

BEFORE THE KETCHUM PLANNING AND ZONING COMMISSION

IN RE:) Case No: PUD-CUP-08-008
)
WARM SPRINGS RANCH) KETCHUM CITY COUNCIL
RESORT DEVELOPMENT) - FINDINGS OF FACT
AGREEMENT) CONCLUSIONS OF LAW AND DECISION
THIRD AMENDMENT)
)
)

The above-entitled PUD conditional use permit application came before the Ketchum City Council for consideration on November 7 and November 30, 2011. The Ketchum City Council having taken written and oral testimony, and having duly considered the matter, makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT

A. PROJECT SUMMARY.

Helios Development, LLC, owner of the subject property, is requesting approval of the Third Amendment to the Development Agreement for the Planned Unit Development Conditional Use Permit (PUD CUP) for the Warm Springs Ranch Resort, a proposed five-star designed hotel and mixed-use hospitality project, including significant open space and recreational facilities. The Warm Springs Ranch Resort property is proposed on Tax Lot Numbers 8080, 8079, 8074, 8082, 8075, 8076, 8077 and 8078 in Sections 1, 12 and 13 and a portion of HES 292 T4N, R17E; all located at 1801 Warm Springs Road (property generally known as the Warm Springs Ranch Restaurant and Golf Course).

B. APPLICATION SUBMITTAL.

The applicant submitted a letter requesting amendment of the WSRR PUD and Development Agreement to the Ketchum Community and Economic Development (CED) Department on July 25, 2011. A small packet of drawings was handed out at the August 22, 2011 Planning and Zoning Commission meeting. A second letter and draft of the amended development agreement, as well as a revised site plan, were submitted on September 14, 2011. A letter responding to the Planning and Zoning Commission’s comments was submitted on October 27, 2011. A final set of drawings was submitted on November 9, 2011, and a Detailed Workforce Housing Proposal was submitted on November 21, 2011.

C. NOTICE OF PUBLIC HEARING OF THE COUNCIL.

Property owners within 600 feet and agencies were mailed notice on October 20, 2011. Notice was published in the Idaho Mountain Express on October 19, 2011 and was posted on site on October 31, 2011.

GENERAL FINDINGS OF FACT

D. PROJECT BACKGROUND

The Ketchum City Council approved the Warm Springs Ranch Resort PUD on April 7, 2009 (City Council Findings of Fact, Attachment A to the November 7, 2011 Staff Report). Subsequently, the Council approved the Warm Springs Ranch Resort Development Agreement in August of 2009, (Attachment B to the November 7, 2011 Staff Report). That document outlined a Phasing Plan which was approved by the Council in November of 2009. The original Development Agreement was amended in May 2010 (Attachment C to the November 7, 2011 Staff Report). In January 2011, the City Council approved a twelve (12) month extension of their obligations under the Development Agreement, which was included in Attachment D to the November 7, 2011 Staff Report.

On July 25, 2011, the Owner, Helios Development LLC, submitted a letter to the Mayor and City Council requesting a modification of its PUD approval and another amendment to the Annexation and Development Agreement (Attachment F to the September 26th, 2011 Staff Report). Helios will separately submit a proposal to amend the Design Review Approval for the project.

At its regular meeting of August 22, 2011, the Planning and Zoning Commission considered the applicant's request for modifications to the PUD and the Annexation and Development Agreement. The applicant requested changes to the previous Workforce Housing and to Golf, Tennis and Recreation Fee requirements. The Commission considered the requested changes and asked for more detailed information, including scaled plans, on the golf practice facility and tennis courts. They also asked for more information on the golf and tennis "Locals Programs". They requested that any audit arrangement of the housing fund not be at the City's cost and that the date by which a building permit be obtained, in order to receive a waiver of the workforce housing requirement, be moved forward to 2013. They also requested that the Parks and Recreation Department research the cost of building tennis courts.

On September 14, 2011, the applicant submitted an updated submittal outlining the proposed changes to the master development plan. The current proposal has eliminated nearly 250,000 square feet from the original project and is to be built in three phases. Phase 1 (357,200 square feet) includes 120 hotel rooms, 31 residential units, public area (bar, restaurant, ballroom, boardroom, living room, and kids' game room), spa and treatment rooms, swimming pool and Jacuzzi, tennis courts, golf practice facility, trails, fishing facility and stream restoration. Phase 2 includes up to 59 creek side residences, and Phase 3 proposes up to 15 ranch homes. See comparison matrix below:

Comparison of 2009 PUD with 2011 Amendment Request

Component (Core Hotel Bldg.)	Number of Units 2009 PUD	Gross Square Footage 2009 PUD	Number of Units 2011 Proposal	Gross Square Footage 2011
Hotel Rooms	120-126	102,856	120	Not Available
Other Hotel Spaces		77,227		Not Available
Interior Public Areas		59,378		Not Available
Fractional Ownership	20	51,615	0	
Residences	36	107,072	31	Not Available
<u>Parking</u>				
Parking Structure and Mechanical	369 Structured Stalls; 35 surface stalls	109,750	82 surface	30,000
Subterranean Parking	70; a part of the 369 structured stalls above	28,625	70	40,000
Total Maximum Parking		109,750 (above grade Square footage)		70,000
Total Maximum Core Hotel Bldg.	182	538,151		356,000
<u>Remaining Block 1</u>				
Workforce Housing	44	36,295	0 – subsidy fund	
Residences			74	Not Available
Town Homes	12-24	75,953		
WS Ranch Restaurant		6,500		
Maximum Block 1		620,146		
Villas + 1 Events House	26	96,500		
Estate Lots	2	11,800		
PROJECT TOTAL		728,446		Not Available

The Council conducted a Public Hearing on this request at their November 7th City Council meeting. The Council made the following comments:

- Concern with the cost of managing the fund outlined in the applicant proposal; that the management fees should not take away from the fund balance.
- Will this approach be hard to enforce if the hotel closes down or encounters financial difficulties?
- The reconfigured golf course and two tennis courts make sense for the resort, but offering two courts for municipal use is not practical for the City;
- Ketchum residents should not pay for impacts associated with the project;
- The recreation fee could be reduced proportionally to the reduced project size;
- Concerns with the loss of the building for Employee Housing and the \$12 million value of that building for a revenue stream based on aggressive assumptions.
- Avoid setting a precedent: over the long term, our policy of adding new units to the affordable/community housing stock is a good one.

The Applicant has submitted a more detailed Workforce Housing Proposal which outlines how the program will operate, Attachment F to the November 29, 2011 City Council Staff Report.

E. APPLICANT REQUEST

i. Employee (Workforce) Housing

The applicant requested to waive the employee (workforce) housing requirement and to create a revenue stream after the Hotel is operational dedicated to workforce housing. (This type of program is commonly known as Employer Assisted Housing, (EAH) as discussed further in these Findings.) The Commission considered this issue in detail at their two public hearings. Please review standard 17 of the PUD Findings of Fact beginning on page 13 of this report for a review of the difference between Community Housing and Employee Housing; for a summary of the City's Employee Housing Requirements; for a summary of the previously approved WSRR Employee Housing proposal, and for the conclusions of the Commission as to the appropriateness of this proposed revenue stream. The Council considered the issue of an EAH revenue stream at their two public hearings. Council deliberations are summarized under Standard 17 herein.

ii. Active Recreation

The July 25, 2011 amendment request proposed substituting a golf practice facility for the originally proposed nine hole golf course and eliminating the original \$500,000 recreation contribution, substituting construction of two tennis courts in Phase 1 and one in each of the subsequent two phases of the project. No changes were proposed to the trail, open space or Warm Spring Creek restoration and access elements from the original PUD and Development Agreement.

The applicant responded to staff with a letter, dated October 27, 2011, regarding their position on the Planning and Zoning Commission's recommendation. Since the golf and tennis facilities on the property were always privately owned and were decommissioned before current owner purchased the property, the applicant does not agree that the code's "no net loss" of recreation standard applies in this case. They also stipulated that a "recreation contribution" of \$300,000, separate from the Workforce Housing Fund, as recommended by the Commission, is too significant a financial burden and unacceptable. The letter pointed out that the proposed golf teaching facility would be a unique recreation opportunity for the Valley. The Council deliberated on the need to mitigate impacts to active recreation resulting from this project at their two public hearings as further elaborated under Standard 13 herein.

iii. Other topics

The October 27, 2011 letter from the applicant mentions the requirement for a traffic study, which was Condition #6 of the October 10, 2011 Commission Findings of Fact. Staff has clarified that if the roundabout is not changed to a three-way intersection, a revised traffic study may not be necessary, since the project size has been reduced and traffic counts will be lower than what was previously analyzed. This needs to include consideration of employees commuting to the site who previously would have lived on-site in Employee Housing. Staff has added clarifying language to this condition under the Council Recommend Motion.

KETCHUM CITY CODE 16.08.080(A) (PUD) EVALUATION STANDARDS.

1. Minimum lot size of three acres. All land within the development shall be contiguous except for intervening waterways. Parcels that are not contiguous due to intervening streets are discouraged. However, the commission and the council may consider lands that include intervening streets on a case by case basis. The commission may recommend waiver or deferral of the minimum lot size and the council may grant said waiver or deferral only for projects which:

a. Include a minimum of thirty (30) percent of community or employee housing, as defined in Section 16.08.030;

b. Guarantee the use, rental prices, or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Blaine County housing authority and/or the Ketchum city council; and,

c. Are on parcels that are no less than one and one-half acres (sixty-five thousand three hundred forty [65,340] square feet). Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof; or,

d. For a hotel which meets the definition of hotel in Chapter 17.08, Definitions, and conforms to all other requirements of Chapter 17.64, Community Core District. Modifications or waivers from the provision of Chapter 17.64 may be granted for hotel uses only as outlined in Chapter 17.64.010(H)(c).

Finding: The applicant is not requesting a change to the approved Community Housing requirement or the minimum lot size of approx. 77 acres. Employee Housing is more specifically regulated in Zoning Code Section 17.52.010.H Tourist Zone District, and is analyzed under Standard #17, herein. The Council found that this standard has been met, as no changes are proposed to the approved PUD.

2. That the proposed project will not be detrimental to the present and permitted uses of surrounding areas.

Finding: The original PUD determined that this standard had been met with a "Tent Diagram" concept. The July 25, 2011 letter from Helios states revised square footage numbers for the hotel and residential components within Phase 1, which are reduced in scale from the original proposal. The applicant has stated that these changes will fit within the adopted Tent Diagram and either meet or increase setbacks established in the original PUD approval. These changes will be processed as a separate request. The changes will modify both the adopted PUD and the Design Review approval. This standard has been met, subject to the design review process to verify the specifics of compliance.

3. That the proposed project will have a beneficial effect not normally achieved by standard subdivision development.

Finding: The original PUD determined that this standard had been met as the project was determined to have a beneficial effect not normally achieved by a standard subdivision. The changes proposed do not affect this finding; this standard has been met.

4. The development shall be in harmony with the surrounding area.

Finding: No changes to the approved PUD or Design Review have been requested at this time. The current project is smaller than the original, will be designed within the agreed upon "Tent Diagram" and will be set back further from Warm Springs Road. This standard has been met subject to the design review process to verify the specifics of compliance.

5. Densities and uses may be transferred between zoning districts within a PUD as permitted under this chapter provided the aggregate overall allowable density of units and uses shall be no greater than that allowed in the zoning district or districts in which the development is located. Notwithstanding the above, the commission may recommend waiver or deferral of the maximum density and the council may grant additional density above the aggregate overall allowable density only for projects which construct community or employee housing; and which:

- a. Include a minimum of thirty (30) percent of community or employee housing, as defined in Section 16.08.030; and,**
- b. Guarantee the use, rental prices, or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Blaine County Housing Authority and/or the Ketchum City Council.**

Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof.

Finding: The original PUD determined that this standard was not applicable, because the applicant met the zoning density requirements and was requesting no waivers. The changes outlined in the July 25, 2011 letter from Helios would not change this analysis. Therefore, this standard has been met.

- 6. That the proposed vehicular and non-motorized transportation system:**
- a) Is adequate to carry anticipated traffic consistent with existing and future development of surrounding properties;**
 - b) Will not generate vehicular traffic to cause "undue congestion" of the public street network within or outside the PUD;**
 - c) Is designed to provide automotive and pedestrian safety and convenience;**
 - d) Is designed to provide adequate removal, storage and deposition of snow;**
 - e) Is designed so that traffic ingress and egress will have the least impact possible on adjacent residential uses. This includes design of roadways and access to connect to arterial streets wherever possible, and design of ingress, egress and parking areas to have the least impact on surrounding uses;**
 - f) Includes the use of buffers or other physical separations to buffer vehicular movement from adjacent uses;**
 - g) Is designed so that roads are placed so that disturbance of natural features and existing vegetation is minimized;**
 - h) Includes trails and sidewalks that creates an internal circulation system and connect to surrounding trails and walkways.**

Finding: No current Transportation or Site Plans have been submitted at this time. It is likely that overall traffic volumes will be lower based on a reduced project size. This standard has been met subject to

further analysis of traffic impacts at the time of additional design review, as noted in the Council conditions of approval and the findings herein.

7. That the plan is in conformance with and promotes the purposes and goals of the comprehensive plan, zoning ordinance, and other applicable ordinances of the city, and not in conflict with the public interest.

a. Pursuant to Section 16.08.070.D, all of the design review standards in Chapter 17.96 shall be carefully analyzed and considered. This includes detailed analysis of building bulk, undulation and other design elements. The site plan should be sensitive to the architecture and scale of the surrounding neighborhood;

b. The influence of the site design on the surrounding neighborhood, including relationship of the site plan with existing structures, streets, traffic flow and adjacent open spaces shall be considered;

c. The site design should cluster units on the most developable and least visually sensitive portion of the site.

Finding: The original PUD determined that this standard had been met. The current project is smaller than the original, will be designed within the agreed upon "Tent Diagram" and will be set back further from Warm Springs Road. This standard has been met. The design review process shall verify the specifics of compliance.

8. That the development plan incorporates the site's significant natural features.

Finding: The original PUD determined that this standard had been met. No material changes have been proposed to the original design, with the exception of less development. This standard has been met.

9. Substantial buffer planting strips or other barriers are provided where no natural buffers exist.

Finding: The original PUD determined that this standard had been met. No material changes have been proposed to the original design, with the exception of less development. This standard has been met.

10. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner.

Finding: Phase 1 is proposed as a stand-alone hotel and residences with golf practice facility, tennis, trails and stream restoration. It proposes a voluntary revenue stream to support employee/workforce housing, once the hotel is in operation. Phases 2 contains up to 59 housing units, and Phase 3 contains up to 15. A full development and phasing plan will be finalized in conjunction with the City's Design Review process. A full Construction Mitigation Plan is a requirement of the Development Agreement that includes a public process in front of the City Council, at the time that construction is planned. The proposed phasing schedule and commitment at this time by the applicant is sufficient based on the current market environment, with the condition that a detailed Phasing Plan, including the number of phases, buildings, amenities and other elements made part of each phase, be specifically approved by the Council as an amendment to the Development Agreement. This phasing plan will be made a part of or coincide with Design Review.

The July 25, 2011 letter from the Applicant proposed that all employee housing requirements would be waived if the applicant applies for a building permit by June 1, 2014. The Commission considered the following Draft Condition of Approval in their September 26th meeting:

- 1. The time frame during which a waiver shall be granted for the employee/workforce housing requirements shall be modified if the following deadlines are met:
 - a. A building permit is applied for by December 31, 2013; and
 - b. Construction commences before December 31, 2014; and
 - c. A certificate of Occupancy for the Hotel portion of the project is issued by January 31, 2017.

The Commission found that this approach of waiving the employee housing if a permit is applied for by a given deadline would be a strong motivator in the case where the developer was required to construct housing or pay cash towards employee housing construction. However, in the case where employee housing is being mitigated with a revenue stream derived from hotel operations and there are no “up front” costs, some members of the Commission did not find there to be a strong link between the timing of the hotel construction and the need to mitigate employee housing. Commissioners debated this issue, and on a vote of 3 to 2 opted not to include the above condition related to the waiving of employee housing tied to building permit application. Council deliberated on the findings of the Commission, and concurred with their votes. The council did not include this condition as part of their approval.

11. Adequate and useable open space shall be provided. The applicant shall dedicate to the common use of the homeowners or to the public adequate open space in a configuration useable and convenient to the residents of the project. The amount of useable open space provided shall be greater than that which would be provided under the applicable "aggregate lot coverage" requirements for the zoning district or districts within the proposed project. Provision shall be made for adequate and continuing management of all open spaces and common facilities to ensure proper maintenance thereof.

Finding: The original PUD determined that this standard had been met. No material changes have been proposed to the original design, with the exception of less development. This standard has been met.

12. Location of buildings, parking areas and common areas shall maximize privacy within the project and in relationship to adjacent properties and protect solar access to adjacent properties.

Finding: The original PUD determined that this standard had been met. No material changes have been proposed to the original design, with the exception of less development. This standard has been met.

13. "Adequate recreational facilities" and/or daycare shall be provided. Provision of adequate on-site recreational facilities may not be required if it is found that the project is of insufficient size or density to warrant same and the occupant's needs for recreational facilities will be adequately provided by payment of a recreation fee in lieu thereof to the city for development of additional active park facilities. On-site daycare may be considered to satisfy the adequate recreational facility requirement or may be required in addition to the recreational facilities requirement.

Finding: In the 2008, due to the magnitude of the PUD and the fact that this is the largest project proposal on record to be reviewed by the City, the Council determined the Warm Springs Ranch PUD was of sufficient size to require “adequate recreational facilities” as part of the PUD process.

At the time of the original PUD process, the Applicant proposed approximately ten (10) acres of active open space consisting mainly of the golf course which would be open for semi-public use. Approximately fifty-seven (57) additional acres of natural passive open space was proposed.

The current application eliminates the golf course and replaces it with a “Dave Pelz” golf teaching facility with 10-12 greens. Two tennis courts were proposed in Phase 1, and one in each of Phases 2 and 3. The trail system and fishing opportunities are unchanged. The applicant described the function and use of the teaching facility in the November 7th, 2011 hearing before the Council.

The Warm Springs Ranch property has traditionally provided recreational activities in both active and passive forms including tennis courts and a golf course, access to Warm Springs Creek for fishing, nature walks and general scenic viewing of the landscape. Historically, the public has greatly benefited mainly from the active recreational uses of golf and tennis.

A detailed recreation analysis was included in the original 2008 PUD Findings, including analysis of the Ketchum Comprehensive Plan, overview of the Ketchum Parks acreage and uses and overview of the City’s Tennis and Golf programs.

2008 Approved Tennis Mitigation:

The eight (8) existing tennis courts on the property were proposed to be permanently decommissioned due to the Applicant’s Statement of Constraints and the Construction Development Program. In lieu of tennis, the Applicant proposed a financial donation of \$500,000 to the City to be used for the creation of new, off-site tennis courts, improvements to existing tennis courts and/or facilities supplemental to tennis courts (i.e. bathrooms, water fountains, etc.) or to build a children’s splash park, to be paid in an initial installment of \$200,000 (due 1/15/12) and subsequent installments of \$100,000 annually. No payments have been made to date.

2011 Revised Tennis Proposal:

The eight (8) existing tennis courts on the property are proposed to be replaced with two (2) courts in Phase 1 and one (1) court in each of two (2) subsequent phases, for a total of four (4) courts. This would result in a net loss of four (4) tennis courts to the City. No financial donation was proposed by the applicant. The applicant was amenable to the creation of a finite revenue stream, similar to the voluntary fee proposed to support affordable housing, to establish a Recreation Fund for use at the discretion of the Parks and Recreation Department. At the November 7, 2011 Public Hearing, several Councilmember’s stated that two tennis courts as proposed were not practical for an effective municipal program. The Parks Department concurred.

2008 Approved Golf Course and Public Use Plan:

The Applicant proposed to redesign and augment the previous existing golf course. An executive nine (9) hole par three (3) golf course with a pro-shop of approximately 1,000 square feet was

proposed. Five (5) of the holes were to be west of the core hotel and south of Warm Springs Creek, traversing along the creek and amongst the Villas. The remaining four (4) holes were in the the southeast portion of subject property. A Golf Course Program was proposed with scheduling and pricing for locals. Highlights of the Golf Course Program included:

- Pricing of no less than twenty (20) percent off the regular resort rate for locals;
- Access to the golf course seven (7) days a week, yet limited to one (1) tee time per hour during peak hours (8-10 AM and 4-6 PM) and no more than two (2) tee times per hour; and
- Special programs and events at the golf course including Junior and Ladies Play Days, a Warm Springs Championship, and Charity Tournaments.

2011 Revised Golf Proposal:

The Applicant is no longer proposing an executive nine (9) hole, par three (3) golf course. Instead, a “Dave Pelz Final 40” golf practice facility is proposed. The Applicant explained the concept of the teaching facility at the November 7th public hearing. The proposed “Locals Program” remains essentially unchanged.

2008 Approved Trails Plan:

An integrated year round trail system was proposed that includes connections with future trails to Warm Springs. A public multi-use, non-motorized easement will be dedicated for access to the proposed trail system throughout the property as designated and along Warm Springs Creek. A variety of trails have been proposed including a streamside trail on both the north side of Warm Springs Creek near the core hotel building and on the south side of the creek along the northwest portion of subject property. Additionally, connectivity to the existing Warm Springs Road multi-use path for access to Heidelberg Trail and Adam’s Gulch is proposed in addition to a cross country ski trail and mountain trail linkage. (Staff has stated that recreational trails do not appear to meet the spirit of Active Recreational Needs as described in the Ketchum Comprehensive Plan).

2011 Trails Proposal:

No change to the approved trail system is currently proposed. However, the proposed elimination of the golf course may increase trail and open space opportunities.

2008 Approved Pool and Spa Proposal:

The core hotel will include a spa of approximately 13,000 square feet that will be open to the public for a fee. An indoor/outdoor pool is also proposed but public access has not been stated. The Commission found that neither of these amenities meet the City’s needs for “Useable open space” or “Active Recreation,” given the potentially limited public access to these amenities.

2011 Pool and Spa – Current Proposal:

No change to the approved pool and spa is currently proposed.

2008 Approved Warm Springs Creek Proposal:

The project proposal details design and restoration of Warm Springs Creek along portions of the property to augment the existing scenic experience and fishing access. A ten (10) foot fisherman and nature study easement and a twenty-five (25) foot scenic easement will both be dedicated along the banks of Warm Springs Creek through the property as required by Section 16.04.040 (J) of the Ketchum Subdivision Ordinance. (Staff has stated that the proposed fishing access does not appear to meet the spirit of Active Recreational Needs as described in the Ketchum Comprehensive Plan).

2011 Warm Springs Creek Proposal:

No change to Warm Springs Creek access is currently proposed.

2008 Approved Day Care Plan and 2011 Proposal:

It has not been determined if on-site day care will be provided by the Applicant. At this time no details have been provided.

Recreation Mitigation

In the previous approval, the Council found that a contribution of \$500,000 was adequate mitigation for the loss of active recreational facilities. The Council determined that the timing of this donation should be outlined in the Development Agreement. Additionally, the Council found that the public access to the golf course as proposed by the Applicant was sufficient.

Original Conclusion:

"Adequate recreational facilities" have been provided. Provision of adequate on-site recreational facilities have been provided in the form of the golf course, including public use of the course as outlined herein. On-site daycare is not a requirement.

At the November 7, 2011 public hearing, the Council discussed whether "adequate recreational facilities" have been provided. The nine hole golf course is to be replaced with a golf practice facility and there is a net loss of four (4) tennis courts without financial compensation. Regarding tennis, the Council noted that there is no time frame proposed with phases two and three, so the Parks Department cannot rely on the full four courts with any certain timeline, making programming difficult. In the indeterminate time period, two tennis courts are not practical for a municipal program. The Council discussed the need for an additional financial donation or physical on site improvements to mitigate the loss of active recreational opportunities that were intrinsic to the 2008 PUD. Due to the reduced project size, and corresponding reduced impacts, the Council found that the original recreation contribution of \$500,000 was more than needed based on this revised proposal. The Council found that a contribution of \$300,000 towards active recreation was needed to ensure adequate recreational facilities and to meet this standard of review. The Council felt that the Applicant could determine what mechanism should be used to secure these funds, but that the recreation mitigation should be paid in two payments beginning with the first half due at the time of the issuance of the Hotel Certificate of Occupancy, as further outlined in Condition #2 herein.

14. There shall be special development objectives and special characteristics of the site or physical conditions that justify the granting of the PUD conditional use permit.

Finding: The Council weighed the various special development objectives and special site characteristics against the waivers requested in finding that the benefits derived from the project exceed the modifications or waivers to zoning or other standards. The analysis of benefits included all site planning decisions that preserve open space, cluster development, submit for LEED Certified construction certification, etc. Key special development objectives and special characteristics of the site considered by the Council are listed below.

Table 17: Special Development Objectives

Special Development Objective, special Characteristics of the Site or Physical Conditions	Type of Objective	2011 Amendment
Iconically Designed, Core Hotel operated at industry acknowledged 5-Star standards with a minimum of 120 units (“hot beds/keys”)	Economic	No change
Conference Space (13,000-20,000 sq. ft.)	Economic	Bar, restaurant, ballroom, board room,, living room, kids’ game room – exact size to be determined
Approx. 35,000 sq. ft. of Workforce Housing	Social	0.5% voluntary tax to be used to subsidize housing for lower income employees
Approx. 54 ac. passive open space	Environmental, Aesthetic	No change
Active Open Space: Program for semi-public use of a 9-hole executive par 3 golf course	Recreational; Economic	“Dave Pelz Final 40” golf practice facility, 10-12 greens with bunkers and rough areas. Locals play time
Active Open Space: Contribution of \$500,000 towards loss of 8 private tennis courts with semi-public use	Recreational; Economic	Total of 4 tennis courts proposed over 3 phases. Dates of Phases 2 and 3 unknown. Commission found that an additional contribution towards active recreation mitigation was needed
Additional Nonmotorized Trails	Recreational; Economic	No change
Restoration of Warm Springs Creek and upland wildlife corridors	Environmental; Aesthetic; Recreational	No change
Improvements to deficiencies to Bald Mtn. Road by rerouting Bald Mtn. Road through the project	Health and Safety	Revised transportation study to reflect new design and decreased development at Design Review
Sustainable Design/ Green Building Practices	Environmental	No change
Trail Enhancement and Connectivity: \$115,000	Recreation; Environmental	No change

15. The development will be completed within a reasonable time.

Finding: Phase 1 proposes a stand-alone hotel and residences with golf practice facility, tennis, trails and stream restoration. It proposes a voluntary revenue stream to support affordable housing, once the hotel is in operation. Phase 2 proposes up to 59 housing units, and Phase 3 proposes up to 15. No time frames have been proposed for Phases 2 and 3. Phase 1 can stand on its own in the event that Phases 2 and 3 are never initiated.

A full development and phasing plan will be finalized in conjunction with the City’s Design Review process. A full Construction Mitigation Plan is a requirement of the Development Agreement that

includes a public process in front of the City Council. The proposed phasing schedule and commitment at this time by the applicant is sufficient based on the current market environment, with the condition that a detailed Phasing Plan, including the number of phases, buildings, amenities and other elements made part of each phase, be specifically approved by the Council as an amendment to the Development Agreement. This phasing plan will be made a part of or coincide with Design Review. This condition has been met.

16. That public services, facilities and utilities are adequate to serve the proposed project and anticipated development within the appropriate service areas.

Finding: The Council found that it is likely overall traffic volumes will be lower than for the original PUD, based on reduced project size. No current transportation study has been submitted. As a condition of approval, the need for an additional traffic study shall be considered as part of the Design Review process, and shall include impacts associated with employees commuting to the site who previously were housed on-site in Employee Housing.

17. That the project complies with all applicable ordinances, rules and regulations of the city of Ketchum, Idaho except as modified or waived pursuant to this subsection A.

This standard is applicable to the request to modify the Employee Housing Requirement of the Ketchum Municipal Code. Ketchum recognizes two forms of housing mitigation: employee housing and community housing.

A. Community Housing

Community housing is defined in the Zoning Code (Title 17 and the PUD Ordinance (Title 16) as follows:

Title 17, Zoning Code: COMMUNITY HOUSING OR WORK FORCE HOUSING: Dwelling units, for sale or rent, restricted typically via deed restriction by size and type for individuals meeting asset, income and minimum occupancy guidelines approved by the governing housing authority and the city of Ketchum.

Title 16, PUD: COMMUNITY HOUSING: That portion of housing within a planned unit development that meets the following minimum requirements:

A. Affordability requirements for ownership and rental units:

1. "Ownership community or employee housing unit" means that a unit's selling price shall not exceed the maximum sales prices set forth in part IV, section 2 of the 1997 Ketchum affordable housing guidelines (housing guidelines) or any subsequent amendments. The costs of an ownership unit include mortgage, principal and interest payments, insurance costs and property taxes. Income categories 1 through 4, included in the housing guidelines, shall be considered appropriate categories for the provision of community or employee housing.

2. "Rental community or employee housing unit" means no more than thirty percent (30%) of a household's gross monthly income shall go toward housing costs. For a rental dwelling unit, housing costs include a utility allowance (telephone excluded) and monthly rental

payments. To be considered affordable, rental units should be made available and priced for households making sixty percent (60%) or less of the Blaine County AMI.

B. Community housing units must be deed restricted to ensure appropriate income levels served, corresponding sales prices and long term affordability.

Community Housing, 2008 PUD Approval

In December 16, 2008, the Applicant outlined a proposal to address community housing, consisting of a revenue stream derived from a voluntary real estate transfer fee. The fee is applied upon the conveyance of property interest within the project. At that time, 0.5% of the sale price for that unit or lot will be paid to a dedicated community housing fund. With a 2008 estimated first sale of all of the real estate within the project of \$600 million, the first sales on all of the real estate within the project would generate approximately \$3 million towards that dedicated revenue stream. The approved Development Agreement also stipulated this revenue stream from URA tax increment revenue derived from the project would be matched and applied towards the housing fund.

In 2008, the URA revenues from this property over a 15 year period were estimated as follows:

- Years 1-5: \$3,800,000 revenue
- Years 1-10: \$13,007,000
- Years 1-15: \$22,800,000

In a revised memo by consultant Henderson, Young and Associates, the URA, LOT and Property Tax revenues from this property of the 15 year period are estimated as follows:

Year	LOT Revenue	City of Ketchum Property Tax	URA Property Tax
Oct 2011 - Sep 2012	0	0	0
Oct 2012 - Sep 2013	0	0	0
Oct 2013 - Sep 2014	159,268	0	0
Oct 2014 - Sep 2015	318,535	0	0
Oct 2015 - Sep 2016	220,798	155,689	811,624
Oct 2016 - Sep 2017	372,052	230,262	1,200,380
Oct 2017 - Sep 2018	545,711	296,732	1,546,900
Oct 2018 - Sep 2019	607,736	378,582	1,973,591
Oct 2019 - Sep 2020	597,994	450,179	2,346,834
Oct 2020 - Sep 2021	552,817	465,900	2,428,787
Oct 2021 - Sep 2022	468,923	465,900	2,428,787
Oct 2022 - Sep 2023	468,923	465,900	2,428,787
Oct 2023 - Sep 2024	468,923	465,900	2,428,787
Oct 2024 - Sep 2025	468,923	465,900	2,428,787
Oct 2025 - Sep 2026	468,923	465,900	2,428,787
Oct 2026 - Sep 2027	468,923	465,900	2,428,787
Oct 2027 - Sep 2028	468,923	465,900	2,428,787
Oct 2028 - Sep 2029	468,923	465,900	2,428,787
Oct 2029 - Sep 2030	468,923	465,900	2,428,787
Oct 2030 - Sep 2031	468,923	465,900	2,428,787
Oct 2031 - Sep 2032	468,923	465,900	2,428,787
Oct 2032 - Sep 2033	468,923	465,900	2,428,787
Oct 2033 - Sep 2034	468,923	465,900	2,428,787
Oct 2034 - Sep 2035	468,923	465,900	2,428,787

In the original approval, the Council deliberated on to how to ensure Community Housing or a methodology in the future for hotel projects that may not meet the definition of a hotel. The Council in those findings noted that Community Housing and Employee Housing are not equal products, with issues of square footage, ownership and the disadvantages of being on-site being some of the differentiating characteristics. However, even though workforce housing and community should not be considered equal in weight, each hotel is unique, warranting independent deliberations. The Council found in 2008 that this project, Warm Springs Ranch, is a resort hotel and not a traditional hotel as the City's definition intends, and that an equal credit of square footage of Employee Housing to Community Housing was merited in this case.

The Council found that the Community Housing requirement per the City definition of "hotel" should be waived, and was satisfied as described in the 2009 Council Findings of Fact, Condition #6. (Attachment A to the November 7, 2011 staff report)

Current Proposal:

The applicant is not requesting any change to the adopted Community Housing Mitigation.

B. Employee Housing.

Employee housing in Ketchum is a requirement of Hotels. The following sections from the Tourist Zone District apply to this application.

17.52.010.H Tourist Zone District

d. Employee Housing. Hotel developments are required to mitigate employee housing impacts at a ratio of twenty five (25) percent of the total number of employees calculated by the following formula: 1 employee per hotel room or bedroom.

2008 PUD Approval

In 2008, the Applicant submitted a revised Employee Housing Plan, which was conceptual in nature. The Updated Application Submittal, dated May 9, 2008, states that 71 employees will be housed on site, which is 46.7% of the hotel's total, estimated employees. No breakdown as to the revised total square footage or unit mix since the initial February 11, 2008, submittal was provided.

Their scheme contained a total of 36,295 (or 35,290 livable) square feet of Employee Housing consisting of approximately 10,500 square feet of co-housing units, 4,550 square feet of one-bedroom units, and 20,240 square feet of two-bedroom units. The November 3 and December 2, 2008 Updated Submittals provided details on the new numbers of employees to be housed on site which was 93.

Note that the number of employees estimated by the Applicant is greater than the City's formula of one employee per hotel room. This formula was created as a way of calculating employee housing requirements in a simple manner, and was not intended to reflect the actual number of employees that would be needed to serve any one project. In 2008, the Council found that the Applicant met the

requirements to mitigate employee housing impacts at a ratio of twenty five percent (25%) of the total number of employees calculated by the following formula: 1 employee per hotel room or bedroom.

- e. **Employee Housing Plan.** The applicant shall provide an Employee Housing Plan that outlines the number of employees, income categories and other pertinent data. The Employee Housing Plan shall be the basis of the applicant’s proposal for a mix of employee housing which addresses the range of employees needed to serve the hotel.

Employee Housing, 2008 PUD Approval:

The Updated Application Submittal received on May 9, 2008 contained a section on Workforce Housing Location. This indicated that due to response to the concern of location and mass of the workforce housing (in the February 11, 2008, submittal) the building was be relocated to the southeast of the core hotel. The amount of employees to be housed was been reduced from 92 to 71, as further detailed by the Applicant on June 19, 2008. The specific building envelope of the Workforce Housing was designated in the Tent Diagram, Drawing A.6, Development Height Standards.

The following table outlines the City of Ketchum’s Workforce Housing requirements with regards to the various schemes reviewed by the City.

Table 2: Warm Springs Ranch Resort, Calculation of Ketchum Workforce Housing Requirements

Scheme	# of Rentable Rooms in the Hotel	Employees (= # of Rentable Rooms)	# of Employees to be housed on site	% of Employees Housed on site	# of Employees per Unit	Livable Square Feet for WF Housing	Type of Rooms	Square Feet of Each Room	Total Employees
9 (Feb. 11, 2008)	152	152	92	60.53%	8 per co-housing unit; 1 per 1BD; 2 per 2BD	40,741	5 co-housing units; 14 1BDs; 19 2BDs	Co-housing = 2100; 1 BD = 800; 2 BD = 1000	152
9 & 10 (May 9, 2008)	152	152	71	46.71%	8 per co-housing unit; 1 per 1BD; 2 per 2BD	30,718	4 co-housing; 9 1BDs; 15 2BDs	Co-housing = 2100; 1 BD = 800; 2 BD = 1000	152
11 (Nov. 5, 2008)	176	176	93	52.84%	8 per co-housing unit; 1 per 1BD; 2 per 2BD	35,290	5 co-housing units; 7 1BDs; 23 2BDs Total units = 35	Co-housing = 2100; 1 BD = 650; 2 BD = 880	176
Dec. 2, 2008	120-182	225-275	93	34-41%	8 per co-housing unit; 1 per 1BD; 2 per 2BD	36,295(35,290 net livable sf.)	5 co-housing units; 7 1BDs; 23 2BDs Total units = 35	Co-housing = 2100; 1 BD = 650; 2 BD = 880	225-275
August, 2011	116	116	0	0%	?	?	?	?	?

The Council found that additional regulations regarding the development and operation of Workforce Housing should be as specified in the Development Agreement.

The November 12, 2008 Updated Submittal contained 142,800 square feet of “hot beds/keys.” The Applicant has described the demographics of the employees that will be housed on site as mid-level managers, singles, and married couples. Upper management and families are anticipated to live in outlying Wood River communities such as Ketchum, Hailey, and Bellevue. The average square feet of living space per employee housed on site is 379.

f. The City Council may consider a request by the hotel developer to satisfy any required employee or community housing square footage by alternate means. Off site mitigation, payment of in lieu fees, land in lieu of units, voluntary real estate transfer fees or other considerations may be proposed by the hotel developer. Larger sites are encouraged to include workforce housing on-site. The City Council has full discretionary power to deny said request.

The Council considered the topic of anticipated changes to the City’s Employee Housing policy at two Council work sessions. The concepts discussed in these work sessions are summarized in Attachment F of the November 7, 2011 City Council Staff Report, Planning and Zoning Commission’s Findings of Fact, September 26, 2011, beginning on page 28. In a nutshell, the Council noted the need for flexibility to respond to employee housing proposals that related to overall housing supply in the community specifically at the time of the request. The Council concluded at the end of the second work session that Section “f” above allows the Council the flexibility to consider alternate proposals. Alternate proposals would be considered in specific circumstances based on factors such as the overall economy, housing supply at the time of the request, etc. The Council was clear that they did not want to set a precedent relative to the adopted employee housing policy that all future hotel projects would expect to follow. Consideration of alternate proposals would be based on specific, documented circumstances at the time of the decision.

Housing In Lieu

Section “f” allows the Council to consider an In Lieu payment for the employee housing. The previous employee housing building approved on-site as part of the PUD was 12,160 square feet. At the current BCHA In Lieu rate of \$316.96 per square foot, the In Lieu fee would be \$3,854,234 million.

Alternately, the letter from BCHA, Attachment E to the November 29, 2011 City Council Staff Report, outlines an In Lieu calculation based on what it would cost to house 25% of the hotel employees in the marketplace. The BCHA has stated that a good rule of thumb for rental costs in today’s market is \$500 per bedroom. Therefore, to house 31.25 employees, approximately \$180,000 would be needed annually in today’s dollars to meet the City’s policy.

Supply and Demand: Updated Housing Needs Assessment

BCHA has sent a revised comment letter, Attachment E to the November 29, 2011 City Council Staff Report. The letter re-iterates their support for the City’s Hotel Employee Housing regulations, with a

preference for built units over the proposed revenue stream. Additional details regarding questions related to the proposed revenue stream are noted in the letter.

BCHA recently released the 2011 Housing Needs Assessment. The last Housing Needs Assessment was developed at the peak of the local development boom, and that the 2011 Assessment will be at or near the trough. The new report will address market swings by the inclusion of an economic model that can be modified with new inputs to calibrate to market changes and economic conditions. This model will calculate housing demand as a function of wages, location, housing values, rents and capital markets. These inputs can be made by BCHA staff on an annual basis, or other term as determined by the BCHA Board and stakeholder groups such as the cities. Some brief comparisons to the 2006 data are as follows:

- In 2006, there was a demand for 1,200 community housing units valley wide. Taking into account location preferences of those interviewed in the 2006 study, 1,000 of these units were recommended to be developed in the north valley.
- The 2011 Housing Needs Assessment will examine existing housing supply, and perform a “gap” analysis to determine how many new units are needed at this time, by taking into account existing stock as compared to the number of households at each given income level. The study states that, in 2011, 480 units are needed valley-wide, of which 220 are needed in Ketchum. The greatest demand in 2011 is for 1-bedroom units. The greatest housing need is housing for workers that earn less than 50% of Area Median Income. (Area Median Income or AMI is the income at which 50% of households at a given size earn more, and 50% earn less. The study assumes a household size of 3 with an AMI of \$69,000.)
- In 2006, Ketchum had 5,824 jobs, which generated \$67,586,811 in wages. Ketchum has dropped to 4,499 jobs generating \$44,875,132 in wages in 2010, a 23% decrease in the number of jobs, and a 34% decrease in wages. Job loss has contributed significantly to the conclusions above regarding number of new units estimated as need. From 2002 to 2009, Blaine County has had a net new job growth of only 31 jobs.

Revenue Stream: Employer Assisted Housing Programs

Staff prepared background material for Council consideration on the type of housing program proposed by the applicant, which is known in the housing industry as Employer Assisted Housing (EAH). It is a common model in urban areas, and is also used regularly to mitigate impacts of employers with lower wage employees, such as hotels. (Attachments A and B to the November 29, 2011 City Council Staff Report). Staff conducted a conference call with the lead staff person for the housing non-profit that manages the EAH for the St. Regis in Dana Point, Jill Martin. That program has been in effect since 2002. She estimates that she spends approximately 8 hours per month managing the program, which now contains 93 employees. (The Dana Point St. Regis employs approximately 500 employees). Jill is a strong believer in the EAH program. She finds it easy to administer, and thinks it has been a good incentive to keep employees closer to work with lower commute times. She strongly recommends that a nonprofit manage the program, such as BCHA.

Staff also contacted other ski communities to see if there have been any changes to employee housing requirements. Those results are outlined in Attachment C to the November 29, 2011 City Council Staff Report. Staff noted that Ketchum is currently at a very different point in its maturity as a ski resort than

Warm Springs Ranch Resort, PUD-CUP

Findings of Fact, Conclusions of Law and Decision, City Council 12-3-2011

many of the other communities that require employee housing. These other resorts already have a significant hospitality bed base, while Ketchum has lost beds over the last decade.

The Council considered this approach based on several specific factors:

- At this particular time in the City's economy, the jobs generated by the project and the development of a "5 star" hotel are benefits that the City highly desires.
- The 2011 Housing Needs Assessment indicates that the housing need at this particular date in 2011 is significantly lower than the need in 2006.
- Approval of an Employer Assisted Housing Program (EAH) as outlined herein will have a dramatic impact on the availability of existing rental units, and the availability of rental housing supply will be different in the future. This approach may not be applicable to future hotel projects based on limited supply of rental housing.
- The program is designed to provide housing reimbursement for housing costs greater than 30% of income. Employees must document income and rent to qualify. The program as proposed does not require employees to live in Ketchum. The Council found that a weighted offset to give a greater reimbursement amount for housing within City limits would better meet the City's goal of employees living in Ketchum.
- The program is proposed to be administered by a WSRR Representative, an official from Ketchum and BCHA or ARCH. The Council found that a nonprofit housing organization (BCHA) should administer the program. Overall administration costs do not seem high based on staff interviews with other providers.
- The program is primarily designed to assist employees earning \$39,000 a year or less. WSRR estimates that there will be 65 initial participants of the estimated 134 full time employees. The Council found that this would result in assistance to 48% of the employees of the WSRR Resort as compared to the City's requirement to fully house 25% of the employees.

CITY COUNCIL APPROVAL

The Council moved to approve the Request for Modification of Planned Unit Development (PUD) Approval and Third Amendment of Annexation and Development Agreement subject to the following conditions:

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, Idaho Code, the City has passed a land use and zoning code, encompassed in Ketchum City Code Title 17.

3. Under Chapter 65, Title 67, Idaho Code, the City has passed a subdivision ordinance, encompassed in Ketchum City Code Title 16, providing standards for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code.

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 Chapters 16.04.040 and 16.04.090, Ketchum City Code.

DECISION

THEREFORE, the Ketchum City Council **approves** this Planned Unit Development and Conditional Use Permit, subject to the following conditions:

PROPOSED CONDITIONS:

1. A dedicated Workforce Housing Fund shall be established to mitigate workforce housing impacts associated with the Hotel. The purpose of the fund is to increase the affordability of housing in Ketchum for employees of the Warm Springs Ranch Resort project. The Fund shall be continually funded as long as the hotel is in operation, subject to the following:
 - a. The fund shall be administered by the Blaine County Housing Authority or other nonprofit housing entity as designated by the City, with input into administration procedures from the City and the applicant/hotel operator.
 - b. The Fund shall be established a minimum of two (2) months after the date of Certificate of Occupancy for the Hotel, with an initial fund balance of no less than \$60,000.
 - c. The Fund shall be established based on a percentage of gross sales of hotel room rates, merchandise, food and other similar items. Said percentage shall be 0.5%. Said fund shall contain a minimum level of funding, stipulated in the amendment to the Annexation and Development Agreement.
 - d. A reasonable methodology for auditing the Fund shall be provided for in the amendment to the Annexation and Development Agreement.
 - e. The Fund should be a segregated account utilized solely for the employees of the Warm Springs Ranch Resort project.
 - f. Funds from the account may not be dispersed directly to employees, but may only be dispersed to landlords, mortgagee or other acceptable third party providing housing.
 - g. Housing reimbursements shall be structured to create a greater reimbursement amount for employees that choose to live in Ketchum City limits at a ratio of contribution towards rent that is 5% greater than contributions outside City limits.

c. Weekend Rules for Peak Season. Locals will be allowed to have access to the golf practice facility both days of the weekend. Local access will be limited to two (2) tee times per hour during the peak hours of Saturday and Sunday. During non-peak hours, locals will be allowed up to three (3) tee times per hour. Locals may call the day before, after 5:30 p.m., and if tee times are open, they will be allowed to occupy up to three (3) tee times during peak hours and four (4) tee times during non-peak hours.

d. Weekday and Weekend Rules for Shoulder Seasons. Locals will be allowed three (3) tee times per hour during peak hours. During non-peak hours, locals will be allowed up to five (5) tee times per hour. Locals may call the day before, after 5:30 p.m., and if tee times are open, they will be allowed to occupy up to four (4) tee times during peak hours and five (5) tee times during non-peak hours.

e. The Owner may reasonably restrict access to the golf practice facility to conduct golf school(s) or other formal instruction.

4. The previously approved Design Review of January, 2010 shall not be valid after the effective date of an Amended Annexation and Development Agreement between the City and the Applicant and shall be updated to reflect the revised PUD plan.
5. An updated Transportation Study may be required, and, if required, shall be submitted as part of the revised Design Review. If required, the study shall, in particular, examine whether the revised intersection at Warm Springs Road and the project entrance is sufficient to handle project traffic combined with future background traffic.
6. An update Phasing and Development Plan shall be submitted to the Council prior to application for any building permits.

Findings of Fact **adopted** by motion the 29th day of November, 2011 and signed this 3rd day of January, 2012.

Randy Hall, Mayor
City of Ketchum