The applicant is proposing that the two street trees along Sun Valley Road, will be placed in tree wells and covered by tree grates which shall receive final approval by the City Engineer, prior to the issuance of a Certificate of Occupancy. See comments from the City Arborist located in Table 1.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(3)	The city arborist shall approve all parking lot and replacement trees.
			<i>Commission Comments</i>	<i>N/A.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(E)(1)	Surface parking lots shall be accessed from off the alley and shall be fully screened from the street.

			<i>Commission Comments</i>	<i>N/A. A total of four (4) parking spaces have been located off the adjacent alley. These parking spaces do not constitute a parking lot.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(E)(2)	Surface parking lots shall incorporate at least one (1) tree and one (1) additional tree per ten (10) onsite 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>Commission Comments</i>	<i>N/A.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(E)(3)	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>Commission Comments</i>	<i>The applicant is proposing one planter box located at the south-east section of the property. The planter will serve as a buffer between the two on-site parking spaces and pedestrian traffic along Sun Valley Road.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(1)	One (1) bicycle rack, able to accommodate at least two (2) bicycles, shall be provided for every four (4) parking spaces as required by the proposed use. At a minimum, one (1) bicycle rack shall be required per development.
			<i>Commission Comments</i>	<i>The applicant is proposing two on-sight bicycle racks, located at the south-west corner of the property. Each proposed bicycle rack is able to accommodate at least two (2) bicycles. There are currently three (3) parking spaces required by the proposed uses on-site. The number of proposed bicycle racks satisfies this requirement. All bike racks shall be located on private property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(2)	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 (1/2) shall be adjusted to the next highest whole number.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(3)	Bicycle racks shall be clearly visible from the building entrance they serve and not mounted less than fifty (50') feet from said entrance or as close as the nearest non-ADA parking space, whichever is closest. Bicycle racks shall be located to achieve unobstructed access from the public right-of-way and not in areas requiring access via stairways or other major obstacles.
			<i>Commission Comments</i>	<i>The applicant will locate the bicycle racks no less than fifty-feet (50') from entrance of the building. The bike racks will be visible from the nearest entrance that they serve.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code;
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning code, Title 17;
3. The Commission has authority to hear the applicant’s Design Review Application pursuant to Chapter 17.96 of Ketchum Code Title 17;
4. The project **does** meet the standards of approval under Chapter 17.96 of Zoning Code Title 17;
5. The City of Ketchum Planning Department provided adequate notice for the review of this application;
6. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite;

7. Per Title 17, Section 17.96.090: TERM OF APPROVAL: The term of design review approval shall be twelve (12) months from the date that 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;

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this Design Review application this Monday, April 10, 2017 subject to the following conditions:

1. All departmental conditions as described in Table 1;
2. All staff conditions as described in Tables 2 and 3;
3. This Design Review approval is based on the plans and information presented and approved at the meeting on the date noted herein. Building Permit plans must conform to the approved Design Review plans unless otherwise approved in writing by the Planning and Zoning Commission or Administrator. Any building or site discrepancies which do not conform to the approved plans will be subject to removal;
4. All building and fire code requirements as dictated by 2012 family of international codes shall apply to all construction onsite;
5. Per Title 17, Section 17.96.090: TERM OF APPROVAL: The term of design review approval shall be twelve (12) months from the date that 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. All Design Review elements shall be completed prior to final inspection/occupancy;
7. Any work in the right of way will require a right of way encroachment permit, reviewed and approved by the City before installation;
8. The applicant will substitute the green ash with *Tilia cordata* little leaf Linden.
9. The applicant shall obtain written approval from Idaho Power at the time of building permit stating that all appropriate buffers around power lines have been meet;
10. The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project;
11. Plans shall be stamped by an architect, licensed in the state of Idaho, prior to submission for a building permit;
12. The applicant will provide the revisions to the north side of the building, as discussed at the Public Hearing on Marth 13th, 2017;
13. The applicant will provide an updated materials board prior to the signing of the findings of fact; and
14. An update Civil Plan, stamped by a licensed engineer, shall be submitted and approved prior to the signing of the findings of fact.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux
Planning and Zoning Commission Chairperson



City of Ketchum
Planning & Building

IN RE:)
)
 Angel Wings Retail Addition)
 Design Review) **KETCHUM PLANNING AND ZONING COMMISSION**
 Date: April 10, 2017) **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
) **DECISION**
 File Number: #17-007)
BACKGROUND FACTS

PROJECT: Angel Wings Retail Addition

FILE NUMBER: #17-007

OWNERS: TASZ LLC

REPRESENTATIVE: Susan Scovell, Architect

REQUEST: Design Review approval for an addition of 407.7 square feet to the Angel Wings building located in the Community Core, Sub-district A, Retail Core (CC-A)

LOCATION: 320 North Leadville Avenue
(Ketchum Townsite, Lot 2, Block 24)

ZONING: Community Core, Sub-district A, Retail Core (CC-A)

OVERLAY: None

NOTICE: Notice was mailed to adjacent property owners within a 300-foot radius of the subject property on February 28th, 2017 and posted in three public locations on the same date.

NOTICE OF CONSIDERATION BEFORE THE PLANNING AND ZONING COMMISSION: SITE VISIT AND REGULAR MEETING

Site Visit Date:	March 13, 2017
Site Visit Time:	5:15 PM
Meeting Location:	320 North Leadville Ave (Ketchum Lot 2 Block 24)
Meeting Date:	March 13, 2017
Meeting Time:	5:30 PM, or thereafter as the matter can be heard.
Meeting Location:	City Hall Council Chambers, 480 East Avenue North, Ketchum, Idaho
Project Name:	Angel Wings Retail Addition
Project Location:	320 North Leadville Ave (Ketchum Lot 2 Block 24)
Applicant:	TASZO LLC

Representative:	Susan Scovell, Architect
Application Type:	Design Review
Project Description:	Design Review approval for a commercial addition

BACKGROUND

The site property is located in subdistrict A, Retail Core of the Community Core (CC) district. The site contains one existing building, located on Ketchum Lot 2 Block 24. The building currently contains a mixed-use including retail space on the ground floor and residential units on the upper floors. The building is named Angel Wings and the current first floor tenants are Paul Kenny’s (PK’s) Ski Rental Shop and Vault Fine Furniture + Collectibles. The expansion will be used by Paul Kenny’s Ski Rental Shop for retail space.

The applicant is proposing to construct a 407.7 square foot addition at the ground level at the north side of the existing building, which will enclose the existing pedestrian walkway connecting N. Leadville Avenue to the alley at the rear of the building. The addition will be used as retail space for Paul Kenny’s (PK’s) Ski Rental Shop. Along N. Leadville Avenue at the western corner of the site the applicant is proposing to remove the existing raised planter that surrounds a conifer tree and to replace the planter with a new wooden bench to surround the tree and to add pavers to match the existing. Along N. Leadville Avenue the applicant proposed to remove the two deciduous street-trees from the sidewalk and to replace them with bike racks, however, the request to remove the street-trees was not approved.

COMPREHENSIVE PLAN ANALYSIS

Staff finds, and the Commission agrees, that the proposed addition to the Angel Wings building located in the Retail Core is consistent with the uses, goals and policies listed below as specified within the 2014 Comprehensive Plan.

SUPPORTING SECTION	SUMMARY OF COMPLIANCE OF PROPOSED AMENDMENTS WITH THE 2014 COMPREHENSIVE PLAN
Future Land Use	
Retail Core	The community’s primary shopping district is the Retail Core. The Retail Core provides a variety of mixed-use buildings that have ground-floor storefronts. Specialty shops, restaurants, and outdoor seating areas line the sidewalks, creating an active pedestrian-friendly environment. Convenient shopping and dining served by sidewalks, parking, and bike access. Upper floors include a mix of residential uses and offices.
Community Design and Neighborhoods	
Policy CD-1.1 Unique Design Elements for Identifiable Neighborhoods	Each neighborhood or district should include a mix of design elements that will reinforce its unique design quality.
Policy CD-1.3 Compatible Infill and Redevelopment Projects	Infill and redevelopment projects should be contextually appropriate to the neighborhood and development in which they will occur. Context refers to the natural and manmade features adjoining a development site; it does not imply a certain style.
A Strong and Diverse Economy	
Policy E-1 (b) Downtown as a Major Community Asset and	The community will strive to maintain a single concentrated commercial and retail core . The city will reinforce the downtown core’s role as a more asset and visitor attraction by encouraging businesses that fit the downtown character and by developing policies, programs, investment strategies, and organizations that help retain downtown business.

Tourism Attraction	
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FINDINGS OF FACT

Table 1: Requirements for All Applications

City Department Comments				
Compliant			City Code	City Standards and <i>Commission Comments</i>
Yes	No	N/A		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.040	Complete Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Police Department: No comment at this time.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Fire Department: The above project shall meet all 2012 International Fire Code requirements in addition to specific City Building and Fire Ordinances.</p> <p>Approved address numbers shall be placed in such a position to be plainly visible and legible from the road fronting the property. Numbers and letters shall be a minimum of four (4) inches tall, contrast with their background and be positioned a minimum of forty-eight (48) inches above final grade.</p> <p>Vehicle parking and material storage during construction shall not restrict or obstruct public streets or access to any building. A minimum twenty-foot travel lane for emergency vehicle access shall be maintained clear and unobstructed at all times. All required Fire Lanes, including within 15 feet of fire hydrants, shall be maintained clear and unobstructed at all times.</p> <p>An approved automatic fire sprinkler system shall be installed throughout the building per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the National Fire Protection Association Standard 13. Water service lines to structures shall be hydraulically calculated for size to meet fire sprinkler flow requirements. Fire sprinkler systems shall be annually tested and maintained per NFPA 25. An approved fire department connection and flow bell shall be installed in a location approved by the fire department and the system shall be supervised by an approved alarm system.</p> <p style="padding-left: 40px;">NOTE: One electronic set of fire sprinkler system plans must be submitted to the Ketchum Fire Department as well as the State Fire Marshal's office and a Ketchum Fire Department Permit must be obtained prior to installation of fire sprinkler systems. Inspections of fire sprinkler systems by the Fire Chief or an appointee are required. Inspections must be scheduled at least 48 hours in advance.</p> <p>An approved monitored fire sprinkler alarm system shall be installed per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the requirements of NFPA 72. Two (2) sets of alarm system plans shall be submitted to the Ketchum Fire Department for approval and a permit is required prior to installation of alarm systems. Inspections of fire detection systems by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance.</p> <p>Fire extinguishers shall be installed and maintained per 2012 IFC Section 906 both during construction and upon occupancy of the building.</p>	

			<p>The appropriate keys, for emergency fire department access, shall be provided and installed in the existing Knox box.</p> <p>Inspections of fire department permit required installations shall be scheduled at least 48 hours in advance.</p> <p>The existing required monitored alarm system shall be modified to meet the current requirements of NFPA 72 and Ketchum Ordinance #1125.</p> <p>An 8 ½ by 11 color coded site map of this project shall be provided on paper and electronically to the fire department. This site map shall show the locations of gas shut-offs, power shut-offs, fire sprinkler riser rooms, fire department connections, alarm panels, Knox boxes, access doors, egress windows, stairways and any additional fire department requirements. Exact details for color coded “On-Sites” can be found at www.ketchumfire.org.</p> <p>Final inspections of all fire department permit required installations by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance. A Final Inspection Checklist can be found at www.ketchumfire.org.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Public Works: No comments at this time.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Utilities: Utilities has no concerns with this project.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Parks/Arborist: Removal of the existing street trees is not approved; they are healthy, have good form, and don’t appear to impede pedestrians. Public benefits of tree retention outweigh replacing them with bike racks. Additionally, the placement of the proposed bicycle racks on the sidewalk is not recommended due to impediments to pedestrian movement.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Building: The addition must meet 2012 International Building Code.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Planning and Zoning: Comments are denoted throughout the staff report.</p>

Table 2: Zoning Standards Analysis

Compliance with Zoning District				
Compliant			Standards and Commission Comments	
Yes	No	N/A	Regulation	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Minimum Lot Area
			<i>Commission Comments</i>	<p>Permitted: 5,500 square foot minimum Existing: 5,500 square feet</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Building Height
			<i>Commission Comments</i>	<p>Required: A maximum building height of 42’ feet is permitted. Proposed: N/C</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Building Setbacks
			<i>Commission Comments</i>	<p>Required: Front (West): 0’ Side (North): 0’ Side(South): 0’ Rear(East): 0’</p> <p>Proposed: Front (West): N/C</p>

				<p>Side (North): N/C Side(South): N/C Rear (East): N/C</p>																					
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>17.124.140</p> <p><i>Commission Comments</i></p>	<p>Curb Cut</p> <p>Required: A total of 35% of the linear footage of any street frontage can be devoted to access off street parking.</p> <p>Proposed: No change to the existing curb cut is proposed at this time.</p>																					
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>12.125.020.A.2 & 17.125.050</p> <p><i>Commission Comments</i></p>	<p>Parking Spaces</p> <p>Required: The off-street parking standards apply when an existing structure or use is expanded or enlarged. Additional off-street parking spaces shall be required only to serve the enlarged or expanded area, not the entire building or use.</p> <p>Residential, CC District: One (1) space per 1,500 net square feet. Retail Trade, CC District: Two (2) spaces per 1,000 gross square feet.</p> <p>Existing: The applicant has provided 5 on-site parking spaces and has an existing parking on-street parking credit of four (4) parking spaces. Existing Residential: 3,913 net square feet = 2.6 spaces Existing Retail: 2, 868.3 gross square feet = 5.7</p> <p>Proposed: Residential: 3,913 net square feet = 2.6 spaces (No Change) Retail: 3,276 gross square feet = 6.6 Total required = 9</p>																					
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>17.124.040</p> <p><i>Commission Comments</i></p>	<p>Floor Area Ratios and Community Housing</p> <p>The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project.</p> <p>Permitted in CC Permitted Gross FAR: 1.0 Inclusionary Housing Incentive: 2.25</p> <table style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 40%;"></th> <th colspan="2" style="text-align: center; border-bottom: 1px solid black;">Total Floor Area</th> </tr> <tr> <th></th> <th style="text-align: center; border-bottom: 1px solid black;">Proposed</th> <th style="text-align: center; border-bottom: 1px solid black;">Existing</th> </tr> </thead> <tbody> <tr> <td>Basement (not counted in FAR)</td> <td style="text-align: center;">N/C</td> <td style="text-align: center;">Not Counted</td> </tr> <tr> <td>1st Floor</td> <td style="text-align: center;">+ 407.7 SF</td> <td style="text-align: center;">2,868 SF</td> </tr> <tr> <td>2nd Floor</td> <td style="text-align: center;">N/C</td> <td style="text-align: center;">2,873 SF</td> </tr> <tr> <td>3rd Floor</td> <td style="text-align: center;">N/C</td> <td style="text-align: center;">1,843 SF</td> </tr> <tr> <td>Total</td> <td style="text-align: center; border-top: 1px solid black;">7,991.7 SF FAR</td> <td style="text-align: center; border-top: 1px solid black;">7,584 SF FAR</td> </tr> </tbody> </table> <p>Proposed FAR: 1.45 (7,991 sf/5,500 sf)</p> <p>Existing FAR: 1.38 (7,584 sf/5,500 sf)</p> <p>Community Housing CH incentive: The applicant shall provide 69.31 sf of community housing either on-site or elsewhere within the City of Ketchum, or pay a fee in-lieu of \$16,495.78.</p> <ol style="list-style-type: none"> 1. Increase in SF above existing FAR = 407.7 2. 20% of CH incentive to be deed restricted or pay fee in lieu: 81.54 sf 		Total Floor Area			Proposed	Existing	Basement (not counted in FAR)	N/C	Not Counted	1 st Floor	+ 407.7 SF	2,868 SF	2 nd Floor	N/C	2,873 SF	3 rd Floor	N/C	1,843 SF	Total	7,991.7 SF FAR	7,584 SF FAR
	Total Floor Area																								
	Proposed	Existing																							
Basement (not counted in FAR)	N/C	Not Counted																							
1 st Floor	+ 407.7 SF	2,868 SF																							
2 nd Floor	N/C	2,873 SF																							
3 rd Floor	N/C	1,843 SF																							
Total	7,991.7 SF FAR	7,584 SF FAR																							

			3. Reduced by 15% to account for circulation, mechanical, etc.: 69.31 sf
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>17.18.130</p> <p>Zoning Matrix & Definitions</p> <p><i>Commission Comments</i></p> <p>17.18.130: Community Core District (CC)</p> <p>A. Purpose. The purpose of the CC community core district is to promote a compact and cohesive center of commerce and culture, to promote an attractive and safe pedestrian environment which includes sidewalks, gathering spaces, streetscape amenities and landscaping, to retain the unique small town scale and character and to encourage buildings which respect Ketchum’s historical and geographic context while providing diversity. Compatible mixed uses including retail, office, residential and cultural uses are encouraged. Commercial uses are concentrated in the CC district which is consistent with the city’s comprehensive plan and the downtown master plan.</p> <p>D. Subdistricts. Subdistricts specify areas of special characteristic within the community core which are designated on the City of Ketchum Zoning Map.</p>

Table 3: Design Review Standards for all projects

IMPROVEMENTS AND STANDARDS: 17.96.060				
Yes	No	N/A	City Code	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(1)	<p>The applicant shall be responsible for all costs associated with providing a connection from an existing city street to their development.</p> <p><i>Commission Comments</i></p> <p><i>The property is currently served by public streets. No additional requirements are required at this time.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(2)	<p>All street designs shall be approved by the City Engineer.</p> <p><i>Commission Comments</i></p> <p><i>See above.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(B)(1)	<p>All projects under 17.96.010(A) that qualify as a “Substantial Improvement” shall install sidewalks as required by the Public Works Department.</p> <p><i>Commission Comments</i></p> <p><i>See above.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(2)	<p>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.</p> <p><i>Commission Comments</i></p> <p><i>The current sidewalk configuration satisfies this requirement.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(3)	<p>Sidewalks may be waived if one of the following criteria is met:</p> <ul style="list-style-type: none"> a. The project comprises an addition of less than 250 square feet of conditioned space. 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. <p><i>Commission Comments</i></p> <p><i>The property is currently served by sidewalks that conform to City right of way standards.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(4)	<p>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.</p> <p><i>Commission Comments</i></p> <p><i>N/C</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(5)	<p>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.</p> <p><i>Commission Comments</i></p> <p><i>The existing side-walk configuration satisfies this requirement.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(6)	<p>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</p>

				<p>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 City Engineer. Any approved in-lieu contribution shall be paid before the City issues a certificate of occupancy.</p> <p><i>Commission Comments</i> The Commission does not recommend a contribution in-lieu for the above described pedestrian improvements.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(1)	<p>All storm water shall be retained on site.</p> <p><i>Commission Comments</i> N/C</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(2)	<p>Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.</p> <p><i>Commission Comments</i> N/C</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(C)(3)	<p>The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.</p> <p><i>Commission Comments</i> N/A.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(4)	<p>Drainage facilities shall be constructed per City standards.</p> <p><i>Commission Comments</i> N/C</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(1)	<p>All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.</p> <p><i>Commission Comments</i> The applicant is aware of this requirement and will provide all utilities necessary for the proposed development. See comments from the City Utilities Department located in Table 1.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(2)	<p>Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.</p> <p><i>Commission Comments</i> The applicant is aware of this requirement and will provide all utilities necessary for the development. The applicant shall coordinate with the City Utilities Department and receive approval of final utility location at the time of final inspection, prior to the issuance of a Certificate of Occupancy.</p>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060(D)(3)	<p>When extension of utilities is necessary all developers will be required to pay for and install two (2") 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.</p> <p><i>Commission Comments</i> N/A</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(1)	<p>The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.</p> <p><i>Commission Comments</i> The projects proposed materials, colors and signing are complementary with the townscape, and are designed to match the existing Angel Wings building.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(2)	<p>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.</p> <p><i>Commission Comments</i> No landmarks have been identified on the property.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(3)	<p>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.</p> <p><i>Commission Comments</i> The existing structure was built after 1940. The proposed addition satisfies this requirement.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(1)	<p>Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.</p> <p><i>Commission Comments</i> The entry way for the proposed retail use is clearly defined as provides unobstructed access to the sidewalk along Leadville Avenue.</p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(2)	The building character shall be clearly defined by use of architectural features.
			<i>Commission Comments</i>	<i>The architectural design of the addition is consistent with the existing building. The materials proposed for the addition are the same as those of the existing building. The addition will be visible from the front of the property facing Leadville Avenue (west) and along the alleyway (east) at the rear of the property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(3)	There shall be continuity of materials, colors and signing within the project.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(4)	Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.
			<i>Commission Comments</i>	<i>The proposed landscape features are located in the plaza area at the front of the building facing Leadville Avenue. The applicant is proposing to remove the two street trees located on Leadville Avenue; however, the City Arborist does not approve removal of the street trees. See comment from the City Arborist located in Table 1.</i> <i>Additionally, the existing gate located at the rear of the property will be moved and located closer to the alleyway, in front of the existing conifer. The applicant is also proposing to remove the existing planter at the northwest corner of the property and replace it with a new wood bench around the tree and to add pavers to match existing.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(5)	Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.
			<i>Commission Comments</i>	<i>The existing building satisfies this requirement, and the proposed addition serves to complement the existing design.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(6)	Building(s) shall orient towards their primary street frontage.
			<i>Commission Comments</i>	<i>The front entrance of the building orients towards Leadville Avenue.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(7)	Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.
			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(8)	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>Commission Comments</i>	<i>N/C.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(1)	Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.
			<i>Commission Comments</i>	<i>The site is currently well connected and all curb lines will match exiting curb lines along Leadville Avenue.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(2)	Awnings extending over public sidewalks shall extend five (5') feet or more across the public sidewalk but shall not extend within two (2') feet of parking or travel lanes within the right of way.
			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(3)	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>Commission Comments</i>	<i>The existing design of the building allows traffic to flow safely within the project and onto adjacent streets. The proposed addition is not anticipated to inhibit bicycle, pedestrian connection to Leadville Avenue. The addition will not limit sight distances around the site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(4)	Curb cuts and driveway entrances shall be no closer than twenty (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>Commission Comments</i>	<i>No curb cut is proposed at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(5)	Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.
			<i>Commission Comments</i>	<i>The existing site layout currently provides unobstructed access for emergency vehicles, snowplows, garbage trucks and similar service vehicles. The proposed 407.7 square foot addition is not anticipated to decrease the access to service vehicles.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(1)	Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.
			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(2)	Snow storage areas shall be provided on-site.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(3)	A designated snow storage area shall not have any dimension less than five (5') feet and shall be a minimum of twenty five (25) square feet.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(4)	In lieu of providing snow storage areas, snow melt and hauling of snow may be allowed.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(1)	Landscaping is required for all projects.
			<i>Commission Comments</i>	<i>The site is currently served by landscaping. The applicant is proposing minor landscape modifications. There is an existing tree located at the east side of the property, adjacent to the alley, which will remain. The applicant is proposing to remove the existing planter box at the northwest corner of the property and to replace it with a wood bench and pavers to match the existing. The applicant proposed to remove the two deciduous street-trees located along Leadville Ave and to replace them with bike racks, however, the City Arborist does not approve removal of the street trees. See Table 1 for further comment from the City Arborist. Staff recommends, and the Commission agrees, that the two street trees remain.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(2)	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>Commission Comments</i>	<i>The proposed landscape modifications are readily adaptable to the site's micro climate. The addition of the wood bench and pavers to match existing will complement the neighborhood and surrounding townscape.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(3)	All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.
			<i>Commission Comments</i>	<i>There are no changes proposed to the species of trees, shrubs, grasses and perennials.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(4)	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>Commission Comments</i>	<i>The landscaping features and proposed modification to the planter surrounding the existing conifer tree, located along Leadville Avenue, will continue to provide a buffer between the existing retail use and vehicular traffic.</i>

				<i>See comments from the City Arborist located in Table 1 regarding the applicant's proposed removal of the existing deciduous street-trees.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(J)(1)	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>Commission Comments</i>	<i>No additional amenities are recommended at this time.</i>

Table 4: Design Review Standards for Community Core Projects

IMPROVEMENTS AND STANDARDS: 17.96.070 - Community Core (CC) Projects				
In addition to the requirements of section 17.96.060 of this chapter, unless otherwise specified, the standards of this section apply to projects in the Community Core district. The purpose of this section is to ensure the addition of high quality architecture for new development, while maintaining the unique character of existing building stock found in the Community Core.				
Yes	No	N/A	City Code	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 A(1)	Street trees, street lights, street furnishings, and all other street improvements shall be installed or constructed as determined by the Public Works Department.
			<i>Commission Comments</i>	<i>No additional street trees, street lights, street furnishings, and any other street improvements have been recommended by the Public Works Department at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(A)(2) Streets	Street trees with a minimum caliper size of three (3") inches, shall be placed in tree grates.
			<i>Commission Comments</i>	<i>There are two existing deciduous street-trees located along Leadville Avenue, which the applicant is proposing to remove. The City Arborist has reviewed the proposal to remove the street trees and has recommended against this proposal. See City Arborist comment located in Table 1.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(A)(3)	Due to site constraints, the requirements if this subsection 17.96.070.A may be modified by the Public Works Department.
			<i>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(1)	Facades facing a street or alley or located more than five (5') 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 façade.
			<i>Commission Comments</i>	<i>The addition of 407.7 square feet at the ground level of the Angel Wings building complies with this requirement. The existing building is well designed and does not have blank walls present at the front or rear of the property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(2)	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>Commission Comments</i>	<i>The proposed addition is designed to match the existing ground floor storefront of the property. The doors will be a clear transparent glass.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(3)	For nonresidential portions of buildings, front facades shall be designed to not obscure views into windows.
			<i>Commission Comments</i>	<i>The front faced of the Angel Wings building has been designed to not obscure views into the windows of the retail space at the ground level.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(4)	Roofing forms and materials shall be compatible with the overall style and character of the structure. Reflective materials are prohibited.
			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(5)	All pitched roofs shall be designed to sufficiently hold all snow with snow clips, gutters, and downspouts.

			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(6)	Roof overhangs shall not extend more than three (3') feet over a public sidewalk. Roof overhangs that extend over the public sidewalk shall be approved by the Public Works Department.
			<i>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(7)	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>Commission Comments</i>	<i>The applicant has satisfied this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(1)	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>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(2)	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>Commission Comments</i>	<i>N/C</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(D)(1)	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>Commission Comments</i>	<i>The applicant is not proposing to remove any healthy and mature trees from the site. All street trees shall remain.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(2)	Trees that are placed within a courtyard, plaza, or pedestrian walkway shall be placed within tree wells that are covered by tree grates.
			<i>Commission Comments</i>	<i>No changes related to tree grates are proposed.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(3)	The city arborist shall approve all parking lot and replacement trees.
			<i>Commission Comments</i>	<i>No replacement trees are proposed.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(E)(1)	Surface parking lots shall be accessed from off the alley and shall be fully screened from the street.
			<i>Commission Comments</i>	<i>N/C. Five parking spaces are currently located off the alleyway at the rear of the property.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(E)(2)	Surface parking lots shall incorporate at least one (1) tree and one (1) additional tree per ten (10) onsite 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>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(E)(3)	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>Commission Comments</i>	<i>The existing planter for the tree at the northwest corner of the property will be removed and replaced with a planting bed. A wood bench will be added which will surround the proposed tree.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(1)	One (1) bicycle rack, able to accommodate at least two (2) bicycles, shall be provided for every four (4) parking spaces as required by the proposed use. At a minimum, one (1) bicycle rack shall be required per development.
			<i>Commission Comments</i>	<i>There are nine (9) parking spaces required by the proposed use, with five (5) parking spaces provided on site and four (4) parking spaces credited in the street. Therefore, two (2) bicycle racks, able to accommodate at least (4) bicycles total, are required.</i>

				<i>The applicant proposed to replace the two (2) existing deciduous street trees, located on the sidewalk adjacent to Leadville Ave, with two (2) bicycle racks that are able to accommodate two (2) bicycles each. The City Arborist does not approve removal of the street trees and does not recommend locating the two recommend bike racks along the sidewalk at this time. The Commission recommends locating the two required bicycle racks on private property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(2)	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 (1/2) shall be adjusted to the next highest whole number.
			<i>Commission Comments</i>	<i>Two bicycle racks are required.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(3)	Bicycle racks shall be clearly visible from the building entrance they serve and not mounted less than fifty (50') feet from said entrance or as close as the nearest non-ADA parking space, whichever is closest. Bicycle racks shall be located to achieve unobstructed access from the public right-of-way and not in areas requiring access via stairways or other major obstacles.
			<i>Commission Comments</i>	<i>Planning staff will approve the final location of the two bicycle racks, if located on private property, prior to building permit approval. Public Works and the City Arborist will approve the final location of the two bicycle racks if the bicycle racks are to be located on the sidewalk.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code;
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning code, Title 17;
3. The Commission has authority to hear the applicant’s Design Review Application pursuant to Chapter 17.96 of Ketchum Code Title 17;
4. The project **does** meet the standards of approval under Chapter 17.96 of Zoning Code Title 17;
5. The City of Ketchum Planning Department provided adequate notice for the review of this application;
6. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite;
7. Per Title 17, Section 17.96.090: TERM OF APPROVAL: The term of design review approval shall be twelve (12) months from the date that 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;

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this Design Review application this Monday, April 10th, 2017 subject to the following conditions:

1. All departmental conditions as described in Table 1;
2. All staff conditions as described in Tables 2 and 3;
3. This Design Review approval is based on the plans and information presented and approved at the meeting on the date noted herein. Building Permit plans must conform to the approved Design Review plans unless otherwise approved in writing by the Planning and Zoning Commission or Administrator.

Any building or site discrepancies which do not conform to the approved plans will be subject to removal;

4. All building and fire code requirements as dictated by 2012 family of international codes shall apply to all construction on-site;
5. Design Review elements shall be completed prior to final inspection/occupancy;
6. Any work in the right of way will require a right of way encroachment permit, reviewed and approved by the City before installation;
7. Two (2) bicycle rack shall be provided on-site as approved by the Public Works department prior to the issuance of a Certificate of Occupancy; and
8. The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux
Planning and Zoning Commission Chairperson



City of Ketchum
Planning & Building

IN RE:)
)
Argyros Performing Arts Center)
Design Review) **KETCHUM PLANNING AND ZONING COMMISSION**
Date: April 10, 2017) **FINDINGS OF FACT, CONCLUSIONS OF LAW AND**
) **DECISION**
File Number: #17-005)

BACKGROUND FACTS

PROJECT: Argyros Performing Arts Center [formerly the NexStage Theater]
FILE NUMBER: #17-005
OWNERS: Sun Valley Performing Arts Center 501(c) 3
REPRESENTATIVE: Michael Doty Associates, Architects
REQUEST: Design Review approval to demolish the existing NexStage Theater Performing Arts Center building and construct a new theater building in its place to be named the Argyros Performing Arts Center.
LOCATION: 120 South Main Street AND 111 South Leadville Avenue (Ketchum, Lot 4, Block 1 AND Ketchum Lot 8, Block 1)
ZONING: Commercial Core (CC), Subdistrict A
NOTICE: Notice was mailed to adjacent property owners within a 300-foot radius of the subject property on February 3rd, 2017 and posted in three public locations on the same date. Notice was published in the Idaho Mountain Express on February 8th, 2017.

NOTICE OF CONSIDERATION BEFORE THE PLANNING AND ZONING COMMISSION: SITE VISIT AND REGULAR MEETING

Site Visit Date:	February 27, 2017
Site Visit Time:	5:00 PM
Meeting Location:	120 South Main Street and 111 South Leadville, Ketchum, Idaho
Meeting Date:	February 27, 2017
Meeting Time:	5:30 PM, or thereafter as the matter can be heard.
Meeting Location:	City Hall Council Chambers, 480 East Avenue North, Ketchum, Idaho
Project Name:	NexStage Theater Performing Arts Center
Project Location:	120 South Main Street and 111 South Leadville, Ketchum, Idaho (Ketchum Lot 4, Block 1, West 10' of Alley and Ketchum Lot 8, Block 1, East 10' of Alley)

Applicant:	Sun Valley Performing Arts Center
Representative:	Mike Doty Associates, Architects
Application Type:	Text Amendment and Design Review for a second-story addition.
Project Description:	The applicant is proposing to demolish the existing NexStage Theater Performing Arts Center building and construct a new theater building in its place. The applicant is also requesting a zoning code revision to amend the existing parking requirements for places of assembly, found in city of Ketchum code Chapter 17.125.050: Off-Street parking and Loading Calculations. The properties are 0.126 acres and 0.126 in size and zoned Community Core (CC), Sub-district A.

Background

1. The NexStage Theater is an existing place of assembly. The applicant is proposing to demolish the existing NexStage Theater and build an expanded place of assembly, to be named the Argyros Performing Arts Center, to occupy the same site. The new Argyros Performing Arts Center will be entirely new construction.
2. The subject property is located in Subdistrict A, Retail Core of the Community Core (CC) district. The site contains one existing building, located on Ketchum Townsite Lots 1 and 8 of Block 1. The new Argyros Performing Arts Center will be comprised of a place of assembly, which will contain a main theater space, an accessory black box theater, and uses accessory to a theater operation. The applicant is proposing to construct a three story building with a main theater space on the first floor, meeting space on the second floor, a black box theater on the second floor, and theater office space on the third floor. A portion of the second floor space will be open to the main theater space below, located on the first floor.
3. The existing building is 12,942 gross square feet and the proposed building is 17,859 gross square feet. The new theater will add approximately 100 seats, which includes the black box space.
4. The existing building and the proposed principal building occupy Ketchum, Lot 4, Block 1, Ketchum Lot 8, Block 1, and a vacated portion of an alleyway. The applicant will submit a Lot Line Shift application at a later date to create one 12,108 sf lot.
5. The applicant received pre-application Design review approval from the City of Ketchum Planning & Zoning Commission on November 14, 2016.

FINDINGS OF FACT

Table 1: Requirements for All Applications

City Department Comments				
Compliant				
Yes	No	N/A	City Code	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.040	Complete Application
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Police Department: No comments at this time.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fire Department: The above project shall meet all 2012 International Fire Code requirements in addition to specific City Building and Fire Ordinances. Approved address numbers shall be placed in such a position to be plainly visible and legible from the road fronting the property. Numbers and letters shall be a minimum of four (4) inches tall, contrast with their background and be positioned a minimum of forty-eight (48) inches above final grade.	

Vehicle parking and material storage during construction shall not restrict or obstruct public streets or access to any building. A **minimum** twenty-foot travel lane for emergency vehicle access shall be maintained clear and unobstructed at all times. All required Fire Lanes, including within 15 feet of fire hydrants, shall be maintained clear and unobstructed at all times.

An approved automatic fire sprinkler system shall be installed throughout the building per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the National Fire Protection Association Standard 13. An approved fire sprinkler flow bell, Knox box and Fire Department Connection shall be installed in an approved location visible to approaching firefighters. **Water service lines to structures shall be hydraulically calculated for size to meet fire sprinkler flow requirements.** Fire sprinkler systems shall be annually tested and maintained per NFPA 25. An approved fire department connection and flow bell shall be installed in a location approved by the fire department and the system shall be supervised by an approved alarm system.

NOTE: One electronic set of fire sprinkler system plans must be submitted to the Ketchum Fire Department as well as the State Fire Marshal's office and a Ketchum Fire Department Permit must be obtained prior to installation of fire sprinkler systems. Inspections of fire sprinkler systems by the Fire Chief or an appointee are required. Inspections must be scheduled at least 48 hours in advance.

An approved monitored fire sprinkler alarm system shall be installed per City of Ketchum Ordinance #1125 (www.ketchumfire.org) and the requirements of NFPA 72. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group A occupancies where the occupant load due to the assembly occupancy is 300 or more. Two (2) sets of alarm system plans shall be submitted to the Ketchum Fire Department for approval and a permit is required prior to installation of alarm systems. Inspections of fire detection systems by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance.

Fire extinguishers shall be installed and maintained per 2012 IFC Section 906 both during construction and upon occupancy of the building.

An approved key box shall be installed, with the appropriate keys, for emergency fire department access in a location approved by the fire department. The key box shall be a Knox box brand and sized to accommodate keys to every door of the project.

Inspections of fire department permit required installations shall be scheduled at least 48 hours in advance.

408.2.1 Seating plan.

The fire safety and evacuation plans for assembly occupancies shall include the information required by Section 404.3 and a detailed seating plan, occupant load and occupant load limit. Deviations from the approved plans shall be allowed provided the occupant load limit for the occupancy is not exceeded and the aisles and exit access-ways remain unobstructed.

408.2.2 Announcements.

In theaters, motion picture theaters, auditoriums and similar assembly occupancies in Group A used for non-continuous programs, an audible announcement shall be made not more than 10 minutes prior to the start of each program to notify the occupants of the location of the exits to be used in the event of a fire or other emergency.

[B] 1006.2 Illumination level.

The means of egress illumination level shall not be less than 1 foot-candle (11 lux) at the walking surface.

Exception: For auditoriums, theaters, concert or opera halls and similar assembly occupancies, the illumination at the walking surface is permitted to be reduced during performances to not less

		<p>than 0.2 foot-candle (2.15 lux), provided that the required illumination is automatically restored upon activation of a premises' fire alarm system where such system is provided.</p> <p>An 8 ½ by 11 color coded site map of this project shall be provided on paper and electronically to the fire department. This site map shall show the locations of gas shut-offs, power shut-offs, fire sprinkler riser rooms, fire department connections, alarm panels, Knox boxes, access doors, egress windows, stairways and any additional fire department requirements. Exact details for color coded "On-Sites" can be found at www.ketchumfire.org.</p> <p>Final inspections of all fire department permit required installations by the Fire Chief or an appointee are required and shall be scheduled at least 48 hours in advance. A Final Inspection Checklist can be found at www.ketchumfire.org.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Public Works: Streets Department: Looking at the civil plans, the grades for the sidewalk curb and gutter in several sections do not meet city standards. After meeting with Galena several times to try and improve the grades, I understand this particular site has constrictions that limit the ability to get grades that will meet our code. Although proposed grading does not meet this standard of slopes less than .5%, I believe the applicant has done their best to try.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Utilities: The property is currently served off of a fire line connecting off of Main St / SH 75. If it is not used as indicated it will need to be cut and capped in place at the fire line valve in the street. The current use is served from a 1" domestic meter off the fire line. When the new building is built, that meter will have to be replaced per DEQ standards at the owner's expense. No impact fees will apply unless meter size is increased. Please show the new fire line size on future drawings.</p> <p>There is currently an old KSW 4" water line that terminates at the property line with a circulation point frost free hydrant and dry well. If this circulation point is to be abandoned the KSW line will need to be cut and capped with a circulation frost free and dry well provided in a point safe from traffic and snow plows as approved by the Water supervisor. All sewer connections will be protected during demo, and any that are not used with the new construction will need to be capped at the property line.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Parks/Arborist: Street tree species and spacing look great. All other landscaping on the property looks good.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Building: Building must meet 2012 International Building Codes.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<p>Planning and Zoning: Comments are denoted throughout the staff report.</p>

**Attachment B.
Table 2: Zoning Standards Analysis**

Compliance with Zoning District				
Compliant			Standards and Commission Comments	
Yes	No	N/A	Regulation	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Minimum Lot Area
			<i>Commission Comments</i>	Required: 5,500 square feet minimum. Existing: Lot size is 12,108 sf
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Building Height
			<i>Commission Comments</i>	Required: A maximum building height of 42' feet is permitted. Proposed: The maximum building height proposed is 42'.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.12.040	Building Setbacks
			<i>Commission Comments</i>	Required: Front (West - Main Street): 0' Side (North - E. 1 st Street): 0' Side (South - interior): 0' Rear (East - N. Leadville Avenue.): 0' Proposed: Front (West): 32'-0" Side (North) : 0" Side(South): 6" Rear (East): 11.5''at building; 0'' at overhang
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.140	Curb Cut
			<i>Commission Comments</i>	Required: A total of 35% of the linear footage of any street frontage can be devoted to access to off street parking. Proposed: No curb cut is proposed. Flat curbs are proposed for access from N. Leadville Avenue to the garbage dumpster located at the southeast corner of the building and at the north side of the building from Main Street to facilitate the design of the accessible loading area. This is further described in Table 3, section 17.96.060(G) (4).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	12.125.020.A.2 & 17.125.050	Parking Spaces
			<i>Commission Comments</i>	Required: The off street parking standards apply when an existing structure or use is expanded or enlarged. Additional off street parking spaces shall be required only to serve the enlarged or expanded area, not the entire building or use. Existing: The existing building has non-conforming parking as there is no existing parking onsite. The proposed new construction will have additional seating based on the expanded theater space. The current parking code requires that onsite parking be provided to accommodate the additional seating. The current parking requirement, per City code 17.125.050, would be: one (1) space per every six (6) seats or one (1) space per 60 square feet of floor area, whichever is greater. Additionally, the current parking requirement, per City code 17.125.060, would also require that: for all commercial and mixed use projects at least one accessible parking space shall be provided on-site. The existing parking requirements are listed below.

				<p style="text-align: center;">Parking Requirements</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Existing</th> <th style="text-align: center;">Increase in # of seats</th> <th style="text-align: center;">Increase in sf floor area</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">No onsite parking</td> <td style="text-align: center;">17 parking spaces (increase of 100 seats)</td> <td style="text-align: center;">82 parking spaces (increase of assembly sf)</td> </tr> </tbody> </table> <p>Proposed: <i>The applicant has submitted a zoning code text amendment application #17-006 with the City Planning and Building Department to be considered by the Planning and Zoning Commission, and the City Council.</i></p> <p><i>The text amendment application #17-006 requests to exempt existing places of assembly in the Community Core, and expansions up to 5, 5000 square feet in size to existing places of assembly in the Community Core, from being required to provide on-site parking and to remove criteria from the parking ordinance addressing accessible parking spaces. The applicant's text amendment #17-006 request would align the parking requirement for places of assembly with the proposed parking ordinance that is currently being considered by the City Council and would remove criteria for accessible parking from the Ketchum zoning code because accessibly parking is superseded by and addressed within the 2012 International Building Code, Chapter 11, Accessibility. All projects in the City of Ketchum that require a building permit are required to comply with the 2012 International Building Code prior to receipt of a building permit.</i></p> <p><i>Should text amendment #17-006 be approved, the proposed project would be exempt from parking requirements as it is a place of assembly and the applicant will still be required to comply with accessible parking space requirements of the 2012 International Building Code, which is the current building code as adopted by the City.</i></p> <p><i>As such, staff has recommended, and the Commission agrees, approval of the Design Review application with the condition that the Design Review approval is contingent upon City Council's adoption of the applicant's text amendment #17-006 request.</i></p>	Existing	Increase in # of seats	Increase in sf floor area	No onsite parking	17 parking spaces (increase of 100 seats)	82 parking spaces (increase of assembly sf)														
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.124.040	<p>Floor Area Ratios and Community Housing</p> <p>The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project.</p> <p>Permitted in CC <i>Permitted Gross FAR: 1.0</i> <i>Inclusionary Housing Incentive: 2.25</i></p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th rowspan="2"></th> <th colspan="2" style="text-align: center;">Total Floor Area</th> </tr> <tr> <th style="text-align: center;">Proposed</th> <th style="text-align: center;">Existing</th> </tr> </thead> <tbody> <tr> <td>Basement (not counted in FAR)</td> <td style="text-align: center;">8,841 SF</td> <td style="text-align: center;">+/- 955 SF</td> </tr> <tr> <td>1st Floor</td> <td style="text-align: center;">9,494 SF</td> <td style="text-align: center;">+/- 12,100 SF</td> </tr> <tr> <td>2nd Floor</td> <td style="text-align: center;">6,688 SF</td> <td style="text-align: center;">+/- 842 SF</td> </tr> <tr> <td>3rd Floor</td> <td style="text-align: center;">1,677 SF</td> <td></td> </tr> <tr> <td>Total</td> <td style="text-align: center;">26,700 SF; 17,859 Gross Floor Area</td> <td style="text-align: center;">13,897SF; 12,942 Gross Floor Area</td> </tr> </tbody> </table>		Total Floor Area		Proposed	Existing	Basement (not counted in FAR)	8,841 SF	+/- 955 SF	1 st Floor	9,494 SF	+/- 12,100 SF	2 nd Floor	6,688 SF	+/- 842 SF	3 rd Floor	1,677 SF		Total	26,700 SF; 17,859 Gross Floor Area	13,897SF; 12,942 Gross Floor Area
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				<p>Lot area: 12,108 square feet</p> <p>Proposed, based on plans submitted for Design Review FAR: 1.47 (17,859 sf/12,108 sf)</p> <p>Existing FAR: 1.07 (12,942 sf/12,108 sf)</p> <p>Community Housing CH incentive, based on plans submitted for Design Review: The applicant shall provide 835.89 sf of community housing either on-site or elsewhere within the City of Ketchum, or pay a fee in-lieu of \$198,941.82. See City code Chapter 17.124.040 for further detail.</p> <ol style="list-style-type: none"> Increase in SF above existing FAR = 4,917 (17,859 – 12,942) 20% of CH incentive to be deed restricted or pay fee in lieu: 983.4 sf: (4,917 · .20 = 983.4) Reduced by 15% to account for circulation, mechanical, etc.: 835.89 sf: (983.4 · .85 = 835.89)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.18.130 & 17.08.020	Zoning Matrix & Definitions
			<i>Commission Comments</i>	<p>17.18.130: Community Core District (CC)</p> <p>A. Purpose. The purpose of the CC community core district is to promote a compact and cohesive center of commerce and culture, to promote an attractive and safe pedestrian environment which includes sidewalks, gathering spaces, streetscape amenities and landscaping, to retain the unique small town scale and character and to encourage buildings which respect Ketchum’s historical and geographic context while providing diversity. Compatible mixed uses including retail, office, residential and cultural uses are encouraged. Commercial uses are concentrated in the CC district which is consistent with the city’s comprehensive plan and the downtown master plan.</p> <p>D. Subdistricts. Subdistricts specify areas of special characteristic within the community core which are designated on the City of Ketchum Zoning Map.</p> <p>17.08.020 – Definitions</p> <p>Place of Assembly: The use of land for a meeting place where persons gather together for purposes of attending civic, social, religious functions, recreational events or entertainment performances on a regular or recurring basis including, but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, or indoor or outdoor recreational facilities, but excludes a Cultural Facility as defined by this chapter. A gathering of less than 25 persons shall not be considered a Place of Assembly provided the gathering is accessory and incidental to the principal use.</p> <p>Proposed: <i>The applicant is proposing to replace the existing place of assembly with an expanded place of assembly to occupy the same site.</i></p>

Table 3: Design Review Standards for all projects

IMPROVEMENTS AND STANDARDS: 17.96.060				
Yes	No	N/A	City Code	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(1)	The applicant shall be responsible for all costs associated with providing a connection from an existing city street to their development.

			<i>Commission Comments</i>	<i>The property is currently served by public streets.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(A)(2)	All street designs shall be approved by the City Engineer.
			<i>Commission Comments</i>	<i>The applicant has coordinated with the City Engineer on the final street designs. At this time, the City Engineer has no concerns with the proposed street design.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(B)(1)	All projects under 17.96.010(A) that qualify as a "Substantial Improvement" shall install sidewalks as required by the Public Works Department.
			<i>Commission Comments</i>	<i>Sidewalks currently serve the site on Main Street, First Street East and Leadville Avenue; the applicant is proposing to reconstruct the sidewalks on Main St., First St. E. and Leadville Avenue. The proposed sidewalk design meets current standards, and has been approved by the City Engineer / Public Works Director.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(2)	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>Commission Comments</i>	<i>The applicant has coordinated with the City Engineer to meet the City's right-of-way standards. The sidewalk on Main Street is proposed to be reconfigured to accommodate a five-foot (5') wide drop-off zone inset into the sidewalk. The main street sidewalk is proposed to provide five-feet (5') of public access, with the inclusion of the easement access on the applicant's property, in order to accommodate the five-foot (5') wide drop-off zone. The drop off zone will require that curb and gutter be shifted to the east onto the property owner's private property; the applicant/property owner will grant a public access easement to maintain clear width from the proposed new curb-gutter location to planters that are proposed on the property owner's private property. The five-foot (5') wide drop off zone will function as an on-street ADA compliant un-loading/loading area to serve the main entrance of the building.</i> <i>The sidewalk along First Street East is proposed to be an eight-foot (8') sidewalk as per direction from the City engineer. The right-of-way on First Street is sixty-feet (60'), and will contain a 12' drive aisle and eight-foot (8') wide parallel parking. The sidewalk along both Main Street and Leadville Avenue will be five-feet (5') wide and has been reviewed by the City Engineer.</i> <i>The City will re-stripe parking spaces along both First Street East and Leadville Avenue to a parallel configuration, which complies with the current City right-of-way standards.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.060 (B)(3)	Sidewalks may be waived if one of the following criteria is met: <ul style="list-style-type: none"> a. The project comprises an addition of less than 250 square feet of conditioned space. 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>Commission Comments</i>	<i>Neither criteria (a.) nor (b.) are applicable due to the size and scale of the proposed development.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(4)	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>Commission Comments</i>	<i>All proposed sidewalk improvements satisfy this requirement.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(5)	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>Commission Comments</i>	<i>The existing sidewalks connect to adjacent sidewalk, and all reconstruction will connect to adjacent sidewalks as well. The final design of the sidewalk</i>

				<i>improvements have been coordinated with and approved by the City Engineer / Public Works Director.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060 (B)(6)	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 City Engineer. Any approved in-lieu contribution shall be paid before the City issues a certificate of occupancy.
			<i>Commission Comments</i>	<i>The Commission does not recommend a contribution in-lieu for the above described pedestrian improvements.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(1)	All storm water shall be retained on site.
			<i>Commission Comments</i>	<i>The applicant states that storm water shall be directed to internal roof drains, drain leaders, and trench drain grates and will be retained on site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(2)	Drainage improvements constructed shall be equal to the length of the subject property lines adjacent to any public street or private street.
			<i>Commission Comments</i>	<i>The applicant has coordinated with the City Public Works Department to address drainage concerns. Drainage improvements are proposed to be constructed in equal length of the subject property lines along the Main Street., First Street East, and Leadville Avenue sides.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(3)	The City Engineer may require additional drainage improvements as necessary, depending on the unique characteristics of a site.
			<i>Commission Comments</i>	<i>The applicant has coordinated with the City Public Works Department to identify and address any and all drainage improvements required for the site. The proposed drainage has been reviewed by both the City Engineer and the Streets Superintendent. See comments from the Streets Department located in Table 1.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(C)(4)	Drainage facilities shall be constructed per City standards.
			<i>Commission Comments</i>	<i>All drainage facilities within the public right-of-way will be constructed per City standards and coordinated with the Public Works Department. The final design of the drainage facilities will be constructed per City standards and approved prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(1)	All utilities necessary for the development shall be improved and installed at the sole expense of the applicant.
			<i>Commission Comments</i>	<i>The applicant is aware of this requirement and has stated that they will provide all utilities necessary for the proposed development. See comments from the City Utilities Department located in Table 1.</i> <i>The applicant has verified with the applicable utilities companies and has ensured that all necessary utilities for the development will be provided. See supporting letters attached to the staff report.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(2)	Utilities shall be located underground and utility, power, and communication lines within the development site shall be concealed from public view.
			<i>Commission Comments</i>	<i>The applicant is aware of this requirement and will provide all utilities necessary for the development. The applicant states that they will work with all pertinent utility companies to meet City standards. The applicant shall coordinate with the City Utilities Department and receive approval of final utility location at the time of final inspection, prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(D)(3)	When extension of utilities is necessary all developers will be required to pay for and install two (2") 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>Commission Comments</i>	<i>The applicant states that the installation of and payment for two 2-inch SDR11 fiber optic conduit shall be done in accordance with the City of Ketchum standards and at the discretion of the City Engineer.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(1)	The project's materials, colors and signing shall be complementary with the townscape, surrounding neighborhoods and adjoining structures.
			<i>Commission Comments</i>	<i>As indicated in the renderings, materials appear to be in keeping with the architecture and overall design of the surrounding properties.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(2)	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>Commission Comments</i>	<i>No landmarks have been identified on the property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(E)(3)	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>Commission Comments</i>	<i>The existing structure was built in 1947. The proposed project will be all new construction.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(1)	Building(s) shall provide unobstructed pedestrian access to the nearest sidewalk and the entryway shall be clearly defined.
			<i>Commission Comments</i>	<i>The proposed Main Street ground floor theater lobby entrance will be emphasized and clearly defined by the outdoor plaza, which will guide pedestrian access from the adjacent sidewalk. The outdoor plaza will be partially covered by the cantilevered black box theater above. The applicant states that the soffit treatment along the underside of the cantilever and the stone pavers at ground level are intended to offset the entry plaza area from the general pedestrian sidewalk.</i> <i>To further define the entryway, signage is proposed on a west-facing steel fin beneath the corner of the black box. Additionally, the building name will be located on the west-facing steel fascia at the floor level of the second floor black box.</i> <i>The applicant is proposing that the egress-only door exiting to the west, from the northwest corner of the building, will be clad with the adjacent material and will not be emphasized to the public. This was done with the intent to reduce pedestrian obstruction of the egress door.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(2)	The building character shall be clearly defined by use of architectural features.
			<i>Commission Comments</i>	<i>The overall architectural design has remained largely the same from pre-application design review to design review.</i> <i>The north façade, which fronts First Street East, is approximately two-hundred and twenty (220') feet in length and the vertical mass is broken up by variations in roof height, façade materials and undulation in the building. The remainder of the north façade is broken up by changes in material, arrays of windows, and a roof overhang extending the length of the building.</i> <i>The main entrance of the building is located on the western end of the north façade, at the corner of Main Street and Frist Street East. Glass windows wrap around the first floor of the building on the north west side to create a transparent entryway to the ground floor lobby. At this location of the building the second floor is cantilevered above the first floor and there are large scale windows on the north and west façades of the cantilevered portion of the building. The variation in materials, windows and cantilevered segments serve to break up the vertical and horizontal massing of the building.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(3)	There shall be continuity of materials, colors and signing within the project.
			<i>Commission Comments</i>	<p><i>The Commission finds that the applicant has maintained a continuity of materials and colors selected that both serve to complement one another, and provide definition to the building. The Commission finds that the materials serve to provide depth to the principal building, as well as to further break up the appearance of bulk and flatness, in combination with the architectural design of the proposed building.</i></p> <p><i>The applicant states that selection and composition of building materials has been chosen with the intention to bring warmth through the use of wood laminate panels, and that the form will create human-scaled texture as well.</i></p> <p><i>The high-pressure decorative exterior grade compact wood laminate panels are proposed along the black box volume, the perimeter or the theater volume, and along the ground floor of the east back-of-house area. The proposed inclusion of the vertical zinc siding is intended to act as a secondary material to the theater volume. The zinc siding is located on a series of pleats that canted towards Main Street at twelve-feet (12') from center intervals. The applicant has utilized "pleats" with the intent to created undulation along the Main Street facing façade. The applicant states that the volume containing the north egress stair, as well as the 2nd and 3rd floor back-of-house facades, will be light grey fiber cement wall panels intended to complement the selected material palette. The applicant proposes to utilize a blackened steel brow at the level of the second floor framing, which covers the plaza area below. An additional upper steel brow is set four-feet (4') and eight-feet (8') beneath the top of the parapets of both the respective black box and theater volumes. The intent of the steel brow is to unify the structure and to minimize the perception of building height. The applicant is also proposing to utilize signage and other accents, which will match the blackened finish of the steel brows.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(4)	Accessory structures, fences, walls and landscape features within the project shall match or complement the principal building.
			<i>Commission Comments</i>	<p><i>The proposed landscape features are located in the plaza area at the front of the building (Main Street, wrapping around the corner to First Street East). The proposed landscape features will be constructed of raised planters and seating platforms at the plaza and along the corner of First Street East. The proposed landscape features will consist of teak wood, light-colored concrete, and blackened steel materials that will complement the proposed building. The applicant states that the raised planters and seating platforms serve to buffer the plaza from traffic along Main Street and through traffic along the sidewalk.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(5)	Building walls shall provide undulation/relief, thus reducing the appearance of bulk and flatness.
			<i>Commission Comments</i>	<p><i>The proposed elevation views provided by the applicant demonstrate that the building walls provide variation, including undulations on all street-facing facades. The applicant has used pleats along the principal building, which are set in from the adjacent compact wood laminate siding, to provide shadow and depth to the façade. Changes in material and roof curb height are also used to break up the building bulk.</i></p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(6)	Building(s) shall orient towards their primary street frontage.
			<i>Commission Comments</i>	<p><i>The front entrance of the building orients towards Main Street. The plaza area is located on the corner of Main Street and First Street East, and the entrance is setback from the street, located underneath the cantilevered black box. The plaza provides ample gathering space that brings attention to the front entrance of the building.</i></p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(7)	Garbage storage areas and satellite receivers shall be screened from public view and located off alleys.
			<i>Commission Comments</i>	<i>Plans indicate garbage, recycling and mechanical areas will be both screened and enclosed. The garbage enclosure will be located on the southeast corner of the lot, and enclosed within the building, shielded by an overhead garage door, on the Leadville Ave side of the building. The applicant has coordinated with Clear Creek Disposal to provide space for a dumpster and carts that provide sufficient space to service the disposal area adequately. See the attached letter from Clear Creek Disposal for further comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(F)(8)	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>Commission Comments</i>	<i>Plans indicate that pedestrians will be sheltered at exterior doorways and at the main plaza area. The proposed roof is a flat roof in design and will be drained internally.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(1)	Pedestrian, equestrian and bicycle access shall be located to connect with existing and anticipated easements and pathways.
			<i>Commission Comments</i>	<i>The site is currently well connected as all curb lines will match exiting curb lines along Main Street and Leadville Avenue. The proposed sidewalk along 1st St. E. will be improved to an eight-foot (8') wide sidewalk. There are no existing or anticipated easements and pathways beyond the general pedestrian sidewalks. Additionally, the applicant proposes that they will provide four (4) bike racks on-site, able to accommodate a total of eight (8) bikes on site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(2)	Awnings extending over public sidewalks shall extend five (5') feet or more across the public sidewalk but shall not extend within two (2') feet of parking or travel lanes within the right of way.
			<i>Commission Comments</i>	<i>The applicant is proposing two low steel brows, each measuring five-feet (5') minimum from the face of the north façade. As the proposed sidewalks below are eight-feet (8') wide along First Street East, these brows will not encroach within two-feet (2') of parking or travel lanes within the right-of-way. The applicant submitted an encroachment permit at the time of design review submittal, which will be approved prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(3)	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>Commission Comments</i>	<i>The applicant has coordinated with the City Public Works Department to address traffic flow within the project and onto adjacent streets. The project will remove the existing bulb-out on First Street East, and will convert the existing angled parking to parallel parking; both of these actions will facilitate improved traffic flow around the site. Bicycle parking is being provide onsite, and the sidewalks will adequately serve pedestrians. Additionally, the building footprint utilizes the majority of the site, and therefore there will be no ingress and egress of vehicles in and out of the site.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(4)	Curb cuts and driveway entrances shall be no closer than twenty (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>Commission Comments</i>	<i>The applicant is proposing two sections of flat curb and has coordinated with the Public Works Department on the final curb design. One section of the proposed flat curb will accommodate the mechanics of the disposal glider located on the southeast corner of the site and accessed from</i>

				<i>Leadville Avenue. The flat curb is greater than twenty-feet (20') to the nearest intersection (1st St. E. and Leadville Avenue).The second flat curb is intended to facilitate the design of the accessible parallel street parking along Main Street. The location of the second flat curb has been reviewed and approved by the City Engineer.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(G)(5)	Unobstructed access shall be provided for emergency vehicles, snowplows, garbage trucks and similar service vehicles to all necessary locations within the proposed project.
			<i>Commission Comments</i>	<i>The proposed site plan indicates that unobstructed access will be provided to serve emergency vehicles, snowplows, garbage trucks and similar service vehicles via the right-of-way and on-street parking areas. The applicant has also coordinated with Clear Creek Disposal to ensure that the disposal location will not place the disposal truck into the intersection of First Street East and Leadville Avenue during pick-up. See the letter from Clear Creek Disposal attached to the staff report for further comment.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(1)	Snow storage areas shall not be less than thirty percent (30%) of the improved parking and pedestrian circulation areas.
			<i>Commission Comments</i>	<i>The applicant is not proposing a snow storage area on-site site. In lieu of a snow storage area, the applicant is proposing that all concrete sidewalks will be snow melted with hydronic heat tubing.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(2)	Snow storage areas shall be provided on-site.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(3)	A designated snow storage area shall not have any dimension less than five (5') feet and shall be a minimum of twenty five (25) square feet.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(H)(4)	In lieu of providing snow storage areas, snow melt and hauling of snow may be allowed.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(1)	Landscaping is required for all projects.
			<i>Commission Comments</i>	<i>The applicant is proposes landscaping along First Street East, as well as within the plaza area located at the corner of Main St. and 1st St. E. The applicant has coordinated with the City Arborist and City Engineer to provide the appropriate tree spacing and location of landscape features. The proposed landscaping plan has been reviewed by the City Arborist. See Table 1 for further comment from the City Arborist.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(2)	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>Commission Comments</i>	<i>This is an urban downtown site and landscaping will be comprised of street trees and planter boxes. Street trees and plantings have been reviewed and approved by the City Arborist. See Table 1 for further comment from the City Arborist.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(3)	All trees, shrubs, grasses and perennials shall be drought tolerant. Native species are recommended but not required.
			<i>Commission Comments</i>	<i>The City Arborist has reviewed the proposed trees, shrubs, grasses and perennials and has no concerns at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(I)(4)	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>Commission Comments</i>	<i>Substantial landscaping is proposed on the Main Street frontage in the plaza area which serves as a buffer between the plaza area and Main Street. Landscaping is also interspersed along the perimeter of the First Street East</i>

				<i>side of the property. Landscaping is not proposed on the east side of the site (Leadville Avenue), which is the rear of the property.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.060(J)(1)	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>Commission Comments</i>	<i>The applicant is proposing that eight-foot (8') sidewalks be installed along First Street East. The applicant states that pedestrian amenities will be installed along First Street East. The covered outdoor plaza within the site and fronting Main Street will have planters and benches. The applicant has coordinated with the Public Works Department to determine that along the proposed five-foot (5') sidewalk on both Main Street and Leadville Avenue there is not sufficient room for street trees or additional pedestrian amenities.</i>

Table 4: Design Review Standards for Community Core Projects

IMPROVEMENTS AND STANDARDS: 17.96.070 - Community Core (CC) Projects				
In addition to the requirements of section 17.96.060 of this chapter, unless otherwise specified, the standards of this section apply to projects in the Community Core district. The purpose of this section is to ensure the addition of high quality architecture for new development, while maintaining the unique character of existing building stock found in the Community Core.				
Yes	No	N/A	City Code	City Standards and <i>Commission Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 A(1)	Street trees, street lights, street furnishings, and all other street improvements shall be installed or constructed as determined by the Public Works Department.
			<i>Commission Comments</i>	<i>The applicant has coordinated with the Public Works Department to ensure that the approved design for street trees, street lights, street furnishings, and all other street improvements will be installed and constructed appropriately. The applicant has also coordinated with Inovus to provide a photometric layout of the site. The City Engineer has no concern relating to the photometric layout at this time. The applicant's final street trees, street lights, street furnishings, and other street improvements shall be approved by the Public Works Department upon final inspection, and prior to the issuance of a Certificate of Occupancy.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(A)(2) Streets	Street trees with a minimum caliper size of three (3") inches, shall be placed in tree grates.
			<i>Commission Comments</i>	<i>The applicant will coordinate with the City Arborist to ensure that all specified street trees are installed according to City requirements. The City Arborist has reviewed the street tree location and has no concerns at this time. The street tree caliper size shall be approved by the City Arborist upon final inspection, and prior to the issuance of a Certificate of Occupancy.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(A)(3)	Due to site constraints, the requirements of this subsection 17.96.070.A may be modified by the Public Works Department.
			<i>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(1)	Facades facing a street or alley or located more than five (5') 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 façade.
			<i>Commission Comments</i>	<i>The north, east and west facades have been designed to include both solid surfaces and window openings intended to avoid the creation of blank walls. See Commission comment in Table 3, section 17.96.060(F) (3) for further detail.</i> <i>The south wall adjoins an interior side property line and will be designed to meet building code fire separation requirements. The applicant is proposing</i>

				<i>that the portions of the wall that are visible to the public that will have a material selection similar to either the adjoining building, or the proposed theater. The south wall does not directly face a street or alley, and is located less than five-feet (5') from the interior side property line.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(2)	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>Commission Comments</i>	<i>The applicant has included storefront windows and doors into the theater entrance and along ground floor lobby areas. The proposed design includes glazing at the back-of-house theater areas, at the upper two levels located at the east end of the structure that are, intended to maximize natural lighting. The design also includes storefront windows at the black box and main theater areas, to be screened with black-out shades during performances. The two egress stairs, located on the north and east sides of the building, will include elements of glazing.</i> <i>Landscaping planters have been included in the proposed design of the plaza area. The planters will provide separation between vehicular traffic on Main Street and pedestrian traffic along Main Street and First Street East.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(3)	For nonresidential portions of buildings, front facades shall be designed to not obscure views into windows.
			<i>Commission Comments</i>	<i>The proposed design of the front facing façade (Main Street) does not obscure views into windows. The applicant has designed the front facing façade with the focus on maximizing views into the windows.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(4)	Roofing forms and materials shall be compatible with the overall style and character of the structure. Reflective materials are prohibited.
			<i>Commission Comments</i>	<i>The applicant is proposing the use of flat top roofs which will be drained internally. The use of steel brows will be incorporated to break up the structure and add depth to the building. Reflective materials have not been proposed at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(5)	All pitched roofs shall be designed to sufficiently hold all snow with snow clips, gutters, and downspouts.
			<i>Commission Comments</i>	<i>The applicant is proposing flat top roofs which will be drained internally.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070 (B)(6)	Roof overhangs shall not extend more than three (3') feet over a public sidewalk. Roof overhangs that extend over the public sidewalk shall be approved by the Public Works Department.
			<i>Commission Comments</i>	<i>The applicant is proposing that the steel brow located below the drip edge at the roof be considered an overhang. The proposed steel brow does not extend more than three-feet (3') into the public right of way. The proposed steel brow has been reviewed by the Public Works Department. As the steel brow does not extend more than three-feet (3') into the public right-of-way and does not extend within two-feet (2') feet of parking or travel lanes within the right of way, and the Commission considers the steel brow to be a roof overhang.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070 (B)(7)	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>Commission Comments</i>	<i>N/A</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(1)	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>Commission Comments</i>	<i>The proposed trash disposal area is located at the rear of the building, at the southeast corner of the principal building. The trash disposal area is fully enclosed within the building and will be screened from public view using an</i>

				overhead door. The trash disposal area is not proposed to be located within the public right of way. The applicant has coordinated with Clear Creek Disposal to identify a suitable trash disposal location.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(C)(2)	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>Commission Comments</i>	<i>The applicant will work ensure that all roof and ground mounted mechanical and electrical equipment are fully screened from public view. Mechanical equipment will not exceed ten-feet (10') over the maximum building height and must be set back a minimum of ten-feet (10)' from property lines. The design will be compatible with the overall building design. The final screening, location and height of all ground and roof mounted mechanical equipment shall be approved upon final inspection and prior to the issuance of a Certificate of Occupancy.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(1)	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>Commission Comments</i>	N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(D)(2)	Trees that are placed within a courtyard, plaza, or pedestrian walkway shall be placed within tree wells that are covered by tree grates.
			<i>Commission Comments</i>	<i>The applicant is proposing three-street trees along First Street East, which are proposed to be placed in tree wells and covered by tree grates which will be approved by the City Engineer. The City Arborist has encouraged the applicant consider utilizing Silva Cell technology for the street trees. This technology is known method to both enhance tree vitality and contribute to storm water management. For further comment see Table 1.</i> <i>The applicant is proposing that the on-site swedish aspens be located in a low planter box along the south property line to screen the plaza from the existing Kentwood Lodge wall. Both the City Arborist and City Engineer have reviewed the Landscape plans and have no comment regarding the tree placement at this time.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(D)(3)	The city arborist shall approve all parking lot and replacement trees.
			<i>Commission Comments</i>	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(E)(1)	Surface parking lots shall be accessed from off the alley and shall be fully screened from the street.
			<i>Commission Comments</i>	N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.96.070(E)(2)	Surface parking lots shall incorporate at least one (1) tree and one (1) additional tree per ten (10) onsite 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>Commission Comments</i>	N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(E)(3)	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>Commission Comments</i>	<i>The three (3) proposed trees located along First Street East will be placed in tree wells and covered by tree grates. The final tree grate design shall be approved upon final inspection and prior to the issuance of a Certificate of Occupancy. The applicant is proposing that the on-site swedish aspens be located in a low planter box along the south property line to screen the plaza from the existing Kentwood Lodge wall. Both the City Arborist and City Engineer have reviewed the Landscape plans and have no comment regarding the tree placement at this time. Additional on-site planters are proposed within the plaza and will contain ornamental grasses.</i>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(1)	One (1) bicycle rack, able to accommodate at least two (2) bicycles, shall be provided for every four (4) parking spaces as required by the proposed use. At a minimum, one (1) bicycle rack shall be required per development.
			<i>Commission Comments</i>	<i>Bike racks are being proposed at the applicant's volition. Should the applicant's zoning text amendment request application be approved by City Council, the applicant is not proposing any on-site parking spaces that bike racks would be required in proportion to.</i> <i>The applicant proposes that they will seek to provide four (4) bike racks able to accommodate a total of eight (8) bikes on site. The applicant further suggests the use of a summer-use only removable "bike-corrals" placed within the eight-foot (8') width of curbside parallel parking area, located at the northwest corner of the site. The applicant states that the proposed bike-corrals will provide for a more suitable bike storage configuration as bike storage will be perpendicular to the curb, rather than parallel to the curb should bikes be stored on sidewalk. Staff suggests, and the Commission agrees, that perpendicular bike storage in a bike-corrals may also improve access to and from the building, as it will avoid the creation of a "bike wall" that parallel bike storage along the curb would create. This suggestion has been reviewed by the Public Works Department and they have no further comment at this time.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(2)	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 (1/2) shall be adjusted to the next highest whole number.
			<i>Commission Comments</i>	<i>See above.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.96.070(F)(3)	Bicycle racks shall be clearly visible from the building entrance they serve and not mounted less than fifty (50') feet from said entrance or as close as the nearest non-ADA parking space, whichever is closest. Bicycle racks shall be located to achieve unobstructed access from the public right-of-way and not in areas requiring access via stairways or other major obstacles.
			<i>Commission Comments</i>	<i>The applicant will locate the bicycle racks no less than fifty-feet (50') from entrance of the building. The bike racks will be visible from the nearest entrance that they serve. The proposed bike racks currently run perpendicular to pedestrian traffic.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code;
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and zoning code, Title 17;
3. The Commission has authority to hear the applicant's Design Review Application pursuant to Chapter 17.96 of Ketchum Code Title 17;
4. The City of Ketchum Planning Department provided adequate notice for the review of this application;
5. The project **does** meet the standards of approval under Chapter 17.104 of Zoning Code Title 17;
6. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite;
7. Per Title 17, Section 17.96.090: TERM OF APPROVAL: The term of design review approval shall be twelve (12) months from the date that 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;

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this Design Review application this Monday, February 27th, 2017 subject to the following conditions:

1. All departmental conditions as described in table 1 shall be complete prior to a certificate of occupancy;
2. Design Review elements shall be completed prior to final inspection/occupancy;
3. All building and fire code requirements as dictated by 2012 family of international building codes shall apply to all construction onsite;
4. Design Review approval is contingent upon City Council's adoption of the applicant's text amendment request application (#17-006);
5. Any work in the right-of-way will require a right-of-way encroachment permit, reviewed and approved by the City before installation;
6. All permanent encroachments into the Right-of-Way shall require a Right-of-Way Encroachment Agreement approved by the City Council prior to issuance of a building permit;
7. The construction mitigation plan shall comply with all standards set forth in City Code Chapter 15.06 Construction Activity Standards;
8. Any change to the exterior lighting of the proposed building shall be receive administrative design review approval for compliance with Ketchum Municipal Code Chapter 17.132 Dark Skies;
9. All down lighting on upper levels will be turned off between the hours of 10:30PM and 6:00AM;
10. The proposed reconfiguration of the sidewalk along Main Street shall require a permanent easement for the portion of sidewalk that encroaches on the applicant's property;
11. The applicant shall receive approval from the Idaho Transportation Department for the proposed parking and drop-off space located on Main Street, and if not approved by ITD as shown any new parking space design will need to be reviewed by the Planning and Zoning Commission;
12. The proposed accessible drop-off space will be designated as an on-street parking space, available to the public, from the hours of 7AM – 6PM, and shall be an accessible drop-off space after 6PM only during theater events;
13. The applicant shall file, and receive approval of, a lot line shift application prior the issuance of a certificate of occupancy;
14. A letter demonstrating ADA compliance shall be provided by the applicant prior to the issuance of a building permit; and
15. The project shall comply with the requirements of 17.124.040 as adopted on the date a building permit is submitted for the project.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux
Planning and Zoning Commission Chairperson

IN RE:)
)
 Kneebone) **KETCHUM PLANNING AND ZONING**
 Final Plat) **COMMISSION - FINDINGS OF FACT,**
)
 File Number: 17-011) **CONCLUSIONS OF LAW AND DECISION**
)

BACKGROUND FACTS

OWNERS: Kneebone LLC, c/o Steve Kearns

REPRESENTATIVE: Steve Kearns

REQUEST: Final plat approval for the Kneebone Building, a five-unit condominium development, comprised of two residential units and three commercial units within a three-story building currently under construction.

LOCATION: 500 N. Washington Avenue (Lot 8, Block 15, Ketchum Townsite)

NOTICE: No noticing is required for the Final Plat. For the Preliminary Plat notice was mailed to property owners within a 300’ radius of the subject property and was posted in three public locations on October 27, 2016. Notice was published in the newspaper of record on October 26, 2016.

ZONING: CC-C, Community Core, Sub-district C, Urban Residential

OVERLAY: None

GENERAL FINDINGS OF FACT

1. The subject property is located at 500 N. Washington Avenue, at the northeast corner of 5th Street and N. Washington Avenue, in the Community Core, Urban Residential sub-district zone. In March of 2016 a new three story mixed use building proposed for the property received Design Review (#16-012) approval from the Planning and Zoning Commission; the owner then applied for and received a building permit (BP #16-031) and construction commenced. The applicant then submitted a Preliminary Plat application (#16-085) and received a recommendation for Preliminary Plat approval from the Planning and Zoning Commission in December 2016 and followed by Preliminary Plat approval from City Council in April 2017.
2. Construction is nearing completion and Kneebone LLC has now submitted a Final Plat application. The Commission reviews the Final Plat application first and if the application substantially conforms to the Preliminary Plat approval the Commission shall recommend approval. Upon receipt of a Certificate of Occupancy the Final Plat application is then forwarded to City Council. If the Final Plat substantially conforms with the Preliminary Plat and all conditions have been met, including completion of or approval of bonding for specified design review elements, Council shall approve the final plat.

4. The Final Plat for the Kneebone Building substantially conforms to the Preliminary Plat application and the concerns and conditions raised by the City Engineer and the Utilities Department have been or are in progress of being met. The applicant is aware that public improvements, including sidewalks, shall be completed prior to receiving Final Plat approval from City Council. Staff has no concerns regarding the applicant’s ability to meet all requirements and conditions.

Table 2: Final Plat Requirements

Final Plat Requirements					
Compliant			Standards and Staff Comments		
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.I	Complete Application	
			Staff Comments	<i>The application has been reviewed and determined to be complete.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.C Final Plat Procedure	<p>1. The final plat procedure contained in subsection 16.04.030F of this chapter shall be followed. However, the final plat shall not be signed by the city clerk and recorded until the condominium has received:</p> <ul style="list-style-type: none"> a. A certificate of occupancy issued by the city of Ketchum; and b. Completion of all design review elements as approved by the planning and zoning administrator. <p>2. The council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to title 17, chapter 17.96 of this code. Prior to final plat approval, the subdivider shall submit to the city a copy of the final bylaws and condominium declarations which shall be approved by the council and filed with the Blaine County recorder, including the instrument number(s) under which each document was recorded.</p>	
			Staff Comments	<i>The Final Plat application is being reviewed by the Commission at this time. After the Commission forwards the application to City Council the Council will review the application. The Council will not approve the Final Plat until a certificate of occupancy has been issued and all design review elements have been completed and approved or a security deposit has been accepted in accordance with this section.</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.D Garage	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.	
			Staff Comments	<i>The Final Plat designates the two-car covered parking garage as part of Unit #301. There are three uncovered parking spaces reflected in the site plan approved with the building permit that do</i>	

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
				<i>not belong to a particular unit and are designated as common area on the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.E Storage Areas	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.
			Staff Comments	<i>There are adequate storage areas for personal property for all residential and commercial units designated on the final plat. Some storage areas are located on the ground floor and located within the common area of the covered parking and other storage areas are located on the second floor.</i> <i>Storage areas for boats, campers and trailers are not required nor provided due to characteristics of this development, which is a 3-story mixed use building located within the Community Core.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.F Maintenance Building	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.
			Staff Comments	<i>This development is a 3-story mixed use building in the Community Core; the majority of the property that is not covered in building footprint is covered with hardscape. Landscaping is limited to planter beds and street trees on the street fronting sides of the property and as indicated on sheet L-2 approved with the building permit (#16-031), the landscaping will be irrigated by an automatic sprinkler system and subsurface drip lines.</i> <i>Due to the characteristics of the development a maintenance building is not required and due to the nature of the common area a dedicated room for maintenance supplies is not required. There are however mechanical spaces and storage areas designated for each unit on the final plat.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.G Open Space	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.
			Staff Comments	<i>The common and limited common areas dedicated to owners of units in the development is of usable area and shape and is conveniently located for residents.</i> <i>Due to the development being a 3-story mixed use building in the Community Core the open space for the development is located on the top floor of the building and is a rooftop deck. The rooftop is divided with a screen wall with one half of the rooftop dedicated as Limited Common Area to the owner of Unit #301 and the other half</i>

Compliant			Standards and Staff Comments	
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
				<i>of the rooftop decided as Common Area for the owners or tenants of the four other units in the development. The screen wall serves to maximize privacy and the rooftop location maximizes solar access in the common area.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.060.H General Applicability	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.
			Staff Comments	<i>As a condition of approval, all other provisions of this chapter and all applicable ordinances rules and regulations of the city and other governmental entities having jurisdiction shall be complied with by the condominium subdivision.</i>

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code.
2. Under Chapter 65, Title 67 of the Idaho Code, the City has passed a land use and subdivision ordinance, Title 16.
3. The City of Ketchum Planning Department provided adequate notice of the time, place and summary of the applicant’s proposal to be heard by the Commission for review of this application.
4. The proposed final plat **does** meet the standards of approval under Title 16, Chapter 16.04, subject to conditions of approval.
5. This approval is given for the final plat of the Kneebone Building, plans dated April 2017, by Galena Engineering, Inc.

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this final plat application this 10th day of April, 2017, subject to the following conditions:

1. The Covenants, Conditions and Restrictions (CC&R’s) shall be simultaneously recorded with the final plat, and the City will not now, nor in the future, determine the validity of the CC&R’s;
2. The failure to obtain Final Plat approval by the Council, of an approved preliminary plat, within one (1) year after approval by the Council shall cause all approvals of said preliminary plat to be null and void;

3. The recorded plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the map;
4. An electronic CAD file shall be submitted to the City of Ketchum prior to final plat signature by the City Clerk. The electronic CAD file shall be submitted to the Blaine County Recorder's office concurrent with the recording of the Plat containing the following minimum data:
 - Line work delineating all parcels and roadways on a CAD layer/level designated as "parcel";
 - Line work delineating all roadway centerlines on a CAD layer/level designated as "road"; and,
 - Line work that reflects the ties and inverses for the Survey Control Monuments shown on the face of the Plat shall be shown on a CAD layer/level designated as "control"; and,
5. All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983 (1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a ".dwg", ".dgn" or ".shp" format and shall be submitted digitally to the City on a compact disc. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.
6. The applicant shall provide a copy of the recorded final plat to the Department of Planning and Building for the official file on the application.
7. All requirements of the Fire, Utility, Building, Planning and Public Works departments of the City of Ketchum shall be met. All public improvements shall meet the requirements of the Public Works Department.
8. The final plat shall not be signed by the City Clerk and recorded until the townhouse has received:
 - a. A Certificate of Occupancy issued by the City of Ketchum; and,
 - b. Completion of all design review elements as approved by the Planning and Zoning Administrator.
9. The Council may accept a security agreement for any design review elements not completed on a case by case basis pursuant to Section 17.96.120.
10. A public access easement pertaining to the street tree proposed on Washington Avenue and guaranteeing public access around the tree shall be recorded prior to City Council's review of the Final Plat.

Findings of Fact **adopted** this 10th day of April, 2017.

Jeff Lamoureux, Chair
Planning and Zoning Commission