RESOLUTION NUMBER 07-029

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KETCHUM, IDAHO DETERMINING THAT THE PROPOSED BUILDING FOR THE SUN VALLEY CENTER FOR THE ARTS AND HUMANITIES TO BE LOCATED ON LOT 1, SIMPLOT SUBDIVISION IS INTENDED SOLELY FOR PUBLIC OR SEMI PUBLIC USES AND SHALL BE CONSIDERED A "CIVIC BUILDING" PURSUANT TO KMC SECTION 17.64.010.K.2 FOR THE PURPOSES OF DESIGN REVIEW.

WHEREAS, that certain Planned Unit Development Agreement dated March 31, 2006 between the City and the owner of Lot 1, Simplot Subdivision requires that development of such property be pursuant to design criteria applicable to the Community Core; and

WHEREAS, the Sun Valley Center for the Arts and Humanities intends to build a unique and dynamic facility on such property intended solely for public use and/or semi-public use and has requested that such building be designated as a civic building; and

WHEREAS, in order to provide maximum flexibility for the design of civic buildings, the Ketchum Municipal Code does not prescribe development specifications for civic buildings; and

WHEREAS, Ketchum Municipal Code, Chapter 17.64.010, states that civic buildings are of special public importance to the Community Core and are allowed in all of the sub-districts of the Community Core; and

WHEREAS, the City Council has the discretion to determine that a building intended solely for public use and/or semi public use may be considered a civic building for the purposes of design review; and

WHEREAS, civic buildings shall be designed to meet the site design and building form criteria, which includes compatibility in form and character to other buildings that are allowed within the applicable sub-district, exceptional and innovative design, and compliance with applicable design review regulations and design guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Ketchum, Idaho that the City Council hereby determines that the proposed building for the Sun Valley Center for the Arts and Humanities to be located on Lot 1, Simplot Subdivision is intended solely for public or semi public uses and shall be considered a "civic building" pursuant to KMC Section 17.64.010.K.2 for the purposes of design review.

This Resolution will be in full force and effect upon its adoption this fifth (5th) day of March 2007.

CITY OF KETCHUM, IDAHO

Randy Hall, Mayor

ATTEST:

Sandra E. Cady, CMC
City Treasurer/Clerk

APPROVED AS TO FORM
AND CONTENT:

Benjamin W. Worst,
City Attorney

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ESHMAN

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February 26, 2007

Via Hand Delivery &
Via Email

Mr. Harold Moniz
Planning Director

Mayor Randy Hall

Council President Baird Gourlay
Councilwoman Terry Tracy
Councilman Ron Parsons
Councilman Member Steve Shafran

Post Office box 2315
Ketchum, Idaho 83340

Re: March 5th Hearing Date – Lot 1 Simplot Subdivision

Dear Harold, Mayor Hall and Council Members Gourlay, Tracy, Parsons and Shafran:

This letter is a follow up to my letter of January 2, 2007 to you regarding the Sun Valley Center for the Arts (the "Center") and it acquisition of Lot 1 of the Simplot Subdivision (the "Property") from Simplot Ketchum Properties LLC ("Simplot").

In my January 2nd letter to you, we requested the following: (1) a determination by you that the Center be considered a "Civic" building for purposes of design review, and (2) a waiver of the Workforce Housing Linkage Fee. At this time we would like to defer the discussion regarding the waiver of the Workforce Housing Linkage Fee to a later time.

At the March 5th hearing, we would like to discuss with the Council the following issues:

(1) The designation that the Center's proposed structure be deemed a "Civic" building for purposes of design review as further addressed in my January 2nd letter to you;

(2) Whether the Center, which is currently subject to a 2,500 square foot onsite housing requirement per the Planned Unit Development Agreement, can meet its housing requirement by providing for it offsite. The Center desires

to remove the housing from within the structure due to the realization that the incompatibility of the uses between housing tenants and the Center's operation provide neither party the desired complimentary environment. The Center envisions evening programming as frequently as five (5) nights per week as well as on weekends which clearly will not provide a mutually respectful environment for housing within the same physical structure;

(3) With respect to housing requirements and associated fees, whether the City will consider differentiating between nonprofit organizations that provide a substantial public benefit to the community and "for profit" private developers;

(4) If the City is willing to differentiate nonprofits which provide a substantial public benefit, then whether the City is willing to consider all or any of the following forms of relief: exemptions, reduction in housing square footage requirements, discounted in lieu fees, the placement of existing market housing inventory into the affordable housing pool, and/or working with other nonprofit entities such as the CDC, ARCH, and the Habitat for Humanity or even with for profit developers who have land upon they intend to build affordable housing.

If these issues can be addressed at the March 5th meeting, it will provide an opportunity for the Center to learn how best to proceed with the City as we seek the requisite approvals for the project while respecting the Center's stated goals and financial ability. More specifically, addressing these issues will help the Board of the Center determine their ability to 1) conclude the acquisition of the property, 2) design a structure which will meet their needs currently and in the future, 3) afford to build the structure, and 4) meet the necessary fundraising goals to accomplish all of the foregoing.

Once again, we appreciate your time and consideration of the Center's stated requests. We look forward to working with you on this important project for the City of Ketchum.

Sincerely,

J. ESHMAN LAW P.C.

Jill W. Eshman, Esq.

cc: Ben Worst, City Attorney
Sam Gappmayer, Executive Director of SVCA

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January 2, 2007

Mr. Harold Moniz
Planning Director

Mayor Randy Hall

Council President Baird Gourlay
Councilwoman Terry Tracy
Councilman Ron Parsons
Councilman Member Steve Shafran

Post Office box 2315
Ketchum, Idaho 83340

Re: Lot 1 Simplot Subdivision

Dear Harold, Mayor Hall and Council Members Gourlay, Tracy, Parsons and Shafran:

I represent the Sun Valley Center for the Arts (the "Center"), an Idaho non-profit corporation, in connection with its acquisition of Lot 1 of Simplot Subdivision (the "Property") from Simplot Ketchum Properties LLC ("Simplot"). As you are aware, the Center intends to construct a building on the Property that will be its home for many years.

The Property is subject to a Planned Unit Development Agreement which was recorded March 31, 2006 ("Development Agreement") (a copy is attached for your reference). The purpose of this letter is twofold: 1) to request clarification regarding the design guidelines applicable to the Property and, 2) to request a waiver of the workforce linkage fee.

The Center desires to build a unique and dynamic facility that will support its mission "*to stimulate and provoke the imagination while opening hearts and minds through excellence in diverse arts programming.*" The Center intends to design the structure to be distinctive and functional, accessible and inviting, responsive to the mountain environment, and congruent with the Center's current and future operational needs.

Toward that end the Center has retained an architect, Olson Sundberg Kundig Allen Architects (the "Architect") of Seattle, Washington, and has commenced preparing

plans for the building. The Architect has been provided with the Development Agreement and has access to the City Ordinances; however, further guidance as to the applicable design guidelines is needed for the reasons set forth below.

The Property is located within the Tourist District. The Property is 32,620 square feet in size. The Development Agreement allows for a building with a gross floor area of 25,000 square feet or less on the Property. In addition, there is a requirement of 2,500 square feet of net livable community housing to be provided on the Property. The Center anticipates constructing a building of approximately 20,000 gross square feet in size excluding the community housing space and the below grade space.

Applicable Design Guidelines. Pursuant to page 9, paragraph 11(n) of the Development Agreement, any building to be developed on the Property is "*subject to design criteria applicable to buildings in the Community Core District, as the same now reads or may hereafter be amended to read.*"

In reviewing the design criteria for the Community Core District set forth in Ordinance 994, adopted October 30, 2006, it is evident that the Sub-Districts and specified building types and development specifications for site design and building form in the Sub-Districts do not contemplate a semi-public or civic use building. However, Ordinance 994, §17.64.101K.2. (a copy of which is included with this letter), does contemplate granting greater design flexibility for the design of civic buildings; and this Ordinance does grant the City Council discretion to determine whether a building intended for semi public use may be considered a civic building for purposes of design review.

"Semi-public use" is defined in the City's Ordinance at §17.08.020 as follows: "*a structure or use partially, but not entirely, open to the use of the public, such as a private school, church, lodge, club, library, hospital or a nonprofit organization.*" The Center is a nonprofit organization that on a regular basis opens its doors, at no charge, to the public for art exhibits, classes and many other community functions.

Therefore, we are requesting that the City Council, pursuant to its discretion granted in Ordinance 994, §17.64.101K.2., make the determination that the structure to be built by the Center which is intended for semi-public use shall be considered a "Civic" building for the purposes of design review. The design review standards applicable to a Civic building are as provided in §17.64.101K.2.

Workforce Housing Linkage Fee. As discussed above, the Property is subject to the terms and conditions of the Development Agreement which imposes a significant community housing component requirement on the Center. It is evident that this requirement was imposed by the City to address in full the community housing requirement of the City at the time of the negotiation with Simplot.

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The Development Agreement imposes a greater community housing component than what would otherwise be required today in the Tourist District. Absent the Development Agreement, the new ordinance for the Tourist District would permit a structure consisting of 16,310 square feet without any community housing component; a structure of approximately 20,000 square feet (the approximate size of the Center's planned building) on this site would be required to provide approximately 627 square feet of community housing.

We realize the Development Agreement was a result of negotiations between the City and Simplot and that many benefits were derived by Simplot from the Development Agreement and the resulting subdivision. However, the comparison highlights that the City's requirements were substantial under both the prior ordinance which had no community housing component as well as under the current ordinance.

Therefore, we are requesting the Workforce Housing Linkage Fee set forth in Ordinance No. 993, be waived by the City Council, pursuant to §17.114.040 B.4. of the Ordinance.

We appreciate your time and consideration of the Center's requests concerning the designation of the proposed Center structure as a "Civic" building as well as the waiver of Workforce Housing Linkage Fee. We look forward to working with you on this important project for the City of Ketchum.

Sincerely,

J. ESHMAN LAW P.C.

Jill W. Eshman, Esq.

cc: Ben Worst, City Attorney
Sam Gappmayer, Executive Director of SVCA

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