

3.10 INTERPRETIVE LOOP AND TRAILS

One of the primary objectives of the park is to allow people to explore the River Park at Sun Peak. A hard surface trail currently connects Ketchum to the site but terminates at the Sage Road Bridge. The master plan design provides a loop trail that circles the river park providing access to each of the project components identified in this study.

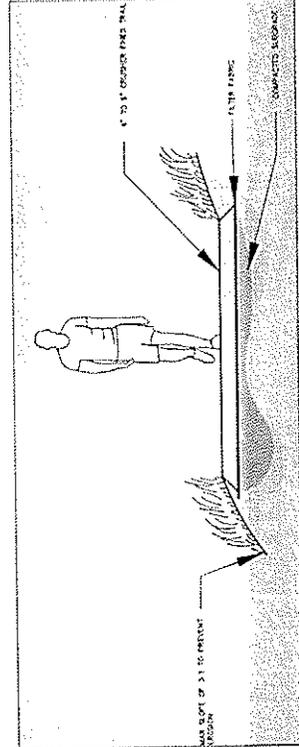
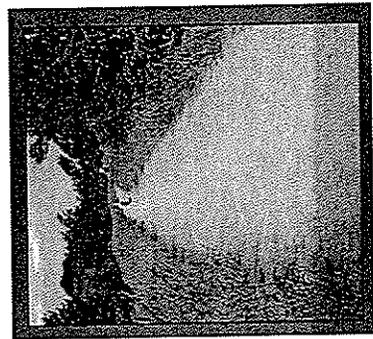
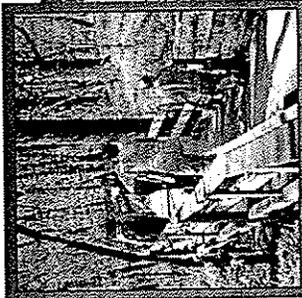
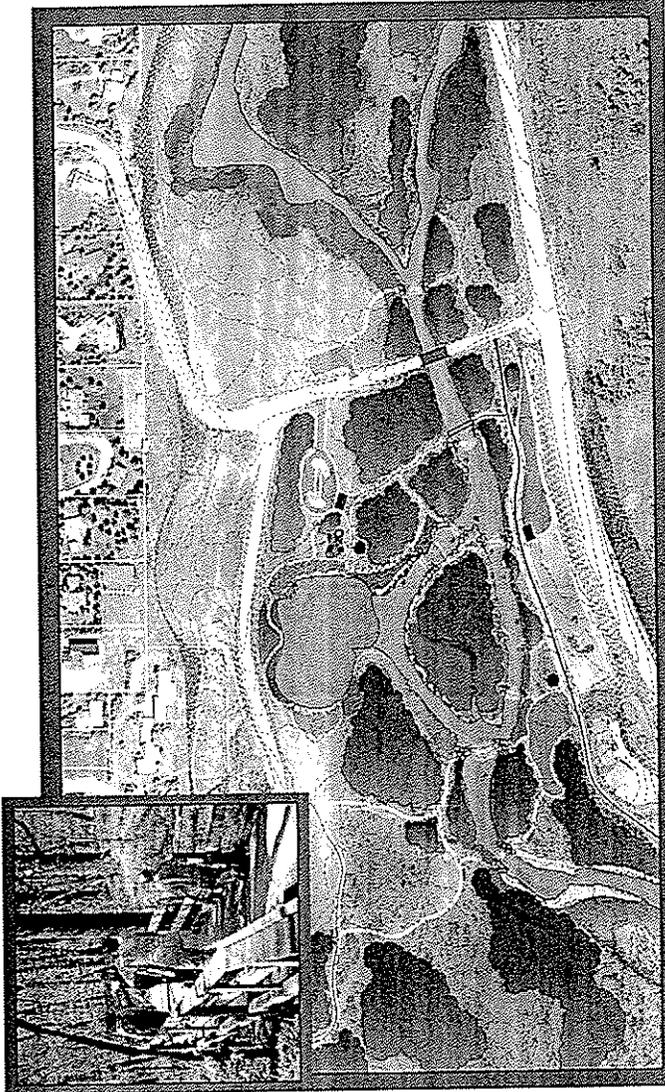
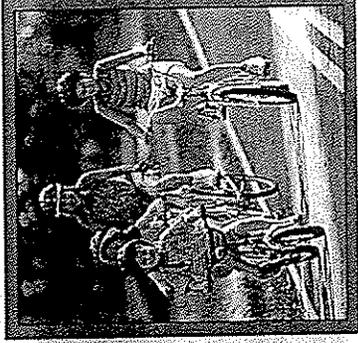
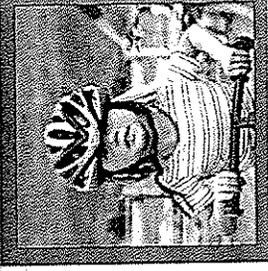
The trails network would include two proposed walking bridges—one at the upstream end of the site adjacent to the existing Sage Road car Bridge—and the other at the downstream end of the site near the kayaker's take-out. The downstream bridge would connect to the east side return route for floaters and kayakers.

The trails are all designed as compacted fines soft surface trails that are 8' wide. The main trail, which circles the site, could be transformed to a hard surface trail in the future if usage presents a maintenance problem for the city. The City could also choose to widen this trail to allow for walkers as well as bikers if usage creates a safety issue.

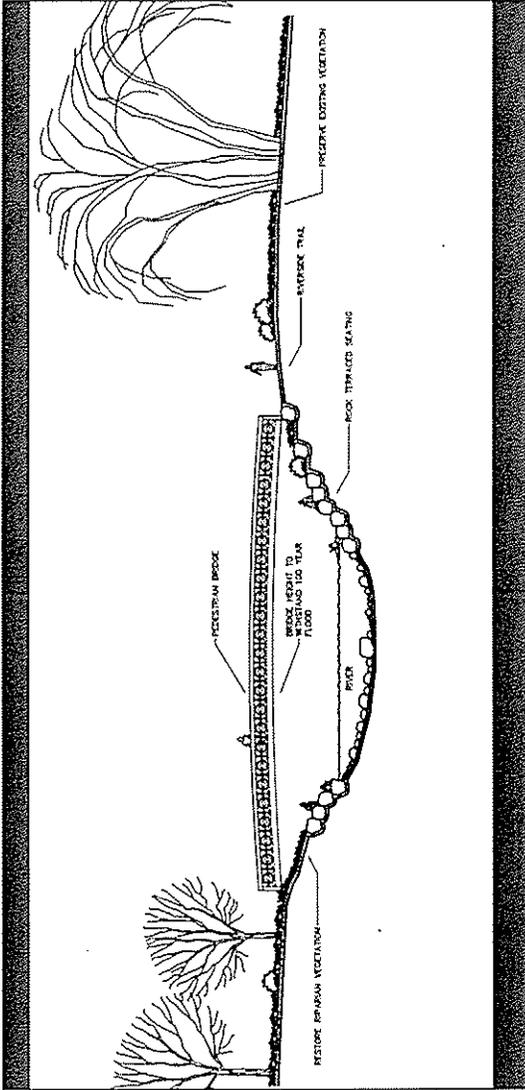
The trails would provide access to kayaking, a children's play area, restored riparian and wetland habitats, preserved habitat areas and areas of interest—such as the Hulen Meadows Pond which has been used for fire fighting. The property and park itself are a part of community program to protect and preserve native habitat in the Big Wood Valley. This type of trail tour would provide the opportunity to include interpretive elements that help to support the mission of habitat preservation, that fosters outdoor education and stewardship, and that highlights and showcases the history and people of this valley. The master plan includes two opportunities for interpretive elements:

The first is a children's educational element that would be a part of the natural outdoor play area. This element would have a spinning dial with hints on where to find species within the "habitat" of the natural play area. The elements would mimic actual species in the Big Wood River.

The second is an interpretive element to the circular tour of the site. This element would provide signage that educates those who explore the site about the habitat, history, and values of the region. The WRIT has offered to aid in the design of these elements.



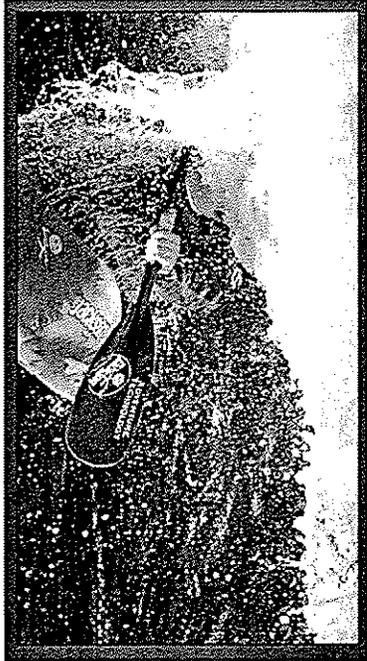
3.11 EVENTS AREAS



It is anticipated that events will take place in a number of locations within the River Park at Sun Peak. These events may include gatherings as small as weddings and family reunions and as large as river festivals and whitewater competitions. The site has been designed to accommodate these uses.

Larger events would be located on the east bank and would use the primary parking and, if needed, overflow parking in this location. Gathering and showcase areas would be available on both the east and west sides of the bike path. It is anticipated that any commercial showcases would most likely occur in the overflow parking areas while gathering and entertainment events would be hosted in the firehouse meadows area.

Smaller events can also be hosted, in a similar manner, on the east bank but would also occur on the west bank. The covered picnic area can play host to small events. It is anticipated that the City would schedule and coordinate these events such that they do not impact regular usage at the park during peak usage times. Events at the Hulen Meadows Pond area would likely be subject to schedule and noise level limitations that are defined in negotiations between the City and the neighborhood BOD.



3.12 FISHING AND PRESERVED AREAS

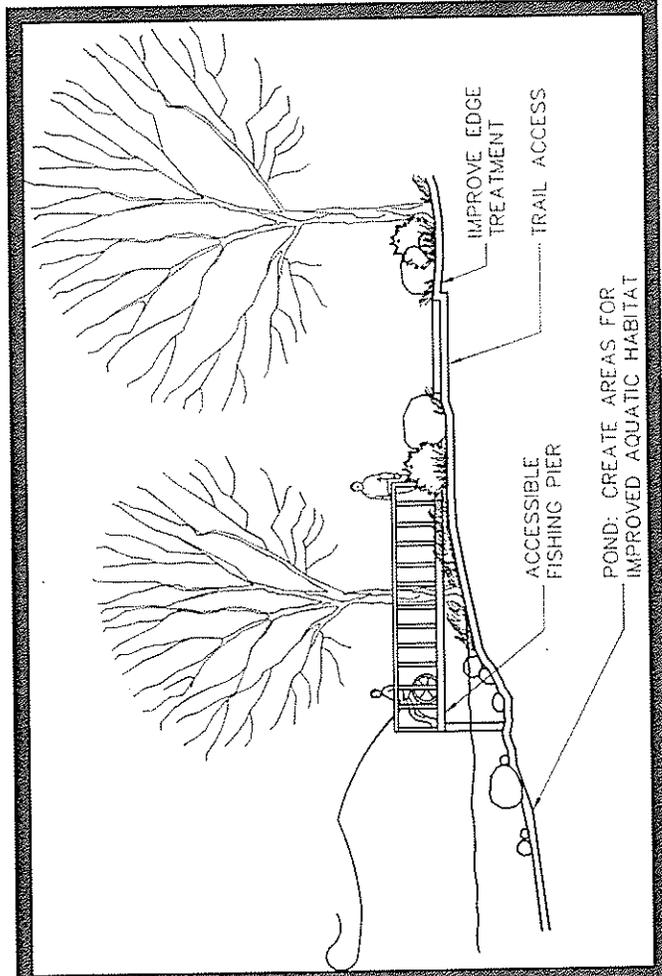


Restoration and preservation is one of the primary focuses of the River Park at Sun Peaks and key areas of the River Park would be restored and set aside to ensure a healthy habitat and ecosystem and to provide educational opportunities for the community. The current project location features some areas of stunning natural beauty that host a thriving ecosystem. Other areas, such as the pond, are weeded with non-native species, steep, inaccessible, and largely devoid of wildlife and habitat areas.

This project aims to restore these areas in a way that contributes to the active and interpretive nature of the park, while also creating a thriving and healthy ecosystem throughout the reach. The project includes lake edge treatments, fish passage elements, and wetlands and riparian restorations intended to create habitat as well as to showcase preservations throughout the site.

The current master plan is a restoration of the existing configuration of the river. As such, areas that would be impacted by construction are limited to areas that currently feature man-made structures and elements. Areas outside of those shown for improvement would be restored and improved. In addition, restoration and replanting would be implemented in areas as shown in the above diagram.

One of the key areas of restoration for this project is around the perimeter of Helen Meadows Pond. This restoration would include a safety bench surrounding the pond and riparian and wetland plantings in specific areas around the pond's edge. These plantings would be used to provide habitat as well as shade and would also delineate areas appropriate for human impacts from areas that are to be preserved. As an example, plantings would separate the south from the north banks of the pond and encourage visitors to access the pond's edge only in areas that have been graded to a gentler slope. Typical details and example pictures of these restored areas are shown in the images on this page.



3.13 MASTER PLAN SUMMARY

The Master Plan was guided by the client's desire to create a park that catered to a wide variety of expected users with a wide variety of expected uses within the park boundaries. The included park components were created to meet BLM objectives for the property while also meeting the objectives, desires, and constraints of the many stakeholders on this project.

The table to the left illustrates which project components are provided for which users and are based on the ability of the project component to provide for a user's needs, requirements, or constraints. As an example, the walking bridge adjacent to the Sage Road Bridge provides access to the site for walkers and bikers who wish to follow the loop trail. The bridge also meets the desire expressed by the Hulen Meadows BOD to decrease car, bike, and pedestrian traffic on their bridge.

This comparison shows that the park components provide utility for each of the project users. In some cases, such as the Dog Agility Area, the inclusion of a project component neither helps nor hurts many of the expected users but caters to a particular user's preferences.

A comparison of the project requirements to the expected users reveals that the events areas do not necessarily meet the Hulen Meadows Neighborhoods desires for this project. Events could bring large crowds and might raise the noise level. This analysis suggests that the inclusion of an additional events area, on the east bank of the river adjacent to the fire station was a well-founded solution that provides an alternate area for louder, or larger, crowds to congregate. It is expected that the Hulen Meadows neighborhood would be less impacted by these events given the distance and buffers in place between the two.

The analysis suggests that the master plan also meets all project requirements included in the R & PP application, but includes additional components for consideration. These additional components include the east bank parking and events area, the additional shelters, bridges, and restrooms, and the children's play area. It is this design team's belief that these components are complementary to the BLM's objectives and intent for this project.



	Pond Restoration	Outdoor Play Area	Picnic Shelter and Restrooms	Parking and Infrastructure	Whitewater Park	Interpretive Loop and Trails	Dog Agility Course	Events Areas
Bureau of Land Management	+	0	+	+	+	+	+	0
Hulen Meadows Home Owners	+	+	+	+	0	0	0	-
Wood River Land Trust	+	0	+	+	0	+	0	0
The City of Ketchum	+	+	+	+	+	+	+	+
Kayakers	+	0	+	+	+	0	0	+
Tubers and Floaters	0	0	+	+	+	0	0	0
Waders	+	+	+	+	0	0	0	0
Pond Users	+	+	+	+	0	0	0	0
Fishermen	+	0	0	+	+	0	0	0
Passive Users	+	+	+	+	+	+	+	+

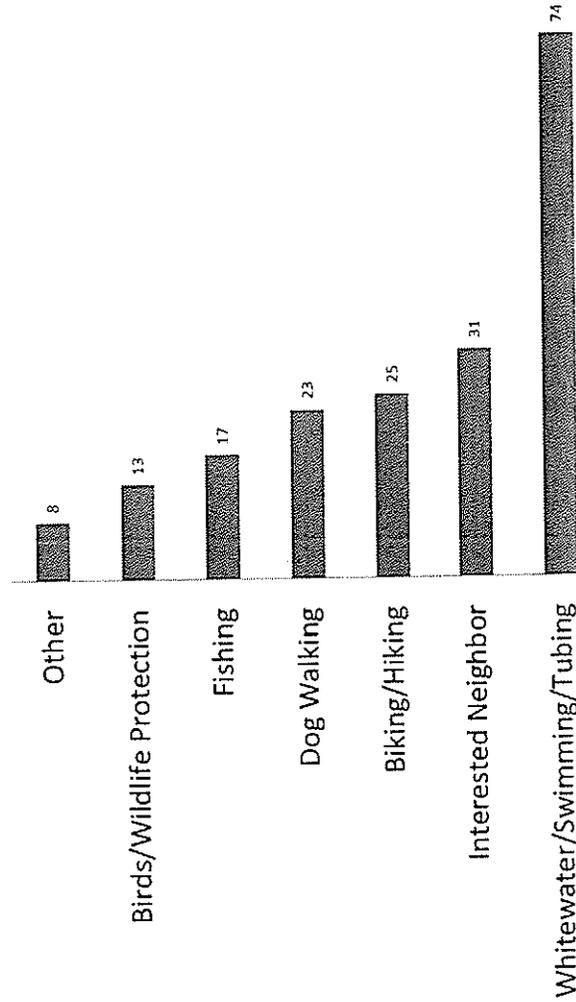
- + indicates that the design meets this stakeholder's objectives
- 0 indicates that the design component neither hurts nor helps this stakeholder's objectives
- indicates that the design component negatively impacts this user's objectives

MASTER PLAN SUMMARY (CONT'D)

The project was vetted through two public meetings. The first meeting was held to inform the public about the project, the process, and the character of similar river park projects. Those who attended were asked to complete a sticker poll in which they placed three stickers on the three components which held the most priority for them in the process. The figure at the left shows the results of this poll suggesting that the majority of users and stakeholders identified in the public meeting are addressed in this study. Of those who attended the meeting the most important components are related to the in-stream whitewater features. Concerned and/or interested neighbors also were well represented. The remaining majority were the existing user groups of bikers/hikers, dog walkers, fishermen and environmentalists.

At the second meeting the master plan was presented and explained. This meeting was also well attended although the attendees were not polled. The presented master plan was well received. Those who were concerned about the master plan were primarily Hulen Meadows neighbors who cited concerns about the traffic on the site. Discussions with the design team and with the City indicate that the design has met the objectives of the project, mitigated the Hulen Meadows neighbor's concern, and has gained the general approval of the broader community.

Priority Sticker Poll



SECTION FOUR: IMPLEMENTATION

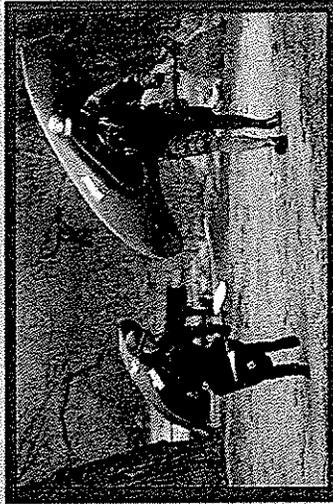
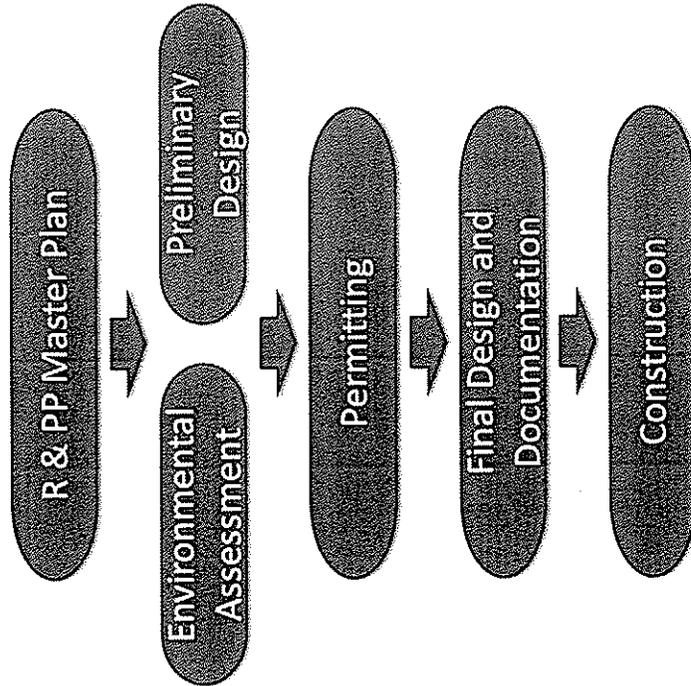
4.1 INTRODUCTION

The purpose of the master planning process was to create a layout and project definition that could be approved by the City of Ketchikan. This Master Plan would become a part of the City's application to the BLM as a part of the R & PP application to the BLM and would be subject to the BLM's evaluation during the Environmental Assessment process. Creation of the actual park requires EA approval and additional engineering analysis and design work to create specific design documents that are ready for construction.

The figure to the left describes the recommended approach to completing the project. This approach, which follows the final approval of the Master Plan by the City of Ketchikan, suggests that the water rights issues be addressed while preliminary design is undertaken. Our design team, as noted later in this section, feels that there are advantages to attaining a water right prior to applying for permits and approvals.

A permitting phase would be undertaken following preliminary design. Section 4.2 describes this process including the required permits that must be attained. The master plan has been vetted with the permitting authorities in a courtesy meeting in order to inform them of the project and design intent of the master plan in advance of applying for actual permits. The permitting agencies were also asked to comment on the project.

After receiving the required permits, a final design phase would be undertaken to update the design to meet permit requirements and to create detailed construction documents in anticipation of bidding the project to a contractor. The City would then bid the project to a contractor and proceed with construction.



REGULATORY GUIDELINES & POTENTIAL PERMITS

Regulatory Authority for the proposed Whitewater Park will fall under multiple jurisdictional agencies. The goal of the project development team is to make sure each jurisdictional agency is well informed along each phase of project development and on a regular basis. By keeping communication open between the project team and jurisdictional agencies it allows for a more focused and streamlined permitting process with fewer delays. The project development team would also look for input from the other non-jurisdictional agencies as needed and appropriate. At this time, it is anticipated that the following jurisdictional agencies along with supporting permits/applications would be involved with the proposed project.

FEDERAL PERMITS

BUREAU OF LAND MANAGEMENT (BLM)

National Environmental Policy Act (NEPA): The project lies on Federal lands and therefore an Environmental Assessment (EA) will be required to comply with Federal Regulations. The purpose of an EA is to determine the significance of the environmental effects that a specific project may have on the environment and to look at alternative means to achieve the agency's objectives. The EA is intended to be a concise document that (1) briefly provides sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS), (2) aids an agency's compliance with NEPA when no EIS is necessary; and (3) facilitates preparation of an EIS when one is necessary (40 C.F.R. § 1508.9). If after investigation and drafting of the EA no substantial effects on the environment are found the agency may produce a Finding of No Significant Impact (FONSI). (www.wikipedia.com)

- Although an EA is being completed for the R & PP process/land exchange, it is understood that the EA will also need to incorporate the activities of the proposed White Water Park.
- The City's application to approve the Patent for the land exchange will include a reversionary interest to the US. Due to this reversionary interest the BLM will be required to conduct compliance monitoring on an ongoing basis.

43.CFR.3602.34 Materials Sale Permit/Contract (potential): Federal Regulations establish procedures for the exploration, development, and disposal of mineral resources on the public lands, and for the protection of the resources and the environment. The regulations apply to permits for free use and contracts for sale of mineral materials. This permit would be required to support the maintenance and upkeep of the project through sediment removal and sale. (<http://www.nrc.nlm.gov/krc/uptoada/2383600F/matfale.pdf>)

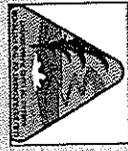
U.S. ARMY CORPS OF ENGINEERS (USACE)

Clean Water Act, 404/401 Permits (Joint Application): Although there are numerous federal and state laws that affect wetlands, the Clean Water Act (CWA) is the main regulatory tool. There are two sections of the CWA that are of particular significance:

- Section 404 of the Clean Water Act enables the USACE to grant permits for certain activities within waterways and wetlands. Construction projects affecting wetlands in any state cannot proceed until a §404 permit has been issued. In deciding whether to grant or deny a permit, the Corps must follow certain guidelines, which are discussed below.
- Section 401 of the Clean Water Act gives EPA the authority to prohibit an activity, including a construction project, if it can adversely impact water quality or have other unacceptable environmental consequences. For most states, EPA has delegated this authority to state environmental agencies. In Idaho, the Idaho Department of Environmental Quality (IDEQ) has this authority.

These two regulatory activities are conducted cooperatively through use of a Joint Application. The USACE reviews the permit application to determine if practical alternatives to the project exist. They also may impose mitigation requirements on the project developer and perform public interest review. The USACE also determines if other environmental laws must be addressed, including the NEPA, Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA). Following review, the USACE can authorize, deny or stipulate specific conditions for the project. The USACE then consults the IDEQ for an opinion (under §401 authority) on the impact potential that a given project may have on water quality. When warranted, IDEQ will then grant a §401 certification, which is needed prior to the issuance of final permit (§404) by the USACE. (www.eciacenter.org)

4.2 PERMITTING



STATE OF IDAHO PERMITS:

IDAHO DEPARTMENT OF WATER RESOURCES (IDWR)

Stream Alteration Permit (Joint Application): The Department of Army Corps of Engineers (USACE), Idaho Department of Water Resources (IDWR), and Idaho Department of Lands (IDL) established a joint process for activities impacting jurisdictional waterways that require review and/or approval of both the Corps and State of Idaho. Department of Army permits are required by Section 10 of the Rivers & Harbors Act of 1899 for any structure(s) or work in or affecting navigable waters of the United States and by Section 404 of the Clean Water Act for the discharge of dredged or fill materials into waters of the United States, including adjacent wetlands. State permits are required under the State of Idaho, Stream Protection Act (Title 42, Chapter 38, Idaho Code and Lake Protection Act (Section 38, Chapter 13 et seq., Idaho Code).

Currently, the Master Plan has several amenities that require water and may require additional water rights to be obtained by the City. This may require additional permitting or transfers from IDWR.

COUNTY PERMITS:

BLAINE COUNTY, IDAHO

Floodplain Development Conditional Use Permit: This permit application and review was implemented in order to more adequately control hazards from flooding; to ensure that the important environmental features are protected and enhanced; to protect life and property; to protect, preserve and enhance fish, wildlife habitat and recreation resources; to avoid undue water and air pollution; to ensure qualification for the National Flood Insurance Program and to ensure that all persons desiring to undertake any stream alteration are afforded equal protection and procedural due process of law. (www.co.blaine.idaho.gov)

Additional Permits

- Public Outdoor Recreational Facilities Conditional Use Permit
- Standard Subback Requirements (Wetlands/Streams/Floodplains)
- Stream Alteration Permit
- Gravel/Mining Permit (Sediment Removal Maintenance may be incorporated into the Stream Alteration Permit)
- Mountain Overlay District (MOD) Categorical Exclusion Permit or Site Alteration Permit

SUPPORT DOCUMENTATION

- Wetland/Catchment High Water Mark (CHWM) Delineation
- Wildlife/Vegetation Survey
- Biological Assessment
- Project Design (Stream/Habitat) Reports
- Section 106 Cultural Resources Report
- HEC-RAS Flood Study/No rise certification
- Stamped Design Drawings
- Other technical survey/support documents that may be required by the Jurisdictional Agencies

PERMITS

- BUREAU OF LAND MANAGEMENT (BLM)**
 - BLM 43 CFR 3602.24 Materials Sale Permit/Contract (potential)
- JOINT PERMIT APPLICATION**
 - U.S. Army Corp. of Engineers (USACE) - Section 404 Individual Permit
 - Idaho Department of Environmental Quality (IDEQ) - Section 400 Water Quality Permit
 - Idaho Department of Water Resources (IDWR) - Stream Alteration Permit
- BLAINE COUNTY, IDAHO PERMITS**
 - Floodplain Development Conditional Use Permit
 - Public Outdoor Recreational Facilities Conditional Use Permit
 - Standard Subarea Requirements from Streams, Wetlands and Floodplains
 - Stream Alteration Permit
 - Gravel/Mining Permit/Sediment Removal/Maintenance may be incorporated into Stream Alteration Permits
 - Maintain Overlay District (MOD) Categorical

PERMITTING (Cont'd)

- BUREAU OF LAND MANAGEMENT (BLM):**
The agency within the United States Department of the Interior which administers America's public lands. The BLM's mission is to sustain the health, diversity and productivity of the public lands of the United States for the use and enjoyment of present and future generations. This agency is the current landowner of the R & PP property and will monitor the property in perpetuity to ensure that the property is managed and operated according to the requirements of the R & PP application.
- U.S. ARMY CORPS OF ENGINEERS (USACE):**
The USACE is a federal agency and a major army command made up of a mix of civilian and military personnel. The USACE's mission includes environmental regulation and ecosystem restoration. The USACE is authorized to protect the Nation's aquatic resources.
- FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):**
The federal agency that regulates and administers the National Flood Insurance Program.
- IDAHO DEPARTMENT OF WATER RESOURCES (IDWR):**
The department of the State of Idaho responsible for conserving water and ensuring that water is available to sustain Idaho's economy and ecosystem.
- BLAINE COUNTY, IDAHO:**
The local governmental body with regulatory jurisdiction over the R & PP Property

All Permits and Technical Documents will be incorporated into and/or used in support of the NEPA / Environmental Assessment

RIVER PARK at SUN PEAK

4.3 PROJECT COSTS

Budget costs have been created for project completion. These costs are based on conceptual level drawings and often vary from the number projected. The total projected construction cost for the project is roughly \$2 million dollars. When design, permitting, contingencies and other expected cost items are included the total cost is projected to be roughly \$2.7 million dollars.

If the City chooses to excavate the northern sediment trap this will cost an additional \$100,000.

The City may choose to implement the project in a single phase or, due to funding challenges, phase the project over time. If the project is phased funds can be raised for particular components of the project which are then implemented prior to raising funds for subsequent phases. The phasing of a project requires careful planning to ensure that each phase provides the necessary infrastructure to support the desired activity. A typical phasing approach would be to do the in-stream improvements separately from the bank side improvements.



KETCHUM MAYOR HALL, INTRODUCING THE WHITEWATER PARK AT A PUBLIC MEETING

Item #	Item Description	Units	Adjusted Unit Cost (\$)	No. of Units	Cost per Item (\$)
1	Excavate Hulen Pond and Layback Steps	LS	100,000.00	1.0	100,000
2	Whitewater Features--8 Drop Structures, 4 6 point bars, 20 boulders for boulder clusters/velocity barriers	SF	232.00	2500.0	580,000
3	West Parking Lot	SF	2.00	30000.0	60,000
4	East Parking Lot	SF	2.00	30000.0	60,000
5	Pathways	LF	10.00	3000.0	30,000
6	Interpretive signage to be created and added in cooperation with the Wood River Land Trust	LS	25,000.00	1.0	25,000
7	ADA Fishing Access, Drystack Rock Wall or Dock to be sized according to ADA specifications	LS	50,000.00	1.0	50,000
8	Kids Splash Water Feature to contain a natural stream with potable water, some climbing rocks, some interpretive elements and landscaping	LS	150,000.00	1.0	150,000
9	Riparian Planting--to be placed in the areas specified and restored in additional areas as specified during detailed design	LS	70,000.00	1.0	70,000
10	Landscape Planting--as shown in the design drawings	LS	70,000.00	1.0	70,000
11	Well and Pump--if needed	Each	15,000.00	1.0	15,000
12	Irrigation--as allowed by water rights	Each	25,000.00	1.0	25,000
13	Ground Treatment	SF	0.15	100000.000	15,000
14	Foot Bridges	Each	250,000.00	1.0	250,000
15	Restrooms	Each	75,000.00	2.0	150,000
16	Picnic Shelter	Each	75,000.00	1.0	75,000
17	Shade Structure	Each	25,000.00	1.0	25,000
18	Bank Protection (Layback Steps & Riparian Planting)--done as needed and as specified in detailed design documents	LS	125,000.00	1.0	125,000
Construction Sub-Total					1,875,000
101	Mobilization (as % of Construction Sub-Total)			3.0%	56,250
102	Taxes (as % of Construction Sub-Total)			0.0%	0
103	Inclusions not included in items above (as % of Construction Sub-Total)			1.5%	28,125
104	Contingency (as % of Construction Sub-Total)			20.0%	375,000
105	Permitting & Design (as % of Construction Sub-Total)			12.0%	225,000
106	Other (as % of Construction Sub-Total)			0.0%	0
Final Construction Cost					\$2,569,375

4.4 MAINTENANCE

The maintenance needs of the River Park at Sun Peaks park would be addressed at two levels:

The Local Level: At the local level the direct maintenance of the park would be accomplished by the City of Ketchum's Parks and Recreation department. This department would be responsible for maintenance of parking and structures, landscape, trails and other park elements.

At the Drainage Level: The River Park at Sun Peak would be part of a large dynamic landscape and must therefore be designed and managed to be adaptable to its ever changing environment. Accordingly, the park would be accompanied by an Adaptive Management Plan that monitors changes over time and prescribes adjustments as necessary. The Adaptive Management Plan would be an Owner's Manual for the park that ensures the park functions as intended and achieves its specific design objectives.

Monitoring would occur at scheduled intervals in order to understand not only the changes that occur, but also the rates of change, long-term trends as well as the system's responses to maintenance and management practices. This approach enables future management practices to be as flexible as the natural environment in which the park will reside. This type of built-in flexibility is necessary in natural systems where wildfires, landslides, floods as well as drought are to be expected.

While the physical extents of the park itself are limited, it is situated within the broader landscape of both a large dynamic river system and a diverse ecosystem. Accordingly, the river would be monitored upstream and downstream of the park's relatively small footprint. Channel locations and bed elevations would be monitored to understand where and how the river is changing both laterally and vertically. Bank erosion, log jams and habitat characteristics would also be monitored. In addition to simply monitoring the river, the Plan would include prescriptive actions. For example, pond dredging may be required when downstream gravel deposition reaches specified locations or elevations or if the pond becomes isolated from the river.

In-stream, riparian and upland habitat and vegetation as well as fish and animal movement and behavior may also be monitored in order to maximize the ecological benefit to the larger ecosystem and adapt to changing conditions. The management plan would need to be flexible to adapt to the "human animal" as well, so changes in regulatory constraints and site usage can be adjusted if necessary.

The Adaptive Management Plan would be developed throughout the design and permitting process so all the pertinent issues are appropriately addressed. The Plan would be the result of a collaborative community effort that would help guide decisions, thereby providing a means by which immediate as well as long-term issues can be addressed in a manner that considers the long term health of the Big Wood River and its associated ecosystems.



KETCHUM WHITEWATER TASK FORCE MEETING

BLM-MOU-ID-xxxx-xx
MEMORANDUM OF UNDERSTANDING
BETWEEN THE

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SHOSHONE FIELD OFFICE

AND THE
CITY OF KETCHUM, IDAHO

I. INTRODUCTION

This Memorandum of Understanding (MOU) is between the United States Department of the Interior (USDI), Bureau of Land Management (BLM), Shoshone Field Office and the City of Ketchum (CITY); jointly referred to as the "Parties."

II. PURPOSE

The CITY has filed application pursuant to the Recreation and Public Purposes Act, 43 U.S.C. 869 et seq., to acquire two parcels of public land totaling approximately 316 acres to be developed and managed for recreational activities, including a white water park; floodplain management; fish and wildlife habitat improvement; and public purposes, including emergency ingress/egress and the potential location of a water well (hereinafter referred to the PROJECT). The proposed PROJECT area is located on public lands administered by the BLM, Twin Falls District, Shoshone Field Office in central Idaho.

The BLM is responsible for compliance with the *National Environmental Policy Act of 1969, as amended* (NEPA; 42 USCA Sec. 4321 to 4370e) as well as all applicable regulations and laws passed subsequently, including Council on Environmental Quality (CEQ) regulations [*40 Code of Federal Regulations (CFR) 1500-1508*], USDI requirements (*Department Manual 516, Environmental Quality [USDI 2004]*), BLM guidelines (*Handbook H-1790-1 [BLM 2008]*), *Guidelines for Assessing and Documenting Cumulative Impacts* (BLM 1994a) and *Considering Cumulative Effects under the National Environmental Policy Act [CEQ 1997]*. The scope (40 C.F.R. § 1508.25) of the environmental documentation will be determined by BLM, through the process defined by the CEQ regulations in 40 C.F.R. § 1501.7.

The purpose of the MOU is to document the understandings between the BLM and the CITY regarding respective responsibilities, conditions, and procedures to be followed during the preparation of the environmental documentation, including both draft and final versions. The environmental documentation will disclose the existing environmental and potential impacts of the construction, operation, and maintenance of the CITY's proposed PROJECT, identified as Serial Number IDI-36276. At this time, the BLM anticipates that the preparation of a detailed Environmental Assessment (EA) will be required. However, if the EA demonstrates that the proposed PROJECT would have effects that are significant and cannot be mitigated to a level of non-significance, then either an Environmental Impact Statement (EIS) would be required to be completed or the CITY will reduce the scope and scale of the PROJECT, revise the PROJECT, or terminate the PROJECT to avoid significant impacts. The environmental documentation will

serve to inform the decision-making official and the public. All documents released to the public must reflect the independent judgment of BLM. The BLM is responsible for the adequacy and objectivity of all such documents. The CITY and CONTRACTOR will provide BLM with the necessary support to meet that responsibility.

PROJECT components that must be analyzed in the NEPA compliance documentation (EA or EIS) shall include, but not be limited to:

- A. The CITY proposed action - to acquire two parcels of public land totaling approximately 316 acres to be developed and managed for recreational activities, including a white water park; floodplain management; fish and wildlife habitat improvement; and public purposes, including emergency ingress/egress and the potential location of a water well.
- B. No Action - the PROJECT as proposed would not be approved across lands administered by the BLM.
- C. Alternatives - a reasonable range of alternatives to the proposed action, determined by the BLM as a result of its evaluation of the PROJECT and public input.

To facilitate timely completion of required environmental documents, the CITY has agreed to utilize a contractor. Pursuant to 40 CFR 1506.5(c), the CITY has recommended and the BLM has approved the team of S2o Design and Engineering and GeoEngineers (hereinafter referred to as the CONTRACTOR) to assist with the NEPA process with the completion of any required environmental studies as well as to prepare a Draft and Final NEPA compliance document at the CITY's expense. The BLM will coordinate directly with the CONTRACTOR. The BLM's Authorized Officer will ensure that communications between the CITY and the BLM, and communications between the CONTRACTOR and the BLM are consistent with the roles and responsibilities stated in this MOU. This includes ensuring that points of contact are established and used for communications between the parties. During the term of the MOU any direct communications between the CITY and the CONTRACTOR regarding the NEPA process will be consistent with those described in this MOU and held to a minimum. Any direct communications regarding the NEPA process between the CITY and the CONTRACTOR outside of the provisions of this MOU must be approved in advance by BLM (BLM Washington Office Instruction Memorandum 2006-011).

III. AUTHORITIES

- A. The authorities for the BLM to enter into this agreement include, but are not limited to, the following:
 - 1. *NEPA*, 42 U.S.C. 4321, et seq.
 - 2. *Federal Land Policy and Management Act of 1976(FLPMA)*, 43 U.S.C. 1701, et seq.
 - 3. *Recreation and Public Purposes Act*, 43 U.S.C. 869 et seq.
- B. The authorities for the CITY to enter into this agreement include, but are not limited to, the following:
 - 1. Idaho Code Title 50 - Municipal Corporations, Chapter 3 Powers, Section 50-301.

2. Idaho Code Title 50 – Municipal Corporations, Chapter 3 Powers, Section 50-303.
3. Idaho Code Title 50 – Municipal Corporations, Chapter 3 Powers, Section 50-323.

Nothing in this MOU alters or supersedes the authorities and responsibilities of any of the Parties on any matter under their respective jurisdictions.

IV. ROLES AND RESPONSIBILITIES

A. The BLM roles and responsibilities include:

1. The BLM will be the lead agency in the preparation of the environmental documentation and is responsible to determine the adequacy of the NEPA compliance documents for public land administered by the BLM and for ensuring compliance with the requirements of NEPA, the CEQ regulations, and other pertinent federal laws and regulations, including consultations required by Section 7 of the Endangered Species Act of 1973, as amended, and Section 106 of the National Historic Preservation Act of 1966, as amended for the proposed PROJECT.
2. The Shoshone Field Manager will approve the selection and oversee the CONTRACTOR paid for by the CITY, to prepare the environmental documents in accordance with accepted third party contracting procedures [40 CFR 1506.5(c)] and consistent with the agreement between the CONTRACTOR and CITY with respect to the scope of work, work-product, and budget. The Shoshone Field Manager will designate for the BLM a sole point of contact for all matters related to the preparation of the environmental documents by the CONTRACTOR.
3. The BLM will consult with and keep the CITY informed on the progress of the completion of the environmental documentation, as well as any data needs or changes, on at least a monthly basis. The BLM Authorized Officer is responsible for informing the CITY of the CONTRACTOR's progress and for immediately providing the CITY with notification of CONTRACTOR delays or unsatisfactory products or both. The BLM will immediately contact the CITY upon any agency decision to deviate from the agreed upon scope of work or upon receiving information that substantially changes or impacts this NEPA process. The BLM will invite the CITY and the CONTRACTOR to attend meetings with federal, state, regional and local agencies and other groups throughout the NEPA process.
4. The BLM is responsible for complying with NEPA procedures and implementing regulations including, but not limited to: document contents, administrative record (including documentation of rationale and supporting information), public review of the NEPA compliance documentation, and required decision documentation. The BLM shall ensure that the NEPA compliance documentation presents a range of reasonable alternatives and includes relevant environmental/social/economic issues and impacts, including cumulative impacts.
5. The BLM will provide oversight of the NEPA process to verify that the CONTRACTOR considers existing data, environmental descriptions, and analysis

available from the CITY, BLM, and other sources, and that the CONTRACTOR does not duplicate work already completed unless BLM determines that the existing work is not adequate for the purposes of the environmental documentation. The BLM and the CONTRACTOR will jointly assess whether existing work must be modified or redone. The BLM requires that the CONTRACTOR provide adequate copies of all maps, reports, and draft documents to allow for a timely review.

6. The BLM is responsible for all costs associated with the preparation, reproduction, and mailing of the associated decision documentation.
7. The BLM will prepare, or ensure the preparation of, and issue all notices and other publications for the Federal Register and newspapers. In doing so, the BLM shall coordinate with the CITY to assure notice is disseminated to the broadest audience possible.
8. The BLM will consult with the CITY on the PROJECT description as needed, particularly during impact analysis, to assist in improving the PROJECT description to avoid, mitigate, or otherwise address adverse impacts. The BLM will direct how the CONTRACTOR will consider existing data, environmental descriptions, and analyses available from all sources including the BLM.
9. BLM and the CONTRACTOR will utilize guidance dated June 27, 2006 from the Office of the Solicitor for compilation of the administrative record. The CONTRACTOR will be responsible for design, organization, preparation, and maintenance of the administrative record for the PROJECT. BLM will assist and cooperate in maintenance of the administrative record. In general, an administrative record is a compilation of documents that includes the decision-making documents, as well as relevant documents generated or received in the course of the decision-making process. The administrative record should document the process the BLM used in reaching its final decision to demonstrate it followed the required procedures, as provided by statute, regulation, and any applicable BLM policies, and must explain and rationally support the BLM's decision.
10. All documents and records used or developed by the CONTRACTOR to support the NEPA process will be part of the administrative record. These documents and records will be given to the BLM when the CONTRACTOR's involvement in the process is completed, or as requested by the Authorized Officer and in a format/media acceptable by the BLM, including 508 compliant documents.
11. When requested to do so by the CITY, BLM will treat specific data provided by the CITY as confidential and proprietary to the extent permitted by law. This responsibility extends to both internal and CONTRACTOR use of the information.
12. The BLM will make all information accessible upon request pursuant to the rules and exceptions of the Freedom of Information Act (FOIA). In the event that any confidential and proprietary information provided by the CITY is required by

FOIA to be released by BLM, the CITY shall be provided written notice prior to the release of the information.

13. The BLM will make a final determination on the inclusion or deletion of material from the environmental documentation in all instances involving questions as to the content of any material (including all data, analysis, and conclusions).
14. The CONTRACTOR will arrange the scoping meetings between the BLM and the public. BLM will give notice to the CITY of the meetings but will solely manage the public scoping meetings. BLM and the CONTRACTOR will jointly be responsible for ensuring that the scoping meetings are compliant with NEPA scoping requirements as outlined in 40 C.F.R § 1501.7. The CONTRACTOR will document the results of the meetings for the administrative record.
15. The BLM will be the recipient for all public comments regarding the NEPA compliance documentation. The public comment period will be initiated when the NEPA compliance documentation is released to the public.
16. The CONTRACTOR will draft responses to public comments and protests and provide BLM with a summary of those comments and protests. The BLM will ultimately be responsible for responding to public comments, protests, or administrative/judicial adjudications and will, in coordination with the CITY and the CONTRACTOR, determine necessary modifications to the NEPA compliance documentation as a result of public comments.

B. The CITY's roles and responsibilities include:

1. The CITY shall designate a single-point of contact for the BLM on all matters relating to the preparation of the environmental documentation. The CITY will be responsible for developing and executing a contract with the CONTRACTOR. The CITY will be responsible for all costs and any continuing costs incurred by that CONTRACTOR until terminated by the CITY.
2. Prior to awarding the contract the CITY will ensure that both S2o Design and Engineering and GeoEngineers sign a "No Conflict of Interest" or "Disclosure Statement" stating that the CONTRACTOR does not have any interest, financial or otherwise, in the outcome of the PROJECT. A copy of the signed statements must be provided to the BLM.
3. The CITY will be responsible for providing copies of the Draft and Final NEPA compliance documents in a format/medium acceptable to the BLM through the CONTRACTOR (including a 508 compliant final document). The CITY and CONTRACTOR will assist the BLM in fulfilling its responsibilities with the requirements of NEPA, CEQ regulations, and other pertinent federal laws and regulations.
4. The CITY shall provide to the BLM a written and full description of the proposed PROJECT to facilitate preparation of the description of the proposed action and voluntary mitigation measures (a.k.a. operator committed measures) to be included as part of the proposed action. The CITY may also provide the CONTRACTOR with a copy of their proposal submitted to the BLM. The CITY

shall provide the CONTRACTOR with any MOUs or agreements pertinent to the preparation of the environmental documents.

5. The CITY will provide the BLM with a copy of any written correspondence related to the environmental documentation with the CONTRACTOR pertinent to the NEPA process, and keep the BLM informed of any meetings scheduled.
6. The CITY will, to the extent required under NEPA, agree to participate in the proposal and development of reasonable and feasible mitigation measures as requested by the BLM throughout the NEPA process. BLM will promptly contact the CITY upon the decision to require specific mitigation measures.
7. The CITY will comply with all applicable Federal, State, and local laws and regulations.
8. The CITY may use environmental and other information developed by the CONTRACTOR to prepare the governmental permit application(s), perform related procedures, or design the PROJECT and alternative sites for PROJECT facilities. The CITY may also enter into new or modify existing contracts with the CONTRACTOR to obtain environmental or other information needed for PROJECT design, alternative site evaluation, or other PROJECT related information.

C. The joint roles and responsibilities of the Parties include:

1. All parties are responsible for ensuring the PROJECT administrative record is complete and accurate.
2. The Parties will respond to data requests and provide review comments (e.g. on the description of the proposed PROJECT and changes thereto) within a reasonable time frame. If either Party fails to meet the tentative schedule agreed by the Parties, the schedule may be adjusted. Such responses are normally transacted through the CONTRACTOR.
3. The CONTRACTOR in cooperation with the BLM and the CITY will develop a schedule that projects key dates. Should a party not be able to meet a key date requirement, advance notification shall be given to the other parties. The notification shall include a projected date the requirement will be met. All parties will use best efforts to adhere to, and assist each other in adhering to the schedule.
4. The BLM will participate, at a minimum, in monthly conference calls, or more frequently as necessary, with the CITY and the CONTRACTOR to assure the time schedule is met. Cooperating agencies and affected landowners may be invited to participate in calls when topics discussed are pertinent to their interests.
5. In cooperation with the CITY and the CONTRACTOR the BLM will prepare a mailing list for distribution of the EA and/or PROJECT notices to the public.

V. GENERAL PROVISIONS

A. Representatives

The Parties will designate a primary representative and backup representative as specified in Exhibit A, attached hereto, to ensure coordination during the

implementation of this MOU. The Parties may change their points of contact at any time by providing a revised Exhibit A to the other Party. Any revisions must be added to the official file.

B. Funding

1. This MOU shall not obligate any partner to expend funds or involve the agencies in any contract or other obligations for the payment of money.
2. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the agencies to this MOU will be handled in accordance with applicable laws, regulations and procedures including those for Government procurement and printing. This MOU does not establish authority for noncompetitive awards to the cooperator of any contract or other agreement. Any contract or agreement for other services must fully comply with all applicable requirements for competition.

VI. RECORDS

Any records or documents generated as a result of this MOU shall become part of the official BLM record maintained in accordance with applicable BLM Records Management policies. The Parties have entered into a Data Sharing Agreement and this Agreement shall not be read to conflict with said Agreement. Any request for release of records associated with the implementation of this MOU outside the Parties must be determined by BLM based on applicable laws, including the Freedom of Information Act and the Privacy Act. Documents under the CITY's control are subject to disclosure pursuant to state and local public records laws.

VII. RESERVED RIGHTS

In executing this MOU and taking any other action contemplated hereby, the CITY reserves the right to contest, in any administrative or judicial proceedings, any and all decisions concerning issues in the EA, or any other Federal requirements related to the proposed PROJECT. The CITY recognizes that nothing in this MOU commits the BLM to permit the PROJECT or otherwise take action favorable to the CITY upon all or any part of the proposal.

VIII. TRIBAL CONSULTATION

The BLM shall engage in government-to-government consultation with affected Indian Tribe(s) during all phases of this process, in accordance with applicable Federal statutes, regulations, and other authorities, including Executive Order 131175 on consultation with Indian Tribes and Executive Order 13007 on Indian Sacred Sites. This MOU in no way affects the responsibility of the BLM and the authority of the affected Tribe(s) to engage in these government-to-government consultations. To the extent the BLM receives any Indian Trust data as a function of the requirement to conduct government-to-government consultations with affected Indian Tribe(s), the BLM certifies that it will accord such data all necessary protection and security pursuant to applicable statutes, regulations, and policies, including those set forth in the context of any applicable litigation.

IX. APPLICABLE LAWS AND REGULATIONS; SEVERABILITY CLAUSE

This MOU is subject to all applicable Federal laws, regulations and rules, whether now in force or hereafter enacted or promulgated. Nothing in this MOU shall be construed as in any way impairing the general powers of the BLM under such applicable laws, regulations, and rules. If

any term or provision of this MOU is held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions. Meeting the terms of this MOU shall not excuse any failure to comply with all applicable laws and regulations, whether or not these laws and regulations are specifically listed herein.

X. ENTIRETY OF THE AGREEMENT: NO THIRD PARTY BENEFICIARIES

- A. This MOU, consisting of 9 pages and its attachments, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements concerning the PROJECT, whether written or oral.
- B. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this MOU must not be constructed so as to create such status. The rights, duties and obligations contained in this MOU operate only between the parties to this MOU, and inure solely to the benefit of the parties of this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU will have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.

XI. ADMINISTRATIVE TERMS

- A. In carrying out the terms of this MOU, there shall be no discrimination against any person because of race, creed, color, sex or national origin.
- B. The terms of this MOU are effective only to the extent BLM is authorized to take actions, and to the extent funds are appropriated or otherwise made available.
- C. All documents released to the public must reflect the independent judgment of the BLM. The BLM is responsible for the adequacy and objectivity of all such documents. The CITY and CONTRACTOR will provide BLM with the necessary support to meet that responsibility.

XII. TERM, AMENDMENTS, AND TERMINATION

- A. Term of MOU:
 - 1. This MOU becomes effective upon the date last signed and executed by the duly authorized representative of the Parties to this MOU.
 - 2. This MOU shall remain in effect until a decision on the PROJECT is issued by the BLM, unless terminated; whichever occurs first.
- B. Amendments:
 - 1. The Parties may request changes to this MOU, which shall be effective only upon the written agreement of all Parties.
 - 2. Any changes, modification, revisions, or amendments to this MOU shall be incorporated by written instrument, executed and signed by all Parties, and will be effective in accordance with the terms and conditions contained herein.

C. Termination:

1. This MOU may be unilaterally terminated at any time by any one of its participants, following at least 30 days written notice to the other participants.
2. In the event of termination of the MOU, and at the request of the CITY, the BLM will initiate preparation of any remaining analysis and documentation covered by this MOU consistent with staff and budget limitations. The CITY will be required to submit to the BLM all information and records held by the CITY and the CONTRACTOR that were used and/or created in association with the NEPA process up to the point of MOU termination, as well as all information and records held by the CITY and the CONTRACTOR needed to support continued preparation of the environmental documentation.

XIII. SIGNATURES

- A. All signatories have the appropriate delegation of authority to sign this MOU.
- B. The Parties hereto have executed this MOU on the dates shown below.

For the CITY of Ketchum, ID:

By: _____
Signature Date

Title

For the Bureau of Land Management:

By: _____
Signature Date

Title

Attachment:
Exhibit A

EXHIBIT A

The principal contacts for this MOU are:

For the CITY of Ketchum, ID:

Name City Attorney, Attn: Susan Buxton, Cherese McLain
Address 950 W. Bannock Ste. 520
Phone No. 208-331-1800
Fax No. 208-331-1202
Email cdm@msbtlaw.com

For the Bureau of Land Management:

Name Kasey Prestwich, Realty Specialist
Address 400 West F Street, Shoshone, ID 83352
Phone No. 208-732-7204
Fax No. 208-732-7317
Email kprestwich@blm.gov

For the CONTRACTOR:

Name Jason Poulsen, GeoEngineers Senior Project Manager
Address 1525 South David Lane, Boise, ID 83705
Phone No. 208-433-8098
Fax No. 208-433-8092
Email jpoulsen@geoengineers.com

Either party may designate a different point of contact by notifying the other party in writing of such change.

City of Ketchum, Idaho

P.O. Box 2315 Ketchum, ID 83340 (208) 726-3841 Fax: (208) 726-8234



October 8, 2012

Mayor Hall and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Hall and City Councilors:

Policy for Conversion of Existing Attached, Two-unit Condominium Structures to "Townhouse" Form of Ownership

Introduction/History

Over the past year, Planning Staff has been working with the City Attorney, Fire Chief, and representatives from the Idaho Division of Building Safety (DBS) to determine how to fairly, safely and legally allow conversion of two-unit, attached condominiums into "townhouse" form of ownership. On September 21, 2012, Staff conducted a workshop with the Planning and Zoning Commission, City Attorney, and representatives from Fire Department and DBS on this issue.

Current Report

The attached white paper summarizes the results of the Commission's September 21, 2012 workshop. It identifies the issues and outlines a procedure for how these conversions should be handled in the future.

Attachments

- ATTACHMENT A: White Paper – Conversion of Condominium Duplexes to "Townhouse" Form of Ownership

Recommendation

Staff does not recommend any action at this time. Staff's goal is to make the Council aware of how this condo-to-townhouse conversion can be allowed in a manner that improves health and safety, and keeps the City in good legal standing. Council input will be incorporated into this document, and the Planning Division will utilize this white paper as a basis for handling and processing these types of applications. Should any building, zoning, or subdivision code amendments be necessary, Staff will bring those forward in the future.

Suggested Motion

No motion is needed.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca F. Bundy".

Rebecca F. Bundy
Associate Planner

ATTACHMENT A:

**White Paper -
Conversion of Condominium Duplexes to "Townhouse" Form of Ownership**



COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT

WHITE PAPER

CONVERSION OF CONDOMINIUM DUPLEXES TO
"TOWNHOUSE" FORM OF OWNERSHIP

This paper outlines a process for the City to allow conversion of duplex condominiums to "townhouse" form of ownership. The process is the result of collaboration between the Planning Division, Fire Department, Department of Building Services (DBS) and the City Attorney, with input from the Planning and Zoning Commission. The process requires that the subject condominium structure either be brought into compliance with the building code requirements for "Townhouses" or that a party wall agreement and plat note be required on the final plat. These shall notify any present or future party that the common wall between the units does not meet current "Townhouse" building code, but does meet the requirements for a "Two-family dwelling".

There are many duplex units within the City of Ketchum that were built as condominiums in the late 1970's and 1980's, with each property owner owning the interior volume and the condominium association owning the actual structures and land (held as common elements/space). The duplex units were built to the building code in effect at that time, generally with a common one-hour fire-resistance rated wall between the units. Over the last twenty-plus years, the City has allowed conversion of these units from a condominium form of ownership to a "townhouse" form. In the "townhouse" ownership case, each property owner owns the structure and, at a minimum, the ground beneath it and sometimes more land (commonly known as a subplot). The Planning Division receives frequent inquiries on whether these units can be converted to a "townhouse" form of ownership. It is important to address these types of conversions in a way that is fair, legal, and protects the health, safety, and welfare of the community and utilizes a process that is predictable and replicable.

It is necessary to clarify the different definitions that are used in the Planning and Building review of the codes pertaining to these buildings. The subdivision regulations of the Ketchum Municipal Code, Title 16, uses the word "townhouse" to define a form of ownership, while the International Residential Code (IRC), the building code, uses "Townhouse" to define a development of three (3) units or more, each unit configured in a vertically stacked formation, located side by side to the other units. Typically the existing duplex units in the City were built to code as what the IRC defines as "Two-family dwelling" units not "Townhouses".

The City Attorney has expressed concern about City liability with regard to these conversions. On the one hand, if the conversions are not allowed at all, but there is not a material change to the life-safety of the occupants due to the conversion, the City could experience some legal exposure. More importantly, if the City does allow the conversions without notifying the owners or future buyers that the structure does not meet the current building code

requirements for a "Townhouse", the City could also have legal exposure. As a solution, legal counsel has suggested that a plat note, referencing the non-conforming status of the structure, be added to every duplex condominium converted to "townhouse" ownership [unless the structure can be modified to meet the current building code (as adopted by the City of Ketchum) requirements for a "Townhouse"].

Initially, in looking at this issue, DBS, the City of Ketchum's contracted building official, considered a "townhouse" subplot line as introduction of a true property line, which would require that each unit be considered a "Single-family dwelling" unit. "Single-family dwelling" units on individual lots, with no separation between the buildings, would be required to be built as structurally independent buildings, each possessing its own one-hour fire-resistance rated wall (rated from both sides). This requirement would, in most cases, preclude the conversion from condominium to "townhouse" form of ownership.

Further work between DBS, the Fire Department, the Planning Division and the City Attorney, yielded a workable solution. In the case of an existing, condominiumized "Two-family dwelling" unit with a common party wall: If the party wall is encumbered with a party wall agreement, (requiring maintenance of the integrity of the fire-separation of that wall) then DBS sees the life-safety risk as being the same as a condominium arrangement. Based on current building code, these units would not be considered conforming "Single-family dwelling" units with a true property line between them, due to the encumbrances placed on the common wall, and shall instead comply with the building code requirements for "Two-family dwelling" units.

A "Two-family dwelling" unit requires a common one-hour fire-resistance rated wall (5/8" drywall each side) from foundation to the roof sheathing, with the exception that, if the ceiling has minimum 1/2" drywall, an attic draft stop may be used instead of the separation wall in the attic. The common wall may have no penetrations, except for code compliant, fire-rated electrical boxes.

The procedure for conversion of existing duplexes into a "townhouse" form of ownership will have the following avenues for compliance:

1. *The units shall be brought into compliance with the current International Residential Code requirements for "Townhouse" construction [structurally independent units, each possessing its own one-hour fire-resistance rated wall (rated from both sides) or fully equipped with fire sprinklers]; or*

2. *A plat note shall be added (if the following is true) stating:*

"Although this unit was originally approved/constructed as a duplex condominium (governed by the section for "Two-family dwellings", of the International Residential Code), on or about _____, _____, this unit was converted to a non-conforming "Townhouse" pursuant to Ketchum Municipal Code, Section 16.04.070

TOWNHOUSES, insofar as the "Townhouse" is not in compliance with section of the current IRC, in effect at the date of this plat, governing Townhouses."

If a structure cannot meet the minimum requirements for a "Two-family dwelling" it may not be converted from a condominium to "townhouse" form of ownership. The above plat note may be modified on a case by case basis to reflect the specifics of an individual application.

In addition, the following conditions will apply:

- *The applicant shall provide a certification from a registered design professional, licensed in the State of Idaho, that the fire-separation of the common party wall meets, at a minimum, the current IRC requirements for "Two-family dwelling" units. (Any deficiencies in the wall assembly, they must be rectified and then certified as complete by the registered design professional.)*
- *A plat note shall be added that all parties, heirs, assigns, and successors acknowledge and are herein put on notice that the fire-separation and structural integrity of the common wall between the units shall not be compromised in the future in any way. This includes penetrations, removal of drywall, or any other alterations to the wall that would compromise its fire-separation and structural integrity.*
- *A party wall agreement shall be recorded with the County Recorder's office. It shall detail specifics on how the common wall is owned, maintained or repaired and legal specifics of the agreement. It shall also note that all parties, heirs, assigns, and successors acknowledge and are herein put on notice that the fire-separation and structural integrity of the common wall between the units shall not be compromised in the future in any way.*
- *The applicant and his heirs, assigns and successors and interests shall hold the City harmless and indemnify the City as it pertains to the negligent or intentional actions that inhibit the viability of the common wall between the subject units.*
- *In the case of any alterations to the subject structures, all applicable current building and zoning code requirements shall apply.*

In addition, as of the date of finalization of this white paper, the City will require a plat note on all future new two-dwelling unit construction that units not built to current "Townhouse" building code requirements may never in the future be converted to "townhouse" form of ownership.

City of Ketchum, Idaho

P.O. Box 2315 Ketchum, ID 83340 (208) 726-3841 Fax: (208) 726-8234



October 8, 2012

Mayor Hall and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Hall and City Councilors:

**Park Place III & IV Condominiums,
Townhouse Subdivision Preliminary Plat
Stephen Poorman and Bonnie Garmen, William Hayes, Sandra Bongard, and the
Burke Family Trust, Applicants**

Introduction/History

This application by Stephen Poorman and Bonnie Garmen, William Hayes, Sandra Bongard, and the Burke Family Trust (represented by Bruce Smith, Alpine Enterprises, Inc.) is a request for the approval of townhouse subdivision, preliminary plat, of existing Park Place III Condominiums, Units 1 & 2 and Park Place IV Condominiums, Units 1 & 2.

The Planning and Zoning Commission unanimously recommended approval of the final plat in their actions and adopted findings of fact, dated October 8, 2012.

Current Report

See attached staff report.

Financial Requirement/Impact

None

Recommendation

I respectfully recommend that the City Council approve the Park Place III & IV Townhouse Subdivision Preliminary Plat.

Suggested Motion

"I move to approve the Park Place III & IV Townhouse Subdivision Preliminary Plat, finding the application meets with the applicable review standards with the conditions 1-14, as noted in the staff report."

Sincerely,

A handwritten signature in cursive script that reads "Rebecca F. Bundy".

Rebecca F. Bundy
Associate Planner

**STAFF REPORT
KETCHUM CITY COUNCIL
MEETING OF OCTOBER 15, 2012**

APPLICANTS: Stephen Poorman and Bonnie Garmen, William Hayes, Sandra Bongard, and the Burke Family Trust

REPRESENTATIVE: Bruce Smith, Alpine Enterprises, Inc.

PROJECT: Park Place III & IV Townhomes

FILE NO.: 12-091

REQUEST: Preliminary plat approval for the conversion of two, two (2) unit condominium buildings into two, two (2) unit townhouse buildings on separate sublots. The end result would be 4 townhouse units each on its own subplot.

LOCATION: Park Place III Condominiums, Units 1 & 2 (720 North Third Avenue, 291 West Seventh Street) and Park Place IV Condominiums, Units 1 & 2 (271 West Seventh Street, Units 1 and 2)

ZONING: General Residential – Low Density (GR-L)

NOTICE: A public hearing notice was published in the Idaho Mountain Express on August 22, 2012. Property owners within 300 feet of the subject property were mailed notice on August 23, 2012. At the public hearing before the Commission on September 10, 2012, the hearing was continued on the record to a special meeting on September 21, 2012. At that meeting, the Commission approved recommendation of the preliminary plat to the Council.

REVIEWER: Rebecca F. Bundy, Associate Planner

ATTACHMENTS:

- A. Application, submitted August 1, 2012
- B. Original Park Place III and IV Condominiums recorded plat, dated December 1980
- C. Preliminary plat, dated August 11, 2012
- D. Comments
- E. Planning and Zoning Commission Findings of Fact, dated October 8, 2012

NOTE: Staff comments are in lighter type.

I. SUMMARY AND ANALYSIS

Background

1. The applicant is requesting preliminary plat approval to convert two existing two (2) unit condominium buildings into two, two (2) unit townhouse buildings each on its own subplot.
2. At the September 10, 2012 public hearing before the Planning and Zoning Commission, Planning Staff brought up issues and questions that such conversions bring into play. The Commission continued the meeting on the record to September 21, 2012, to allow Staff to resolve the issues. These are summarized in the Workshop Staff Report for the Commission's September 21, 2012 meeting.
3. On September 21, 2012, prior to the second public hearing on this application, the Commission conducted a workshop on policy for conversion of existing attached, two-unit condominium structures to "townhouse" form of ownership. The results of that workshop are summarized in a White Paper that will be presented to the City Council on October 15, 2012, prior to consideration of this application.
4. At their meeting on September 21, 2012, the Commission recommended approval of the preliminary plat, subject to conditions 1 – 12 on pages 5 and 6 of this staff report. In the meantime, to improve the life safety situation in the units within the process of the requested subdivision, the Fire Chief has added a condition that, prior to the City Clerk's signature of final plat, smoke and carbon monoxide detectors shall be installed to meet current building code.
5. Dennis Keierleber, PE, structural engineer, has certified that the party wall between the units will meet one (1) hour fire separation requirements, with minor modifications required to the party wall in the crawlspace. These or any other modifications required to meet fire rated resistant wall separations must be certified by a registered design professional, licensed in the State of Idaho.
6. On August 30, 2012, Staff met with representatives from the Fire, Utility, and Street Departments and the City Engineer regarding the existing utilities, easements and street access. They were comfortable with the proposed reciprocal utility easements in the new CC&R's. Each unit's domestic water system is currently on its own meter, but the Utility Department will require that the landscaping water be supplied separately for each unit. In addition, the Street Department will require removal of an unpermitted railroad tie planter at 291 West Seventh Street, in the street right-of-way, that makes snow plowing on that street difficult and poses a risk to the plowing equipment. These requirements have been made conditions of approval.
7. The City Attorney has reviewed the project and the proposed CC&R's. He has made the following suggested change to the CC&R language: Paragraph 9 (a) should include "and otherwise in compliance with applicable local, state, and federal law". This change is included as a condition of approval.

8. On August 27, 1012, Staff met with the applicant to discuss the reciprocal utility easements and utility locations. Staff feels that the easement language should not be shown only in the CC&R's, but more clearly represented as a note on the preliminary and final plat. With the townhouse form of ownership, each owner will now have their own piece of land for their own personal use instead of shared open space. This will allow owners to improve and add landscaping, install outside terraces for outside living area, and make other investments on their land. Potentially, for the purposes of the maintenance, repair and replacement of the utility lines, private property could be excavated and improvements damaged. With the criss-cross of utilities running across the properties, staff would like to see those easements and existing utility locations written in the plat notes, so future owners are made aware of them. This has been included as a proposed a condition of approval.

II. EVALUATION STANDARDS

16.04.070 Townhouses

B. Owner's Documents. The subdivider of the townhouse project shall submit with the preliminary plat application a copy of the proposed party wall agreement and any proposed document(s) creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, parking and/or open spaces. Prior to final plat approval, the subdivider shall submit to the city a final copy of said documents and shall file said documents prior to recordation of the plat, which shall reflect the recording instrument numbers.

Staff Analysis: The applicant has made a complete preliminary plat application including the submittal including CC&R's and Party Wall Agreement. The final documents shall be recorded with the final plat.

Recommendation: This standard has been met.

C. Preliminary Plat Procedure.

1. The subdivider may apply for preliminary plat approval from the commission pursuant to Section 16.04.030.D herein at the time application is made for design review approval pursuant to Chapter 17.96. The Commission may approve, deny or conditionally approve said preliminary plat upon consideration of the action taken on the application for design review of the project.

2. The preliminary plat, other data, and the commission's findings shall not be transmitted to the council until construction of the project has commenced under a valid building permit issued by the Ketchum building inspector. The council shall act on the preliminary plat pursuant to Section 16.04.030.E.

Staff Analysis: The project was recorded as a condominium subdivision in 1980. In order to convert the condominium subdivision to a townhouse subdivision, as a condition of approval, the applicants will be required to make improvements to the party wall to bring it into compliance with the 2009 International Residential Code R302.2 or add a plat note that acknowledges that the structure does not comply with R302.2, but that it does comply with

R302.3. In addition, the Fire Chief will require that smoke and carbon monoxide detectors be installed per current building code. This has been made a condition of approval.

Recommendation: Staff has included proposed conditions of approval that would allow for this standard to be met (Conditions #10 and 14).

D. Final Plat Procedure.

1. The final plat procedure contained in Section 16.040.030.F herein shall be followed. However, the final plat shall not be signed by the City Clerk and recorded until the townhouse has received:

- a. An approved life safety inspection for the building shell and all common areas from the Ketchum Building Official; and,
- b. Completion of all design review elements as approved by the Planning and Zoning Administrator.

2. 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.

Staff Analysis: This application is for preliminary plat.

Recommendation: This standard does not apply to the preliminary plat application.

E. Garage. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sublots, provided that the ownership of detached garages is tied to specific townhouse units on the townhouse plat and in any owner's documents and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.

Staff Analysis: Each unit has an attached garage, and the garages are tied to each unit.

Recommendation: This standard has been met.

F. 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 townhouse subdivisions.

Staff Analysis: All other ordinances and regulations shall be followed.

Recommendation: This standard shall be met.

III. RECOMMENDATION TO THE CITY COUNCIL

Recommendation

I respectfully recommend that the City Council approve the Park Place III & IV Townhouse Subdivision Preliminary Plat, subject to Conditions #1 - 14, listed below.

Suggested Motion

"I move to approve the Park Place III & IV Townhouse Subdivision Preliminary Plat, finding the application meets with the applicable review standards with the Conditions #1 - 14 below:

1. The Covenants, Conditions and Restrictions (CC&R's) and Party Wall Agreement shall be simultaneously recorded with the final plat, and the City will not now, nor in the future, determine the validity of either the CC&R's and Party Wall;
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";
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. Each unit shall install its own stand-alone irrigation system confined to its subplot property lines prior to approval of the final plat;
7. Park Place III, Unit 2 (291 West Seventh Street) shall remove any portion of the railroad tie planter, that was installed in the street right-of-way without permission of the City, prior to approval of the final plat. Any landscaping to be placed in the City right-of way necessitated by the removal of the planter structure shall meet with the approval of the Planning Division and the Streets Department;
8. The CC&R language for each subdivision shall be changed as follows: Paragraph 9 (a) should include "and otherwise in compliance with applicable local, state, and federal law", prior to final plat application;
9. The current utility locations, to the extent known, shall be made an exhibit of the CC&R's and recorded with them. At final plat submittal, a plat note shall be added with that same reciprocal utility easement language and description of utility locations. A

further note shall indicate that this information can also be found in the CC&R's, recorded as Instrument No. _____;

10. The units shall be brought into compliance with the International Residential Code, Section 302.2 for townhouse construction; or

The following plat note shall be added to the application to the City Council for Preliminary Plat:

"Although this unit was approved / constructed as a duplex condominium (currently governed by Section R302.3, Two-family dwellings, of the 2009 International Residential Code), on or about _____, _____, this unit was converted to a non-conforming "Townhouse" pursuant to Ketchum Municipal Code, Section 16.04.070 TOWNHOUSES, insofar as the "Townhouse" is not in compliance with Section R302.2, Townhouses, of the 2009 IRC;"

11. Any required construction improvements to the party wall between units shall be certified, by a licensed design professional in the State of Idaho prior to approval of the final plat;
12. A plat note shall be added that all parties acknowledge that the fire separation integrity of the common wall between the units may not be compromised in the future in any way. This includes penetrations, removal of drywall, or any other changes to the wall that would compromise its fire separation integrity;
13. The applicant and his heirs, assigns and successors and interests shall hold the City harmless and indemnify the City as it pertains to the negligent or intentional actions that inhibit the viability of the common wall between the subject units. Similar restrictions shall be spelled out in detail in the CC&R's or party wall agreement; and
14. Prior to the City Clerk's signature of final plat, smoke and carbon monoxide detectors shall be installed to meet current building code."

Attachment A.
Application, submitted August 1, 2012

ALPINE ENTERPRISES INC.

Surveying, Mapping, GPS, GIS and Natural Hazards Consulting

DATE: July 31, 2012

TO: City of Ketchum
Community and Economic Development Dept.
Ketchum, ID 83340

RE: Converting Park Place III & IV Townhouse Condominiums to Townhomes.

Dear City;

The owners of the subject properties wish to convert their existing Condominium Projects to the Townhouse form of Ownership. I had performed the same conversion to Park Place II Townhomes circa 2010.

When the Subject Projects were originally Platted in 1980 the City did not have a mechanism for Townhouses, so any Multi-Family Projects were Platted as Condominiums. The Units were constructed as Townhomes with Fire Resistant Party Walls and no Vertical Overlap.

We are submitting both Projects on a single Preliminary Plat, but propose to have 2 separate Final Plats.

The Owners are:

Park Place III: Sandra Bongard (Unit 2)
PO Box 2151
Sun Valley, ID 83333

Burke Family Trust (Unit 1)
13831 Table Rock Rd.
Montague, CA 96064

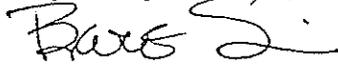
Park Place IV: F. William Hayes (Unit 1)
PO Box 600
Sun Valley, ID 83353

Bonnie L Garman and Stephen H. Poorman
PO Box 4029
Ketchum, ID 83340

The Units have been inspected by Dennis Keierleber, PE and his Letter is attached. Park Place IV will require minor Modifications to comply with applicable codes for Fire Wall Separation.

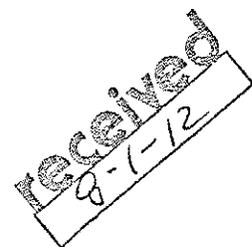
Please feel free to contact me if you have any questions, comments or we can be of further assistance.

Respectfully submitted,



Bruce Smith, PLS

PPIII&IV_AppCoverLtr_30Jul12.docx



CITY OF KETCHUM SUBDIVISION APPLICATION

NAME OF PROPOSED SUBDIVISION: PARK PLACE III + III TOWNHOMES
Jon Burke & Bill Hayes

OWNER OF RECORD: PP III: SANDRA BUNGARD PPII: STEVE + BONNIE GAEMAN

ADDRESS OF OWNER: SEE ATTACHED COVER LETTER

REPRESENTATIVE OF OWNER: BRUCE SMITH, PLS; ALPINE ENTERPRISES INC

CONTACT: Owner: Representative: X Phone No.: 727-1988

Mailing Address: PO Box 2037, KETCHUM
LEGAL DESCRIPTION: (attach if necessary): PARK PLACE III + PARK PLACE IV ~~III~~
TOWNHOUSE CONDOMINIUMS

STREET ADDRESS: 300 AVE + 7TH ST.

SUBDIVISION FEATURES: Number of Lots: 4 SUBLOTS
Number of Dwelling Units: 4

Total land area in acres or square feet: PP III ± 8260 SF.; PPII ± 8230 SF.

Current Zoning District: GR-L Proposed Zoning District: GR-L

Overlay District: Flood Avalanche Pedestrian Mountain

Type: Condominium Land PUD Townhouse X

Adjacent land in same ownership in acres or square feet: NONE

Easements to be dedicated on final plat: (describe briefly): PUBLIC UTILITIES, SHARED DRIVEWAY

Proposed and existing exterior lighting: (described briefly): LOW WATT, DOWNCAST

IMPROVEMENTS TO BE INSTALLED PRIOR TO FINAL PLAT APPROVAL:

Streets Paved	Yes <u>EXIST</u>	No <u> </u>	Water Supply:	Ketchum Municipal	<u>X</u>
Curbs & Gutters	Yes <u> </u>	No <u>X</u>		Private Wells	<u> </u>
Sidewalks	Yes <u> </u>	No <u>X</u>	Sewer System:	Public	<u>X</u>
Street Lights	Yes <u> </u>	No <u>X</u>		Septic	<u> </u>
Street Signs	Yes <u>EXIST</u>	No <u> </u>		Cesspool	<u> </u>
Fire Hydrant(s)	Yes <u>EXIST</u>	No <u> </u>	Power:	Underground	<u>X</u>
Extend Water Lines	Yes <u>EXIST</u>	No <u> </u>		Overhead	<u> </u>
Extend Sewer Lines	Yes <u>EXIST</u>	No <u> </u>			

ATTACHMENTS TO COMPLETE APPLICATION:

- Copies of Articles of Incorporation and By-Laws of Homeowners Associations and/or Condominium Declarations
- Copy of current title report and owner's recorded deed to the subject property
- Six (6) copies of preliminary plat; one (1) 11x17 copy; and, a CD or email of the electronic copy (.pdf) of the plat

The 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 the reasonable attorney fees, including attorney fees on appeal, and expenses of the City of Ketchum. I hereby certify that all information requested, as submitted, is prepared to the best of my ability and knowledge and I request that this application be processed for consideration as a subdivision.

Signature of Owner (Representative) BRUCE S. Date: 31JUL12

Pursuant to Resolution No. 08-123, any direct costs incurred by the City of Ketchum to review this application will be the responsibility of the applicant. Costs include but are not limited to engineer review, attorney review, legal noticing, and copying costs associated with the application. The City will require a retainer to be paid by the applicant at the time of application submittal to cover said costs. Following a decision or other closure of an application, the applicant will either

8-1-12