

**MEETING AGENDA
THURSDAY, JULY 28, 2016 AT 9:00 A.M.
SUN VALLEY PLANNING AND ZONING COMMISSION**

THE MEETING WILL BEGIN WITH A SITE VISIT AT 402 FAIRWAY RD FOLLOWED BY A SITE VISIT AT 5 GOLF LANE AND THEN ADJOURN TO CITY HALL COUNCIL CHAMBERS FOR THE REQUIRED PUBLIC HEARING AND ALL REMAINING MEETING ITEMS.

1. Call To Order

The Idaho Code requires that, "...A member or employee of a [Planning and Zoning] Commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action." Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of this section shall be a misdemeanor.

2. Public Comment

Opportunity for the public to talk with the Planning and Zoning Commissioners about general issues and ideas not otherwise agendized below (3 minutes max. each).

3. Consent Agenda

- a) Draft Minutes from the Planning & Zoning Commission Meeting of June 9, 2016.

4. New Business

- a) **Design Review #2016-36:** Application proposing a new landscape plan for a lot with an existing single-family residence at 402 Fairway Road. Applicant: Coen + Partners for 402 Fairway Rd, LLC.

- b) **Design Review #2016-02:** Application for the proposed construction of a new 2,900 square foot stable in the Recreational (REC) zone at 5 Golf Lane. Applicant: Marvin Anderson Architects, PLLC, for 5GL, LLC.

5. Continued Business

None

6. Discussion Items

None.

7. Adjourn

Meeting Schedule: Regular Meeting at 9:00 am on Thursday, August 18, 2016

**Minutes of the Planning and Zoning Commission
June 9, 2016**

The Planning and Zoning Commission of the City of Sun Valley, Blaine County, State of Idaho, met in regular session in the Council Chambers of Sun Valley City Hall on June 9, 2016 at 9:00 a.m.

1. [Call To Order](#)

The Commission reconvened in the Council Chambers following a site visit at 5 Golf Lane. Vice Chair Provonsha called the meeting to order at 9:31 a.m.

Vice Chair Provonsha asked the Commission for disclosures on the agenda items. The Commissioners had nothing to disclose.

Present: Vice Chair Jake Provonsha, Commissioner Bill Boeger, and Commissioner Sherri Newland.

Absent: Chair Ken Herich; Commissioner John O'Connor

Also Present: McMahon, Evan Robertson, Scott Campbell, Marvin Anderson, Garth McClure, Bill Beck

2. [Public Comment](#)

None.

3. [Consent Agenda](#)

MOTION

Commissioner Bill Boeger moved to approve the minutes from May 26, 2016, seconded by Commissioner Sherri Newland. All in favor. The motion carried unanimously.

4. [New Business](#)

a. [Sun Valley Water and Sewer District Wellhead](#)

i. [Zone Map Amendment #2016-01: Application for the proposed rezone of Tax Lot 1627 from the OR-1 Zoning District to Open Space \(OS\) Zoning District – or other similar zoning – required for the construction of a new municipal well and pump station on the subject area. Applicant: Sun Valley Water & Sewer District. Location: 12640 Highway 75; Tax Lot 1627 Sun Valley FR NWNE TL 5802, FR NENE TL 1627 SEC 30 4N 18 E.](#)

ii. [Conditional Use Permit #2016-03: Application for the proposed construction of a new municipal well and 960 sq ft pump house in the Open Space \(OS\) Zoning District. Applicant: Sun Valley Water & Sewer District. Location: 12640 Highway 75; Tax Lot 1627 Sun Valley FR NWNE TL 5802, FR NENE TL 1627 SEC 30 4N 18 E.](#)

iii. [Design Review #2016-18: Application for the construction of a municipal well and pump station for the district service area in the Open Space \(OS\) Zoning District. Applicant: Sun Valley Water & Sewer District. Applicant: Sun Valley Water & Sewer District. Location: 12640 Highway 75; Tax Lot 1627; Sun Valley FR NWNE TL 5802, FR NENE TL 1627 SEC 30 4N 18 E.](#)

Community Development Director Jae Hill gave an overview of the various aspects of the project, including how the various applications related to one another. He discussed the design of the structure and recommended approval of the design review application. He discussed two conditions of approval – one related to the approval of the other applications and one related to access to the structure.

Commissioner Boeger asked about plans to shield the structure from view. Hill responded that there are already a number of trees on the berm near the highway and that landscaping is a condition of approval.

Vice Chair Provonsha asked for more detail on access to the structure. Pat McMahon, General Manager of the Water and Sewer District, explained the plan for access. The Commission asked additional questions about the access road, to which Pat McMahon responded.

Vice Chair Provonsha expressed concern about access being off of the highway. McMahon responded it would be through an existing parking lot on the shoulder. Vice Chair Provonsha asked about items being mounted to the exterior of the building. McMahon responded it would only require an antennae. The Commission and McMahon discussed the differences between this application and the building near Lane Ranch. Vice Chair Provonsha asked about the potential access from near the bike path. McMahon responded that would only be used during the bridge construction.

Commissioner Newland asked about the noise produced by the generator. McMahon responded it is a muffled generator that only runs during power outages and once a week for testing. Vice Chair Provonsha asked if staff would be accessing the structure every day. McMahon responded they would.

Commissioner Newland asked about the exterior building materials. McMahon described the siding and roof materials. Commissioner Newland asked about addressing; McMahon provided the address Hill explained the City does not ask for address monuments on properties adjacent to the highway.

Vice Chair Provonsha stated his discomfort with the access being off of the highway. Hill explained that the access will be through the existing parking lot and described the road from the lot to the structure.

Hill discussed the conditional use permit application, noting the proposed Open Space district allows for a transit corridor when appropriate. He noted staff recommends approval.

Hill discussed the zone map amendment application. He stated the parcel was originally zoned OR-1, which does not allow for development. He discussed various findings of fact and conditions of approval that must be made in order to approve the zone map amendment.

The Commission discussed how their recommendations and action would interact with decisions made at the City-Council level. They discussed additional details of the structure, including size and height. Commissioner Newland asked about power to the structure. McMahon responded it was already in place. Vice Chair Provonsha asked for an additional condition of approval regarding adequate screening of electrical meters. The Commission agreed to add that as Condition of Approval #10.

Vice Chair Provonsha opened the public hearing. Hearing no comment, he closed the public hearing.

MOTION

Commissioner Bill Boeger moved to recommend to the City Council approval of Zone Map Amendment 2016-01 the rezone of Tax Lot 1627 from the OR-1 Zoning District to the Open Space (OS) Zoning District, seconded by Commissioner Sherri Newland. All in favor. The motion carried unanimously.

MOTION

Commissioner Bill Boeger moved to approve the Conditional Use Permit #2016-03 approving the construction of a municipal well and pump station subject to the findings of fact and conditions of approval and subject to the approval of the Zone Map Amendment 2016-01 and Design Review Application 2016-18, seconded by Commissioner Sherri Newland. All in favor. The motion carried unanimously.

MOTION

Commissioner Sherri Newland moved to approve Design Review 2016-18 to allow for construction of a 961 square foot pump station for a new municipal well pursuant to the findings of fact and conditions of approval, including the additional Condition of Approval #10 as previously discussed and subject to approval of Zone Map Amendment 2016-01 and the Conditional Use Permit application 2016-03, seconded by Commissioner Bill Boeger. All in favor. The motion carried unanimously.

- b. [Plat Amendment #2016-03: Amend the dimensions of a driveway & public utility easement and a building envelope on lot 3 of Lane Ranch North Subdivision. Applicant: Benchmark Associates, P.A., for LRN Development, LLC.](#)

Garth McClure, of Benchmark Associates, presented the application. He stated it is for a plat amendment to change the easement that falls within Lot 3 for a driveway that benefits both Lots 2 and 3. He noted the reason for the amendment is to transfer the property to the homeowners association and have them maintain the driveway. He stated they have expanded the easement to accommodate the eventual completion of the driveway.

Evan Robertson, representing Lane Ranch, stated it is essentially an improvement on what is already there. Hill stated this will reduce the building envelope while improving access.

Reid Black, Fire Code Enforcement Officer, stated they worked with the owner and it does improve the radius of the turn.

Commissioner Newland asked whether the driveway is paved. McClure responded it is partially paved now but the plan is to have it fully paved.

Commissioner Newland asked about the grade as it relates to drainage. McClure discussed the preliminary grading plan that will be finalized as part of the final design.

Hill gave an overview of the standards required for a plat amendment and stated the application met all of the conditions. He noted the application would need to be approved by the City Council.

Vice Chair Provonsha opened the public hearing. Hearing no comment, he closed the public hearing.

MOTION

Commissioner Bill Boeger moved to recommend approval to the City Council of Plat Amendment Application 2016-03 amending the dimensions of a driveway and public utility easement and a building envelope on Lot 3 of Lane Ranch North Subdivision pursuant to the findings of fact, seconded by Commissioner Sherri Newland. All in favor. The motion carried unanimously.

- c. [5 Golf Lane Stable](#)
- i. [Conditional Use Permit #2016-02: Conditional use approval of a new 2,900 square foot stable \("indoor equestrian use"\) as an accessory structure to a recreational use in the Recreational \(REC\) zone at 5 Golf Lane. Applicant: Marvin Anderson Architects, PLLC, for 5GL, LLC.](#)
- ii. [Design Review #2016-02: Design review approval of a new 2,900 square foot stable in the Recreational \(REC\) zone at 5 Golf Lane. Applicant: Marvin Anderson Architects, PLLC, for 5GL, LLC.](#)

Hill gave an overview of the application, noting design review only takes effect upon approval of the Conditional Use Permit. He discussed section 9-5B-2 of the Sun Valley City Code related to conditions

that may be attached to the conditional use permit and the findings the Commission must make before it can grant the permit. He noted that the Commission had a site visit on the property.

Hill stated that due to difficult access to the site and water pressure issues on the property, the Fire Department has requested certain conditions: to provide 1,500 gallons water flow to a hydrant and that the road be widened to accommodate emergency vehicles. He stated the applicant has not discussed alternative compliance options with the City. He stated staff recommends approval as conditioned.

Vice Chair Provonsha noted he read the applicant's statements and would like the applicant to respond to how it will comply with the conditions.

Commissioner Newland asked about the recreational zoning on the property. Hill stated the parcel is split-zoned, which he showed on a map.

Marvin Anderson, architect, gave an overview of construction on the property to date. He noted they met with the Fire Department several times and acknowledged the water supply to the property does not meet current code requirements. He stated they have explored options, including adding cisterns or wells on the property, and noted that the owner recently replaced all water lines on the property. He stated there is a dry stand pipe on the pond that can be used to pull water, which has a pipe to reach the north parcel. He stated while these changes should provide adequate water, the Fire Department does not believe they will meet their needs in the event of a fire.

Commissioner Boeger asked for a clarification on whether the water supply meets code. Anderson responded that the private water system is sized to supply enough water.

Anderson presented the road access issue. He discussed the history of the property, noting the access road is an easement through the golf course. He acknowledged that not all Fire Department equipment can access the property on that road and that it does not meet current fire code standards due to its width, steepness and tightness of turns. He discussed the reconstruction of a bridge on the road that is sufficient to support the weight of all Fire Department vehicles. He stated his belief that the owner did a lot on the property to try to meet current code requirements, but the road is not to code.

Anderson and the Commission discussed recent renovations as they related to meeting code requirements. Anderson noted that the code requirements for renovations are different than for new structures. Hill noted that the Commission is evaluating the portion of property that is zoned recreation independent of improvements of the other parts of property.

Scott Campbell, of Moffatt Thomas and representing the applicant, explained that the applicant submitted extensive documentation to the City in the even they will need to appeal a decision by the Commission or City Council.

Campbell responded to several points in the staff report. He disagreed that the property is not zoned for agriculture, noting that under City Code table 9-2C-1 cultivation and harvesting of crops is a permitted use. He also stated his disagreement with staff's position that this is a use that requires a conditional use permit. He stated that equestrian use outside is a permitted use and, in order to maintain horses, a structure is necessary.

Campbell then discussed the water issue, stating the applicant has done a lot to address the lack of fire flow to the property. He noted the applicant's position is the fire code does not apply to the proposed structure because it is an agricultural building.

Campbell discussed the inadequacy in the City's Code relating to appeals of decisions made by the Community Development Director. He stressed that the client did not want to litigate, but the law requires they make all of their arguments at this point in the process. Campbell argued the point that the conditions on development must be proportional to the impact the development will have. He stated that in reviewing Planning and Zoning Commission minutes since the time the Comprehensive Plan was adopted, the Commission has not imposed such aggressive demands on any applicant as it has on this applicant. He stated his position that this is a denial of equal protection and is inappropriate.

Campbell discussed the process to appeal a decision by a local fire chief. He stated they would appeal the decision to the State Fire Marshall per Idaho Code.

Commissioner Newland asked about the riparian zone on the property and permitting for work being done near the creek. Anderson responded that the work did not enter the riparian area and so there was no requirement for permits for the work by the creek.

Commissioner Boeger asked about several terms in the City's Code, including outdoor equestrian use, indoor equestrian use and agricultural use. Hill gave an overview of the definitions as they exist in the code. Hill stated his position that this is an application for indoor equestrian use. He noted Campbell specifically stated this is an accessory use to a recreational use, for which the Code expressly requires a conditional use permit. He then elaborated on his reasoning for requiring a conditional use permit. He noted the Fire Department has taken the position that there are additional conditions for safety purposes. He noted the Commission can add conditions if it sees fit.

Hill stated the City looked at NFPA and IFC protection standards and took into account the fact that the road has been in place for so long. He stated the City presented alternatives to the applicant regarding the road, but those have been met with only a response from the attorney.

Campbell disagreed with that characterization of the communication between the City and the applicant, noting that when the Fire Department stated the requirements it would impose the applicant responded through the attorney to start creating a record.

BREAK

The Commission took a break at 11:14 a.m.

The Commission reconvened at 11:28 a.m.

City Attorney Matt Johnson recommended the Commission first address the question of whether a conditional use permit is required. If they determined it was, then they could address its merits. He provided additional detail regarding the appeals process for a decision made by the Community Development Director. He recommended they formally amend the agenda in order to take up the question of whether a CUP is required. He stated the correspondence from the applicant's attorney would serve as a de facto appeal on the determination made by Hill. He stated the applicant's attorney agreed to this process and immediate handling of the situation.

MOTION

Commissioner Sherri Newland moved to amend the agenda to take up the appeal of the Community Development Director's determination with respect to 5 Golf Lane on the proposed use and whether or not it requires a conditional use permit subject to the appeal process in Sun Valley Municipal Code 9-5A-9, seconded by Commissioner Bill Boeger. All in favor. The motion carried unanimously.

[Added Agenda Item] Determination Whether a Conditional Use Permit is Required for the 5 Golf Lane Application Pursuant to the Appeals Process in Sun Valley Municipal Code 9-5A-9

Campbell stated it is problematic for the applicant to put money into improvements on the property when under City Code section 9-5B-2 the conditional use permit can be revoked if the conditions haven't been satisfied. It can also be determined to be void if it hasn't been used for a period of one year. He stated the applicant's position that to impose the requirement of fire flows under these circumstances is unrealistic and that granting the design review and conditional use permit would be a mirage, as the conditions cannot be met under the present circumstances.

Campbell stated his position that this should not be a conditional use regardless, as it is an accessory use for recreation. He also maintained that under state law the proposed structure is an agricultural building, which does not require the building to meet the fire code.

Hill responded, stating that the structure more accurately meets the definition of indoor equestrian use. He provided reasoning for his position. He disagreed that this structure better fit the definition of agricultural structure, as its use is not just for maintenance of horses.

Vice Chair Provonsha asked Hill to clarify his position on why it was not a structure for maintenance of horses. Hill and Provonsha debated the definitions of indoor equestrian use and maintenance facilities.

Campbell offered a rebuttal to Hill's position, referring to Idaho State Code regarding decisions to approve or deny an application. He stated that the interpretation by the City that this is not maintenance of the recreational use of horses on the property is not reasonable. He noted the law requires decisions to be based on reason.

Johnson gave an overview of the process moving forward and the Commission's responsibilities.

Commissioner Boeger asked about what impact a decision that a CUP is not required would have on the adequate water-flow and road-condition issues. Johnson encouraged the Commissioners not to consider that when determining this issue. Hill and Campbell provided their input on the conditions.

Vice Chair Provonsha asked about the precedent a decision about the CUP is required would set. Johnson responded the Commission's decision would have an impact by adding to the definitions in question. Johnson provided further guidance on how to proceed.

Commissioner Newland asked a procedural question regarding whether the City Council would be involved if the Commission did not support the Community Development Department's decision. Johnson responded he would need to look more closely at the code.

Commissioner Newland asked about the design of the structure and whether it includes additional uses such as a tack room and storage for feed. Campbell confirmed there is storage of feed and a tack room.

Vice Chair Provonsha stated his position that the application does not rise to the level of a conditional use permit. Commissioner Boeger stated it is a grey area and agreed a CUP is not required.

Commissioner Newland stated that in her reading of the code, the accessory use for recreational maintenance is more associated with things that are non-living, such as pumps and yards. Her position is that this is different and believes it is subject to a CUP.

Commissioner Newland asked about the zoning of the area around the Horseman's Center. Hill responded it is zoned OR-1. She asked whether the stables there are under a CUP. Hill responded that it is grandfathered in but any expansion would require review under the same auspices of this discussion.

The Commission held a discussion about the merits of the conditions recommended by staff for the CUP. Johnson advised the Commission to disregard that in determining the issue at hand.

MOTION

Commissioner Bill Boeger moved that the use proposed by applicant is considered to be an accessory maintenance use for recreational use not requiring a conditional use permit and to reverse the decision of the Community Development Director, seconded by Commissioner Jake Provonsha. Commissioners Provonsha and Boeger voted Aye; Commissioner Newland voted Nay. The motion carried 2-1.

- ii. [Design Review #2016-02: Design review approval of a new 2,900 square foot stable in the Recreational \(REC\) zone at 5 Golf Lane. Applicant: Marvin Anderson Architects, PLLC, for 5GL, LLC.](#)

The Commission considered the design review application. Jae Hill noted he would not waive his right to appeal the decision of the Commission as it relates to the CUP issue.

Hill gave an overview of the design review report. He noted the Commission cannot address the fire-flow issues but can discuss access improvements.

Fire Chief Ray Franco thanked the property owners for the changes they did make, but noted the deficiencies with those improvements. He stated the pipe from the pond does not have an adequate screen and the fire flow is not strong enough. He stated he has no choice but to propose a Do Not Respond on the property until it has safe and efficient fire flow.

Vice Chair Provonsha stated he does see how it is difficult for the City to respond to emergencies on the property given the difficulty of navigating the road. He also displayed unease with the vulnerability of the property without Fire Department services.

Franco responded that he has to consider what would happen if the current owner were to sell the property and the new owner put a living quarters on the barn. He stated life safety is the priority and explained that it would require three engines to fight a fire in that structure.

Commissioner Boeger asked about whether the DNR status would apply without the barn application. Franco responded that the Department is required to respond to the main house but cannot respond to the barn if there is not the necessary 1500 gpm fire flow.

Commissioner Newland asked about the risk of a barn fire traveling to other properties. Franco responded that if it reached wildland-fire status he could get other agencies to assist in response. Other agencies like the Forest Service and BLM will likely also place a DNR on the property.

Campbell responded it is impossible to improve the road in its current condition. He stated that due to the DNR concern, the applicant may be willing to modify the proposal to make it a metal building. He argued there were improvements made to the pond to provide a water supply for fire protection.

Vice Chair Provonsha discussed the difficulties regarding access and water availability on the property as it relates to the Fire Department's concerns. Campbell reiterated that the applicant may be willing to change the materials of the building to alleviate the concerns.

Hill stated that if the applicant wants to redesign the structure, the application should be postponed to allow that. He noted the City is not asking for completely new access to the property, but rather that certain alterations be made to the current road.

Campbell requested the Commission make a decision on the pending application and, regardless of how it comes out, discuss options of making improvements or design changes later to amend that approval. Johnson stated that any approval should be based on an accurate staff report, but the report provided was built on the conditional use permit being required.

Commissioner Boeger stated discomfort with moving forward without staff's formal input on proposed changes to the structure. Vice Chair Provonsha agreed and stated he would prefer to continue to date certain. The Commission, staff and the applicant held a discussion about timing for the continuance.

MOTION

Commissioner Sherri Newland moved to postpone to a date certain of July 14, 2016 for DR 2016-02, seconded by Commissioner Bill Boeger. All in favor. The motion carried unanimously.

7. [Adjourn](#)

MOTION

Commissioner Bill Boeger moved to adjourn, seconded by Commissioner Sherri Newland. All in favor. The motion carried unanimously.

The meeting adjourned at 12:59 p.m.

Jake Provonsha, Vice Chairman

Alissa Weber, City Clerk

**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
AGENDA REPORT**

From: Jae Hill, AICP, CFM, Community Development Director
Meeting Date: July 28, 2016

DESIGN REVIEW (DR 2016-36)

PROJECT NAME: 402 Fairway Road Remodel
APPLICANT: Jarvis Group Architects for 402 Fairway Road LLC
LOCATION: 402 Fairway Road; Fairway Subdivision Lot 28
ZONING DISTRICT: Single-Family Residential (RS-1) Zoning District

ANALYSIS: The applicant is requesting to landscape the entirety of the lot at 402 Fairway Road. The lot will be primarily covered with large “Cherokee quartzite” flagstones, which are permeable and allow rainwater infiltration. The lot will also have planted sod lawn areas parallel to the right of way in the front yard, and areas with native fescue plantings in the right-of-way and the rear. The lot will be characterized by single rows of aspens or firs, separating the lawn areas into geometric blocks. The property will be bordered on the north and east property lines by a dry-stack rock wall approximately 2-2.5 feet high; such wall may not be higher than 30” (2.5’) within the required setbacks (SVMC § 9-2A-3.E.1). The irrigated areas will be less than 22,000 sf as required in SVMC § 9-3A-3.F.

This type of modernist landscaping is not present in Sun Valley, and is out of character with the much more natural appearance of the neighborhood. The presence of screening trees, however, may mitigate the stark landscape from view, though the screen will also not appear natural.

The proposed paver driveway isn’t compliant with the City’s new “Encroachments” policy (SVMC § 7-4) as the first three feet of driveway within the right-of-way must be asphalt, similar to that on Fairway Road; a condition has been added to the Findings in this regard.

The trees proposed along the right-of-way may not be compliant with SVMC § 7-4-5.D.1 which states that *“only low-ground cover vegetation, such as grasses and shrubs, shall be permitted within the first eight feet of the right-of-way from the edge of pavement.”*

The applicant recently received approval (via ADR2016-05 in February 2016) to enclose an existing carport into a garage; the applicant later requested administrative approval to move the proposed garage three feet to the southeast. No comments were received from ADR2016-05 or the previous application.

Design Review Standards (SVMC § 9-3A-3)

A. Design and Siting:

1. The design of proposed improvements is appropriate and compatible to the lot and the surrounding neighborhood. Attention has been given to the location and design of streets, view corridors, privacy of adjacent properties, outdoor spaces, shadows, solar access, view access, lighting, vehicular access, building massing, privacy of other noise generating equipment, openings and doors as these elements impact adjacent properties. **The proposed modern landscaping design is NOT appropriate to the surrounding neighborhood, as the entirety of the lot is being manicured in a geometric fashion dissimilar to the more natural stylings of the neighborhood.**

2. The location and design of the proposed improvements has given consideration to special sites of historical, natural, ecological, architectural, archaeological, and scenic value or significance, including, but not limited to, those identified in the city's comprehensive plan. The essential character of special sites should be preserved and protected with any proposed site or structure improvements. **The nearest sites of local or national historic significance are the Ruud Mountain Chair and the Sun Valley Lodge, each more than half a mile away.**

3. The siting of the proposed improvements complies with the adopted uniform fire code and any other applicable regulations regarding emergency vehicle access and circulation as set forth in title 7 of this code. **The location and dimensions of the driveway will meet the standards of 7-6-13, except for the first three feet of driveway, which does not comply with SVMC § 7-4-5.E.**

4. The proposed improvements are sited to meet the ingress, egress, and driveway standards and requirements set forth in title 7 of this code, and the siting standard in subsection A1 of this section. **The location and dimensions of the driveway will meet the standards of 7-6-13, except for the first three feet of driveway, which does not comply with SVMC § 7-4-5.E.**

5. The proposed improvements are sited to take into consideration and to mitigate natural hazards such as floodplains and avalanches as set forth in this chapter. Mitigation measures shall not adversely impact other properties. **Not applicable.**

6. The siting of the proposed improvements minimizes interference with natural drainage patterns and is designed to minimize adverse impact on other properties. All drainage shall comply with the standards set forth in title 7 of this code; be contained on site, or be connected to drainage easements or rights of way. No drainage shall be diverted off site onto private property. **All drainage is contained on site through soil percolation and drywells.**

7. The site design provides for adequate space or means to maintain snow storage. Snow storage areas are in accordance with the requirements set forth in article G of this chapter. **The applicant has proposed 1,450 sq ft of snow storage area, 60 sq ft more than the amount required by code.**

8. Appropriate address numbers and monuments are shown in accordance with the requirements as set forth in article G of this chapter. **The monument is located on Fairway Road and will comply with visibility regulations.**

9. The siting of the proposed improvements, including streets and driveways, where applicable, minimizes hillside visibility and, where applicable, skylining by using a combination of stepped building forms, natural colors and materials, sloped roofs, and landscaping. **No ridges or prominent terrain features exist on or directly adjacent to the site.**

10. Every lot shall be designed to be connected to public water and sewer systems, unless the property is over five hundred feet (500') from a public system as measured from the closest property line and an alternative utility system is approved by the city engineer. **All utilities are available to the site and will be connected to the residence.**

B. Grading:

1. Essential grading is shaped to blend with natural landforms and to minimize the necessity of padding and/or terracing of building sites. Cut and fill are shaped, rounded, minimized and nonuniform to simulate natural existing contours. **The site will not simulate natural contours or patterns.**

2. Areas which are not well suited for development because of existing soil conditions, ridges, ridgelines, ridge tops, knolls, saddles, summits, wildlife habitat, natural features or hydrology are allocated for open site area or recreational uses. **Not applicable.**

3. The development is in accordance with the design criteria, as applicable, as set forth in article H of this chapter and title 7 of this code. **No ridges or prominent terrain features exist on or directly adjacent to the site.**

C. Architectural Quality:

1. The proposed project maintains the quality of materials and design that is appropriate to the location, the lot and the neighborhood. **The design is modern, with sharp corners, and geometric, unnatural patterns.**

2. The proposed improvements conform to natural landscape features by minimizing the degree of cuts and fills. **The project does not significantly alter the site's grade.**

3. The plan includes the location of all exterior lighting. All lighting shall be directed onto the subject lot and shall not be directed towards other properties. **Two exterior lights will be installed at the wing wall at the entrance steps. The fixtures are recessed and comply with the City's Exterior Lighting Ordinance.**

4. Building design includes weather protection that prevents water from dripping or snow from sliding onto pedestrian or vehicle areas or onto adjacent properties. **Not applicable.**

5. Any exterior addition or alteration to an existing building is compatible with the design character of the original building. Any new detached structure is compatible with the design character of the existing buildings and/or structure(s). **Not applicable.**

6. All improvements are designed to minimize light and sound emanating to other properties as set forth in article B of this chapter. **Not applicable.**

7. Rooftop chimneys and utilities are enclosed and design is consistent with the primary structure. **Not applicable.**

D. Pedestrian and Vehicle Circulation Design: Not applicable.

C. Architectural Quality:

1. The proposed project maintains the quality of materials and design that is appropriate to the location, the lot and the neighborhood. **The landscaping consists of fir, aspen, and willow trees, as well as ferns, fescue, and sod. The hardscape will consist of stacked stone walls and a flagstone yard. The geometric design is not generally compatible with the character of the neighborhood.**
2. The proposed improvements conform to natural landscape features by minimizing the degree of cuts and fills. **Not applicable.**
3. The plan includes the location of all exterior lighting. All lighting shall be directed onto the subject lot and shall not be directed towards other properties. **Two recessed, exterior lights will be installed at the wing wall at the entrance steps.**
4. Building design includes weather protection that prevents water from dripping or snow from sliding onto pedestrian or vehicle areas or onto adjacent properties. **Not applicable.**
5. Any exterior addition or alteration to an existing building is compatible with the design character of the original building. Any new detached structure is compatible with the design character of the existing buildings and/or structure(s). **Not applicable.**
6. All improvements are designed to minimize light and sound emanating to other properties as set forth in article B of this chapter. **Not applicable.**
7. Rooftop chimneys and utilities are enclosed and design is consistent with the primary structure. **Not applicable.**

D. Pedestrian And Vehicle Circulation Design: **Not applicable.**

E. Landscaping Quality:

1. Landscaping provides relief from and screens building surface areas and street frontage. "Landscaping" is defined as trees, shrubs, planters, hanging plants, ground cover, and other living vegetation. **The landscaping is arranged in such a way to provide relief to the massing of the structure.**
2. Landscape materials and vegetation types and sizes specified are appropriate and readily adaptable to the microclimate and soil conditions of the project location. Native drought resistant and winter hardy plant materials are encouraged. **The proposed materials include aspens, firs, and willows, as well as bracken ferns, fescue, and sod.**
3. Existing trees, shrub masses, and important landscape features are preserved where reasonable. The removal of trees, shrubs, and nonhazardous plant materials is generally limited to those essential for a sensitive development of the site. **The entire site is proposed to be re-landscaped.**
4. Significant landscape buffer areas between adjacent properties, different land use zones, and between streets and off street parking lots are provided. Street trees, public courtyards and

appropriate pedestrian and bicycle path linkages are encouraged. (Ord. 382, 10-25-2006) **There will be walls of trees along the property lines.**

F. Irrigation Limits:

1. In order to fairly distribute available domestic irrigation water to all residential lots and parcels served by the Sun Valley water and sewer district, the total area of any lot or parcel irrigated with Sun Valley water and sewer district water shall not exceed the following:

a. For RA and RS-1 single-family lots, the total area of all irrigated portions of the lot or parcel shall not exceed twenty two thousand (22,000) square feet (approximately 1/2 acre). **The project complies with this requirement.**

G. Fences, Walls, Retaining Walls, Screens, And Dog Runs:

1. Fences, screens, and dog runs are designed to be consistent with the architectural character of the structures on the property. **Not applicable.**

2. Fencing and screening materials are finished on both sides. **Not applicable.**

3. Fences, walls, retaining walls, screens, and dog runs are in accordance with the requirements set forth in article G, "Standard Regulations", of this chapter, including the provision that in all zoning districts, fences, screens, retaining walls, and freestanding walls may be approved in excess of the maximum height limit through the design review process. (Ord. 455, 12-6-2012) **The proposed retaining walls are 2-2.5 feet in height, below the minimum requirements.**

H. Sign Design: Not applicable.

I. Exterior Lighting:

1. All light sources shall comply with an approved exterior lighting plan as set forth in article B of this chapter. **The proposed exterior lighting fixtures are recessed into the wing wall and comply with the City's Exterior Lighting Regulations.**

RECOMMENDATION: Staff withholds a recommendation at this time.

MOTION LANGUAGE: "I move to approve DR2016-36 to allow for construction of a new single family home pursuant to the Findings of Fact and Conditions of Approval."

ALTERNATIVE ACTIONS: Move denial of the application and draft findings supporting denial.

ATTACHMENTS:

1. Findings of Fact
2. Application Materials

FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY
DESIGN REVIEW

Project Name: 402 Fairway Road Remodel
Applicant: Jarvis Group Architects for 402 Fairway Road LLC
Location: 402 Fairway Road; Fairway Subdivision Lot 28
Zoning District: Single-Family Residential (RS-1) Zoning District

Project Description: The applicant is requesting to landscape the entirety of the lot at 402 Fairway Road. The lot will be primarily covered with large “Cherokee quartzite” flagstones, which are permeable and allow rainwater infiltration. The lot will also have planted sod lawn areas parallel to the right of way in the front yard, and areas with native fescue plantings in the right-of-way and the rear. The lot will be characterized by single rows of aspens or firs, separating the lawn areas into geometric blocks. The property will be bordered on the north and east property lines by a dry-stack rock wall approximately 2-2.5 feet high.

Required Findings: In order to approve a design review application and based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 3A (DESIGN REVIEW REGULATIONS)**, the Community Development Director shall make the following findings pursuant to **Development Code Section 9-5B-3 (DESIGN REVIEW)**.

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district. **The retaining walls are within the height limits for structures located within the setbacks, and the landscaping provides a buffer between the single-family residence and Fairway Road.**
2. The proposed design is in conformance with the standards for design review as set forth in Chapter 3A (DESIGN REVIEW REGULATIONS) of this Title. **The landscaping plan complies with the City’s standards for landscaping quality in Section 9-3A-E. The proposed landscape provides relief from and screens the structure’s surface area and the vegetation types are suitable to the microclimate.**
3. The proposed design does not significantly impact the natural, scenic character and aesthetic value of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits in the City. **The lot is not located atop any ridgelines.**
4. The proposed design is in context and complimentary to adjacent properties. **The landscaping plan is geometric and stark, dissimilar to the more natural landscaping patterns in the Fairway neighborhood and region.**
5. The proposed design is compatible with the community character and scale of the neighborhood. **The landscaping plan’s artificial layout is incongruous with the natural character of landscapes in the neighborhood. (Alternative finding for approval: The vegetation types and heights of the proposed plantings and retaining walls are compatible with the scale of the Fairway neighborhood.)**
6. The proposed design adheres to standards for the protection of health, safety, and general welfare.

The project is a landscaping plan, with no elements that pose a threat to health or safety.

7. The proposed design is of quality architectural character and materials. **The proposed design of the landscape utilizes a modern design with high quality materials of a natural appearance.**
8. The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City. **The subject site is designated as Low Density Residential by the Future Land Use Map of the Comprehensive Plan. The RS-1 Zoning District implements the Low Density Residential Land Use Designation and the proposed single-family dwelling is consistent with all applicable provisions of the RS-1 Zoning District.**

CONDITIONS OF APPROVAL

1. Applicant and their representatives shall comply with all applicable City codes and ordinances, including those related to noise (Section 4-4D-2 and 3) and water pollution control (Section 4-4C-2).
2. Design Review approval is good for one year from the date of approval, unless extended pursuant to Sun Valley Municipal Code Section 9-5A-8.
3. Any permits issued during the 10-day appeal period provided for under section 9-5A-9 may be subject to a stop work order in the event of an appeal. Any work commenced during the appeal period shall be at the applicant's own risk.
4. Approval is specific to the project drawings and the construction management plan received by the City of Sun Valley on June 28, 2016.
5. Fairway Road shall be kept free and clear for emergency vehicle access at all times. Any significant access issues shall be brought to the attention of the City and project neighbors in advance.
6. The first three feet of the driveway, located within the right-of-way, shall be constructed of the same material as Fairway Road, as per SVMC § 7-4-5.E.
7. The proposed aspen trees along the right-of-way must comply with SVMC § 7-4-5.D.1 or else must receive an encroachment permit from the City.
8. No modifications to the approved plans shall be made without written permission of the Community Development Director.

CONCLUSIONS OF LAW

Therefore, this project does meet the standards for approval under Title 9, Chapter 3A, City of Sun Valley Municipal Code provided the conditions of approval are met. Design Review approval shall expire 365 days from the date of approval, unless extended as per Municipal Code Section 9-5A-8.

DECISION

Therefore, the Sun Valley Planning and Zoning Commission approves this Design Review Application No. DR2016-36.

Dated this 28th day of July, 2016.

Ken Herich, Chairman
Sun Valley Planning and Zoning Commission

Date Findings of Fact signed _____

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY
ADMINISTRATIVE DESIGN REVIEW**

COPY

Project Name: 402 Fairway Road Remodel
Applicant: Jarvis Group Architects for 402 Fairway Road LLC
Location: 402 Fairway Road; Fairway Subdivision Lot 28
Zoning District: Single-Family Residential (RS-1) Zoning District
Project Area: 48 sq ft mechanical closet addition, 34 sq ft second floor addition to accommodate master bedroom remodel, and enclosure of existing 292 sq ft carport.

Project Description: The applicant submitted an application for design review approval for an interior remodel and exterior alterations to an existing detached, single-family dwelling in the Fairway Subdivision. The comprehensive installation of new windows, doors, and roofing across the structure will update the dwelling's appearance. The exterior alterations include enclosing the existing 292 sq ft carport in order to expand the adjacent garage, staining the existing siding with Sherwin Williams color 3026 King's Canyon, adding metal railing to the deck above the garage, and installing new metal clad windows. The project includes the addition of a 48 sq ft mechanical closet on the west elevation of the residence. In order to accommodate the master bedroom remodel, the existing second floor deck will be removed and an additional 34 sq ft will be enclosed.

The subject home has been a nonconforming structure since it was built in 1977, prior to the adoption of both the current 15 foot setback requirement pursuant to City Code Section 9-2A-3. While the home is nonconforming, the project design does not intensify the existing nonconformity. The mechanical room and second floor additions do not extend into the existing nonconforming setback. The project drawings stamped received by the City of Sun Valley on January 28, 2016 detail all proposed changes and alterations to the existing structure.

Required Findings: In order to approve a design review application and based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 3A (DESIGN REVIEW REGULATIONS)**, the Community Development Director shall make the following findings pursuant to **Development Code Section 9-5B-3 (DESIGN REVIEW)**.

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district. **The subject remodel project will not further exceed the height, setback, nor any other dimensional regulation of the Single-Family Residential (RS-1) Zoning District set forth in Title 9, Chapter 2A. The existing development consists of a five-story, detached single-family dwelling with associated landscaping, vehicular access, and other site improvements. While the existing structure is legally nonconforming with regards to setbacks in the RS-1 district due to Code Section 9-1B-2A, the project does not intensify the existing nonconformity. The design of the remodeled home complies with all other applicable standards appropriate for single-family structures within the RS-1 Zone.**
2. The proposed design is in conformance with the standards for design review as set forth in Chapter 3A (DESIGN REVIEW REGULATIONS) of this Title. **The additions and all exterior modifications retain the existing wall planes and general design while providing an updated appearance to the structure. The new mechanical room, master bedroom**

addition, and enclosed carport expand the enclosed floor area of the single-family dwelling by 374 sq ft, which is less than 10% of the fully developed 4,218 sq ft site.

3. The proposed design does not significantly impact the natural, scenic character and aesthetic value of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits in the City. **No ridges or prominent terrain features exist on or directly adjacent to the site.**
4. The proposed design is in context and complementary to adjacent properties. **The proposed remodel project is in context with, and complementary to, adjacent properties because of adequate separation and similarity in design, bulk, and mass. The new additions do not extend any higher than the existing structure's height and do not pose any view issue to or from the other adjacent residential properties.**
5. The proposed design is compatible with the community character and scale of the neighborhood. **The structure's new elements and styling are consistent with the original design of the single-family dwelling and will be similar in use and styling of other properties in the vicinity. No complaints or concerns about the proposal were received from adjacent property owners.**
6. The proposed design adheres to standards for the protection of health, safety, and general welfare. **No activity or development is proposed that adversely affects any aspect of access or other public safety design element. Adequate emergency access will continue to serve the dwelling and surrounding neighborhood. The shake roof will be replaced with metal roofing and snow rods will be installed.**
7. The proposed design is of quality architectural character and materials. **Exterior materials and colors will match those of the existing structure while providing an updated appearance. New siding stain and the installation of new metal roofing, windows, and doors will enhance the structure's design.**
8. The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City. **No land use change is involved with this remodel and addition project. The existing single-family residential land use is consistent with the Low Density Residential Land Use Designation of the City's Future Land Use Map.**

CONDITIONS OF APPROVAL

- 1. Applicant and their representatives shall comply with all applicable City codes and ordinances, including those related to noise (Section 4-4D-2 and 3) and water pollution control (Section 4-4C-2).**
- 2. Design Review approval is good for one year from the date of approval, unless extended pursuant to Sun Valley Municipal Code Section 9-5A-8.**
- 3. Any requirements and/or approvals of private associations or other entities are the sole responsibility of the property owner.**
- 4. Any permits issued during the 10-day appeal period provided for under section 9-5A-9 may be subject to a stop work order in the event of an appeal. Any work commenced during the appeal period shall be at the applicant's own risk.**
- 5. Approval is specific to the project drawings dated received by the City of Sun Valley on January 28, 2016.**
- 6. Fairway Road shall be kept free and clear for neighborhood traffic and emergency vehicle access at all times. Any significant access issues shall be brought to the attention of the City and project neighbors in advance.**
- 7. No modifications to the approved plans shall be made without written permission of the Building Official and the Community Development Department.**

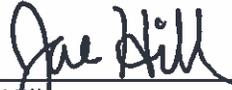
CONCLUSIONS OF LAW

Therefore, this project does meet the standards for approval under Title 9, Chapter 3A, City of Sun Valley Municipal Code provided the Conditions of Approval are met. Design Review approval shall expire 365 days from the date of approval, unless extended as per Municipal Code Section 9-5A-8.

DECISION

Therefore, the Community Development Director approves this Design Review Application No. DR 2016-05, subject to the Conditions of Approval stated above.

Dated this 16th day of February, 2016.



Jae Hill
Community Development Director
City of Sun Valley

MASTER PLAN

402 FAIRWAY RD
SUN VALLEY, IDAHO

1. Entry Drive
2. Geology & Aspen
3. Lawn
4. Screening Hedge
5. Pavers
6. Stairs
7. Garden
8. Bench
9. Subalpine Fir Forest
10. Basketball Hoop
11. Fescue Planting in Right of Way
12. Rooftop Deck
13. Existing Trees
14. Dry Stacked Wall
15. Sculpture



NELSON REMODEL
 SUN VALLEY, IDAHO
 CONSTRUCTION DOCUMENTATION
 402 FAIRWAY ROAD

**NOT FOR
 CONSTRUCTION**

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ARCHITECT
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| 2 | 06 06 2016 | 90% BID SET |
| 1 | 05 31 2016 | 90% CONSTRUCTION SET |

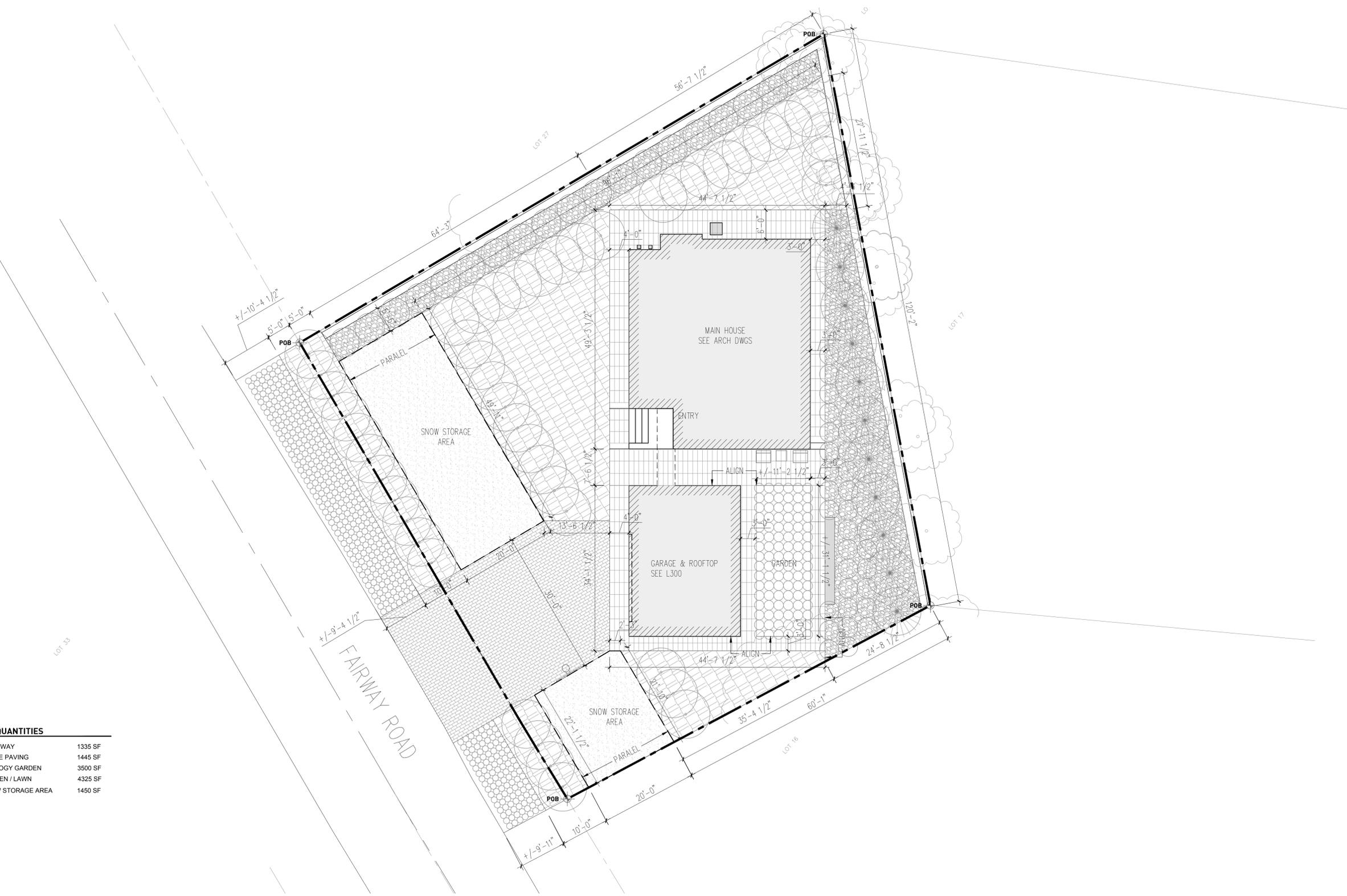
90% BID SET

project: NELSON REMODEL
 date: 2016-5-27
 scale:
 drawn by: CP Egle Vanagaitė
 sheet title
 SITE LAYOUT PLAN

SITE QUANTITIES

| | |
|-------------------|---------|
| DRIVEWAY | 1335 SF |
| STONE PAVING | 1445 SF |
| GEOLOGY GARDEN | 3500 SF |
| GARDEN / LAWN | 4325 SF |
| SNOW STORAGE AREA | 1450 SF |

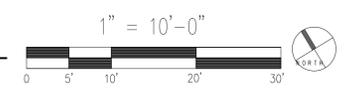
1 SITE LAYOUT PLAN
 Scale: 1"=10'

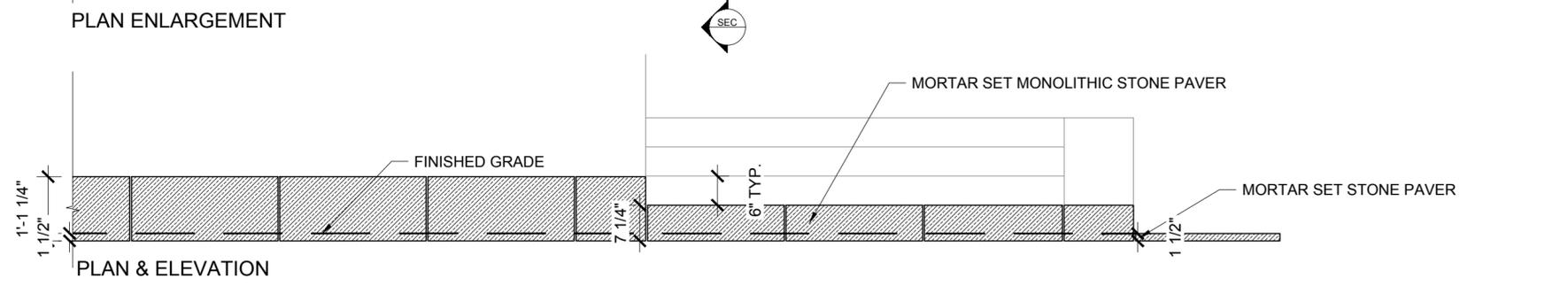
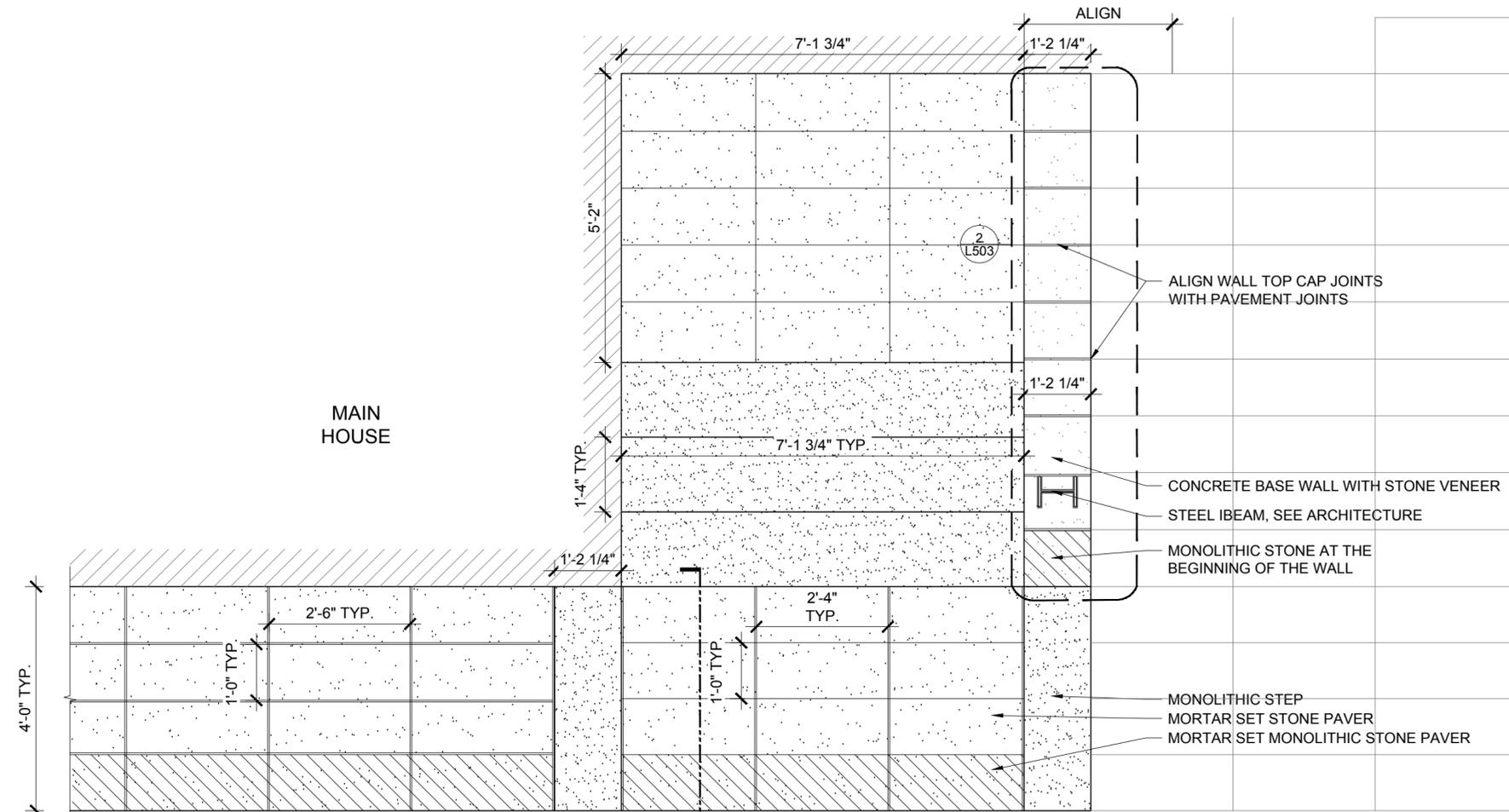


KEY NOTES:
 POB POINT OF BEGINNING

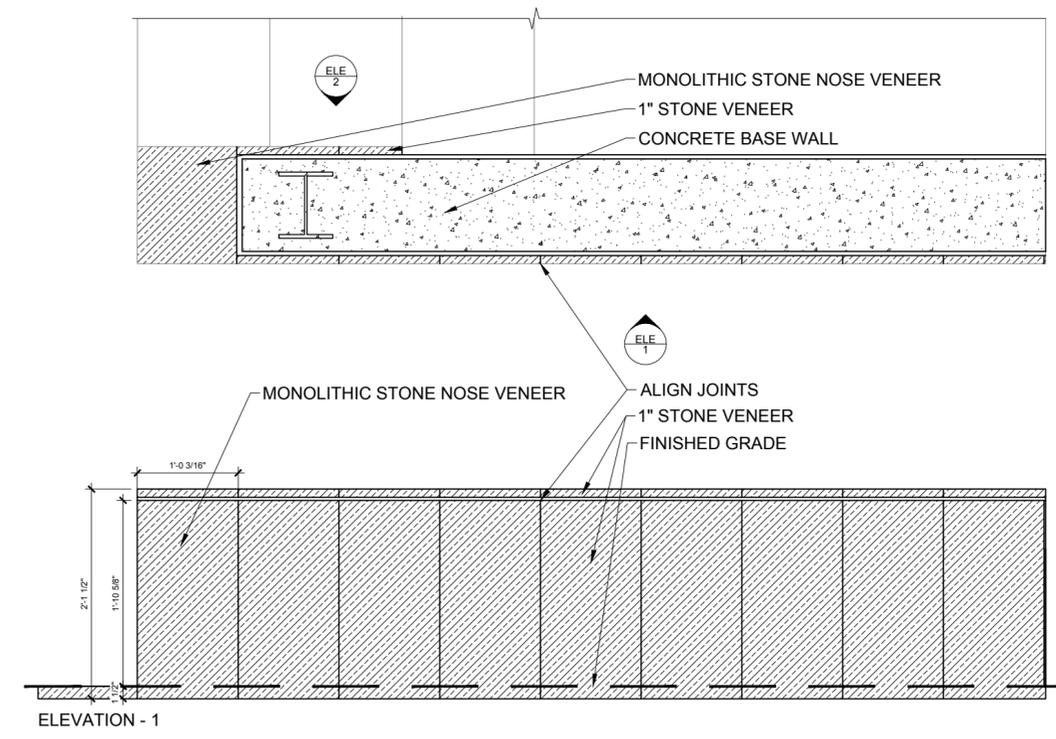
GENERAL NOTES:

- SEE SHEET L001 FOR GENERAL NOTES.
- REFER TO ARCHITECTURAL DRAWINGS FOR BUILDING INFORMATION.
- ELECTRICAL CONTRACTOR, MECHANICAL CONTRACTOR, AND IRRIGATION CONTRACTOR TO COORDINATE W/ PAVING, CONCRETE, AND WALL CONTRACTORS ON SLEEVE LOCATIONS UNDER HARDSCAPED SURFACES AND WALLS.
- DO NOT SCALE THE DRAWINGS. WRITTEN DIMENSIONS ARE TO BE USED FOR ALL LAYOUT WORK.
- THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT OF ANY LAYOUT DISCREPANCIES.
- AUTOCAD FILE AVAILABLE TO CONTRACTOR UPON REQUEST FOR FIELD LAYOUT.

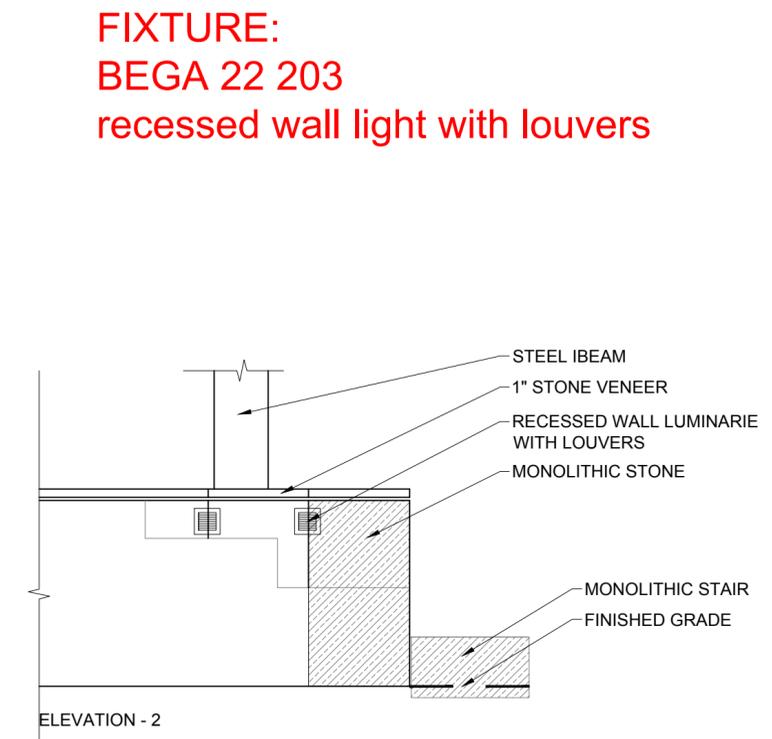




1 ENTRY STAIRS STONE LAYOUT
Scale: 1/2" = 1'-0"



2 WING WALL STONE LAYOUT
Scale: 1/2" = 1'-0"



FIXTURE:
BEGA 22 203
recessed wall light with louvers

NELSON REMODEL
 SUN VALLEY, IDAHO
 CONSTRUCTION DOCUMENTATION
 402 FAIRWAY ROAD

NOT FOR
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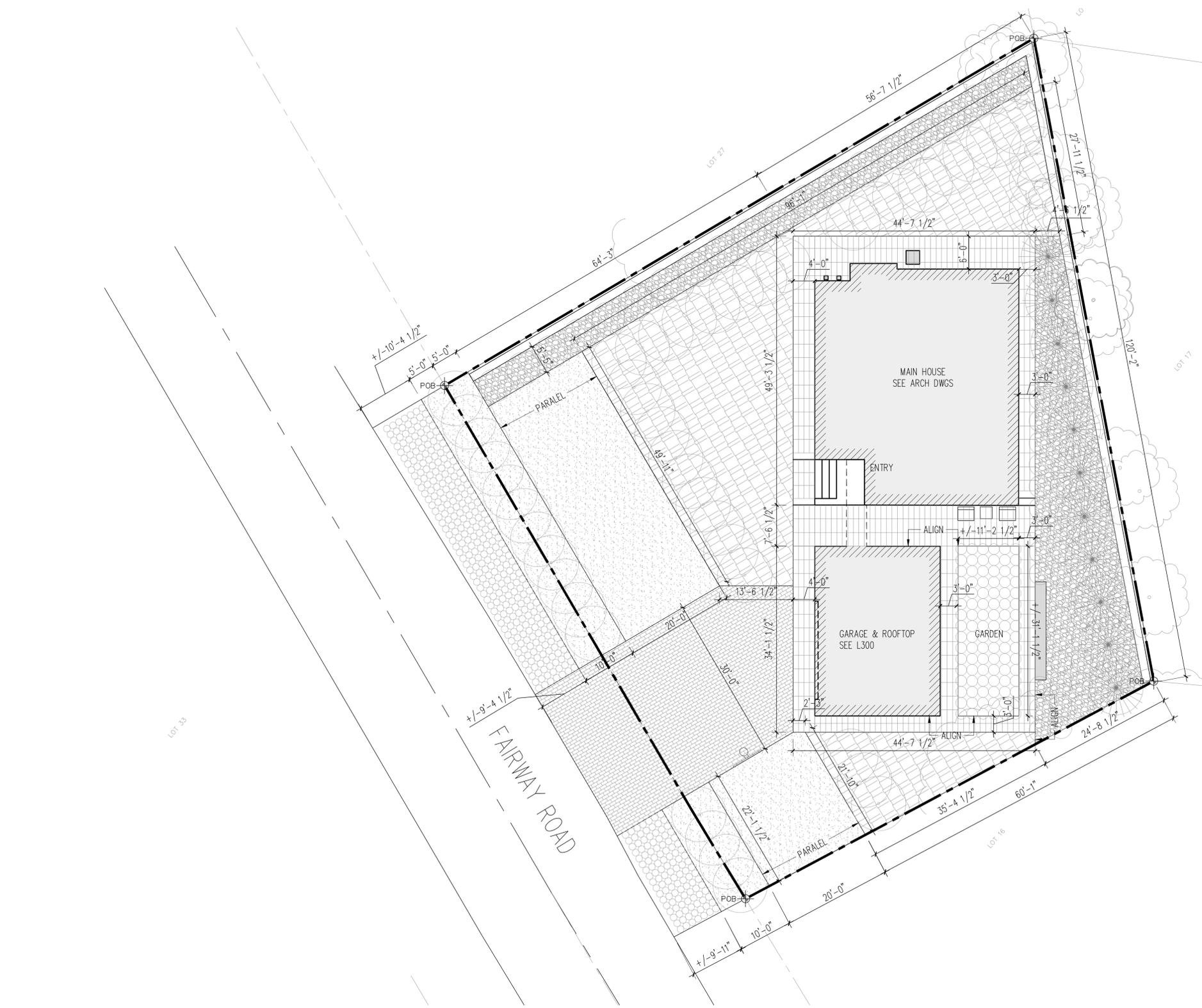
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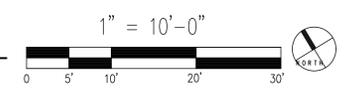
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project: NELSON REMODEL
 date: 2016-5-27
 scale:
 drawn by: CP Egle Vanagaitė
 sheet title
 SITE LAYOUT PLAN

L101
 sheet number



1 SITE LAYOUT PLAN
 Scale: 1"=10'



KEY NOTES:
 ⊕ POB POINT OF BEGINNING

- GENERAL NOTES:
- SEE SHEET L001 FOR GENERAL NOTES.
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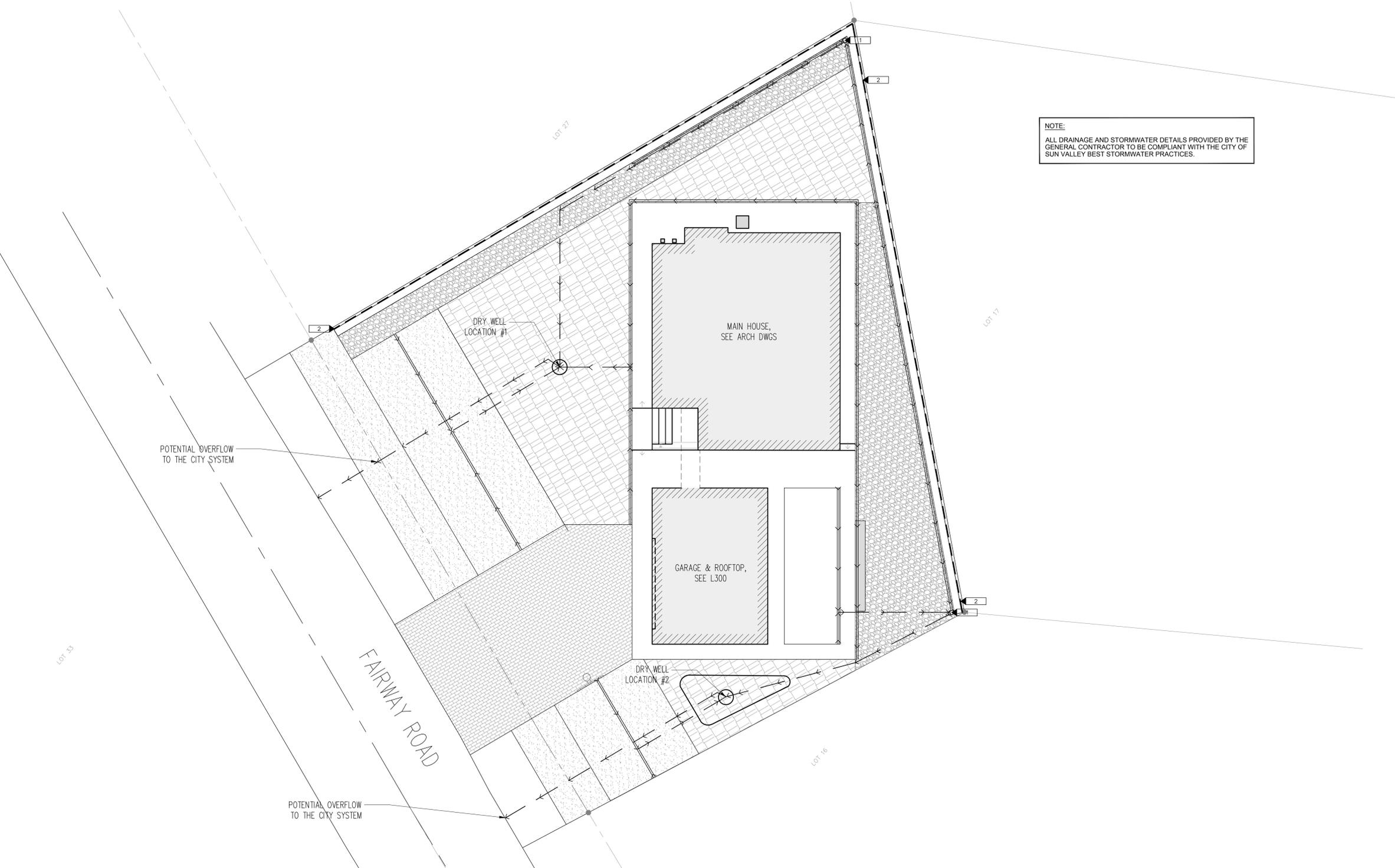
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90% BID SET

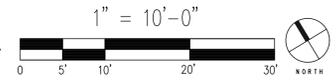
project: NELSON REMODEL
 date: 2016-5-27
 scale:
 drawn by: CP Egle Vanagaita
 sheet title
 DRAINAGE PLAN

L202
 sheet number

NOTE:
 ALL DRAINAGE AND STORMWATER DETAILS PROVIDED BY THE GENERAL CONTRACTOR TO BE COMPLIANT WITH THE CITY OF SUN VALLEY BEST STORMWATER PRACTICES.



1 DRAINAGE PLAN
 Scale: 1"=10'



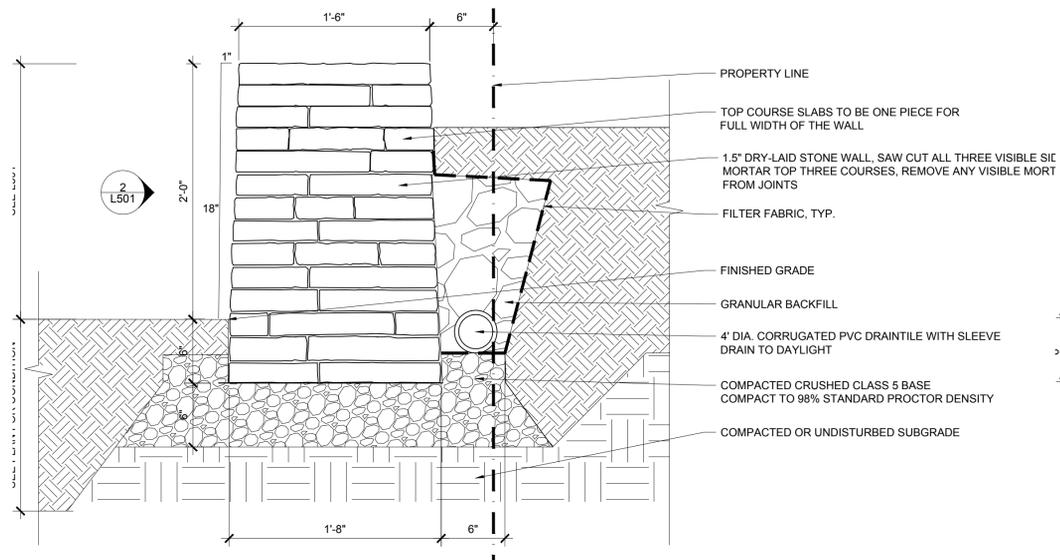
LEGEND:

| | |
|--|--------------------------------------|
| | FRENCH DRAIN |
| | DRAIN TILE BEHIND THE RETAINING WALL |
| | PVC PIPE 8" |
| | SUMP BOX |
| | DRY WELL |

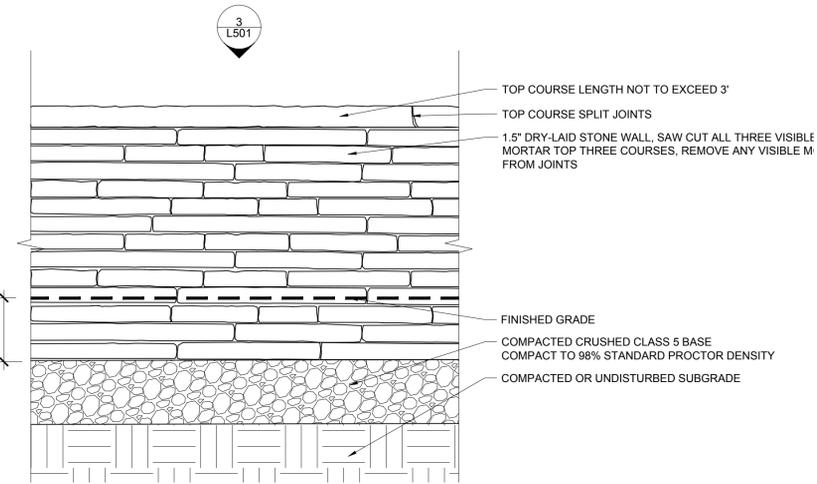
KEYED NOTES:

| | |
|--|---|
| | CONNECT TO SUMP BOX |
| | FRENCH DRAIN, DRAIN TO DAYLIGHT. COORDINATE INSTALLATION ELEVATION WITH CONTRACTOR. 6" MIN BELOW GRADE. REFER TO L201 FOR ELEVATIONS. |

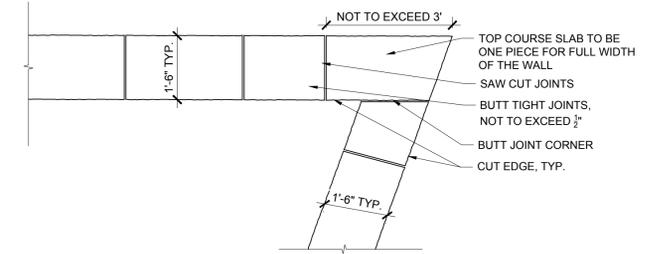
- GENERAL NOTES:
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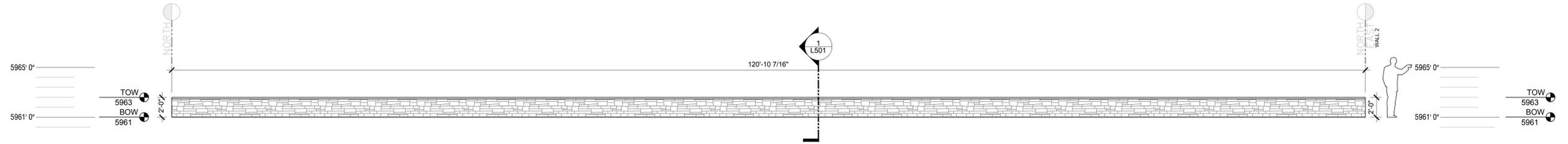
1 DRY STACK WALL PROFILE
Scale: 1 1/2" = 1'-0"



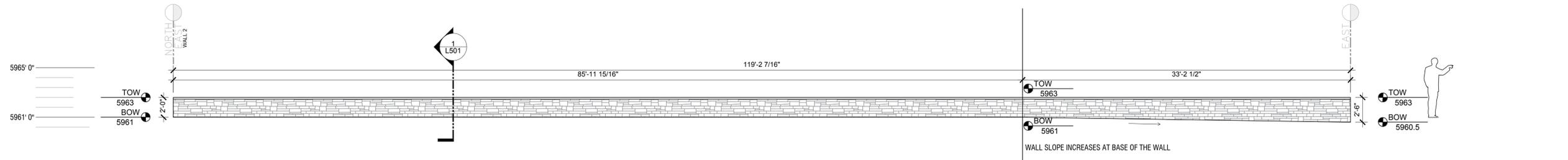
2 DRY STACK WALL STONE LAYOUT
Scale: 1 1/2" = 1'-0"



3 DRY STACK WALL CAP LAYOUT INTENT
Scale: 1/2" = 1'-0"



4 W1 - NORTH WALL - ELEVATION
Scale: 3/16" = 1'-0"



5 W2 - EAST WALL - ELEVATION
Scale: 3/16" = 1'-0"

NELSON REMODEL
SUN VALLEY, IDAHO
CONSTRUCTION DOCUMENTATION
402 FAIRWAY ROAD

NOT FOR
CONSTRUCTION

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90% BID SET

project: NELSON REMODEL
date: 2016-5-27
scale:
drawn by: CP Egle Vanagaite
sheet title
WALL DETAILS AND ELEVATIONS

L501
sheet number

NELSON REMODEL

SUN VALLEY, ID

COEN+PARTNERS

DESIGN INTENT

JUNE 28, 2016

DRY, PARTLY WOODED MOUNTAINS

NATIVE PLANT PALETTE

CANOPY



SWEDISH ASPEN
Populus tremula 'Erecta'



SUBALPINE FIR
Abies lasiocarpa

GROUNDCOVER



IDAHO FESCUE
Festuca idahoensis

BRACKEN FERN
Pteridium aquilinum

FOX SEDGE
Carex vulpinoidea

IDAHO FESCUE

BRACKEN FERN

FOX SEDGE

SWEDISH ASPEN

LOCAL NEIGHBORHOOD PRECEDENT

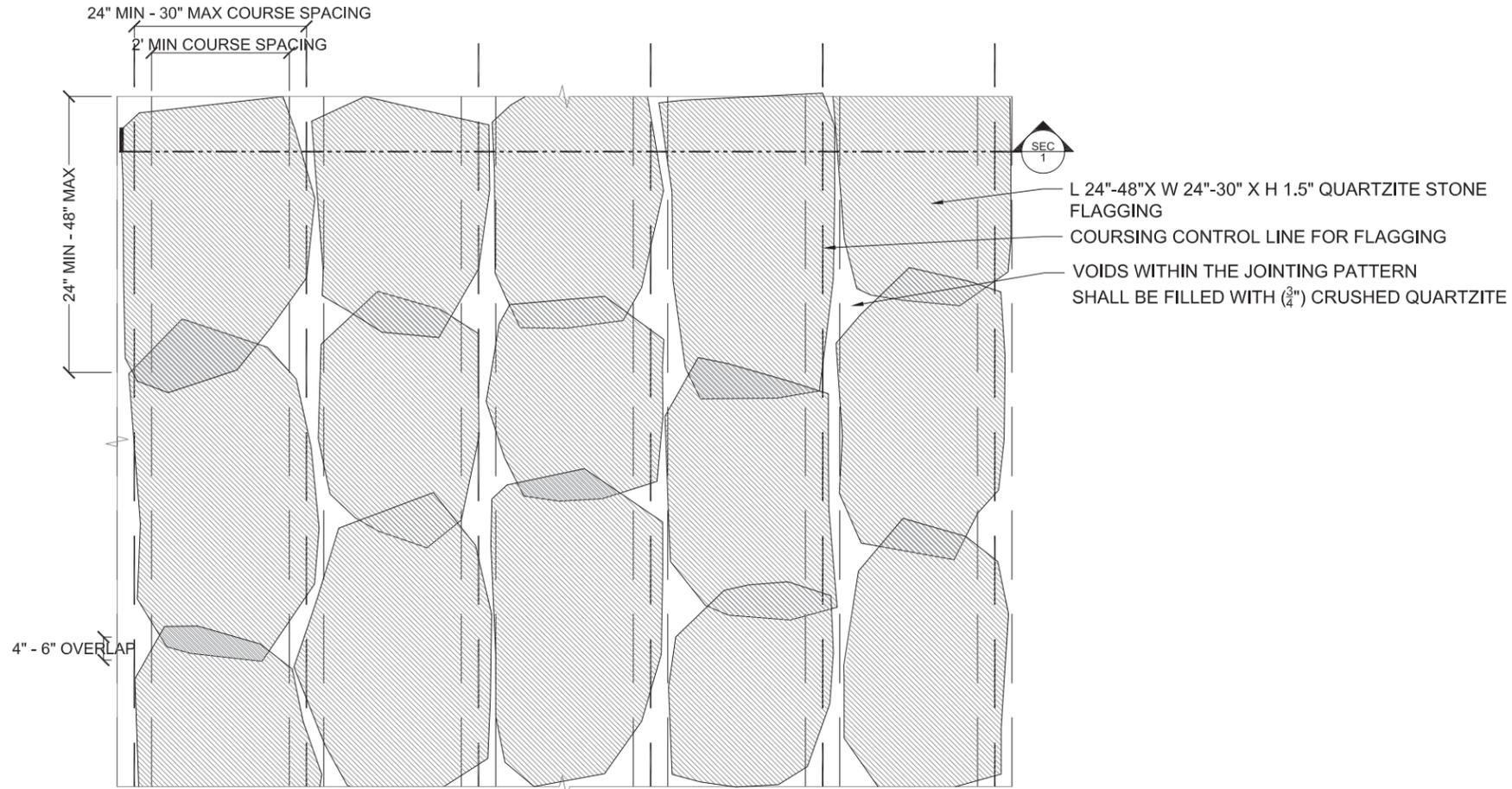


REGIONAL GEOLOGY INSPIRATION

GEOLOGY INSTALLATION PRECEDENTS



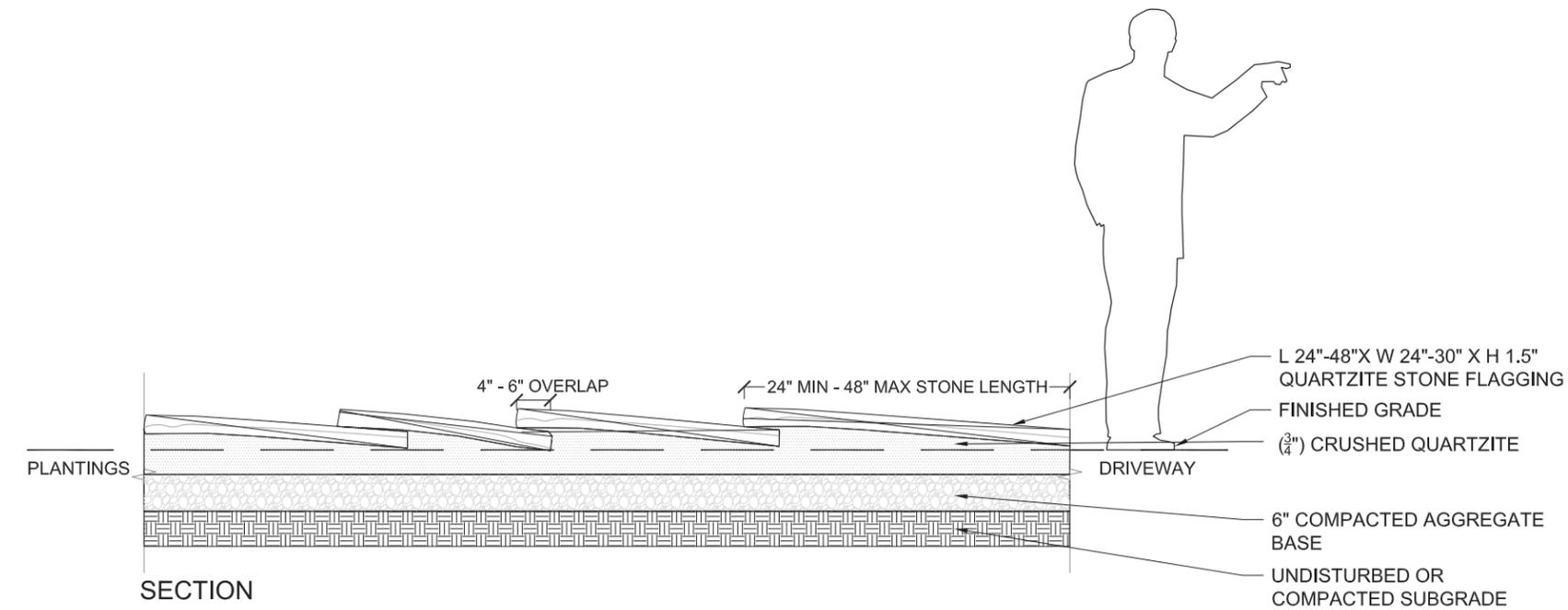
GEOLOGY LAYOUT



LOCAL CHEROKEE QUARTZITE - SAWTOOTH QUARRY, IDAHO

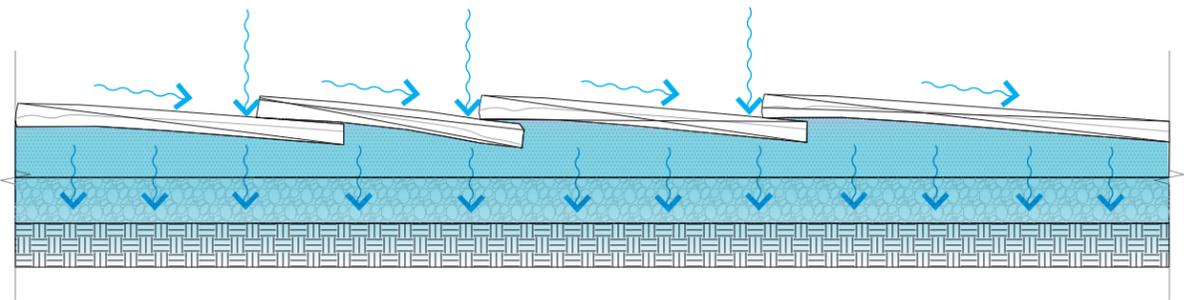


CHEROKEE QUARTZITE - SAWTOOTH QUARRY, ID



RAINWATER INFILTRATION WITHIN THE GEOLOGY INSTALLATION

Rainwater infiltration occurs within the void space of the stones due to the natural shape and arranged placement of each stone piece.



NELSON REMODEL
402 FAIRWAY ROAD

SUN VALLEY

ARCHITECT

ENGINEER

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DRAWN

DATE PERMIT SET 02.23.15

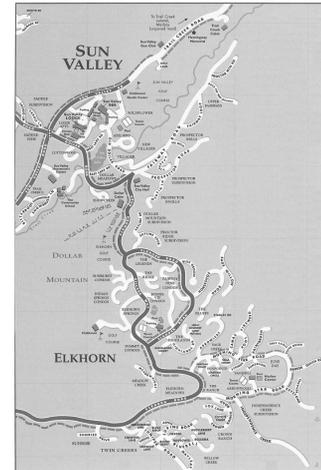
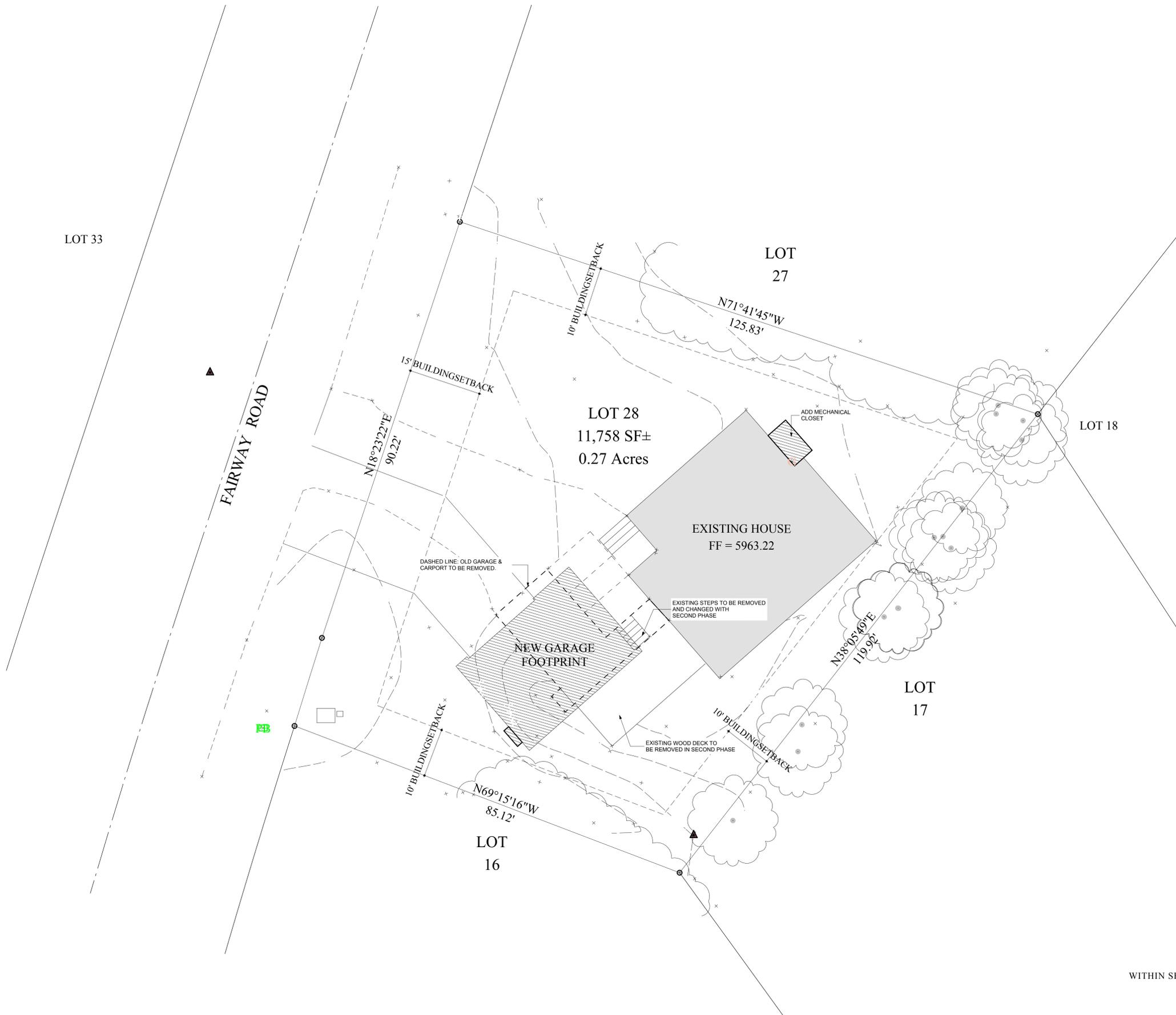
FILE NELSON REMODEL [DC]

REVISIONS

| NO. | DATE | DESCRIPTION |
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DR.

PRINT DATE: Monday, June 27, 2016

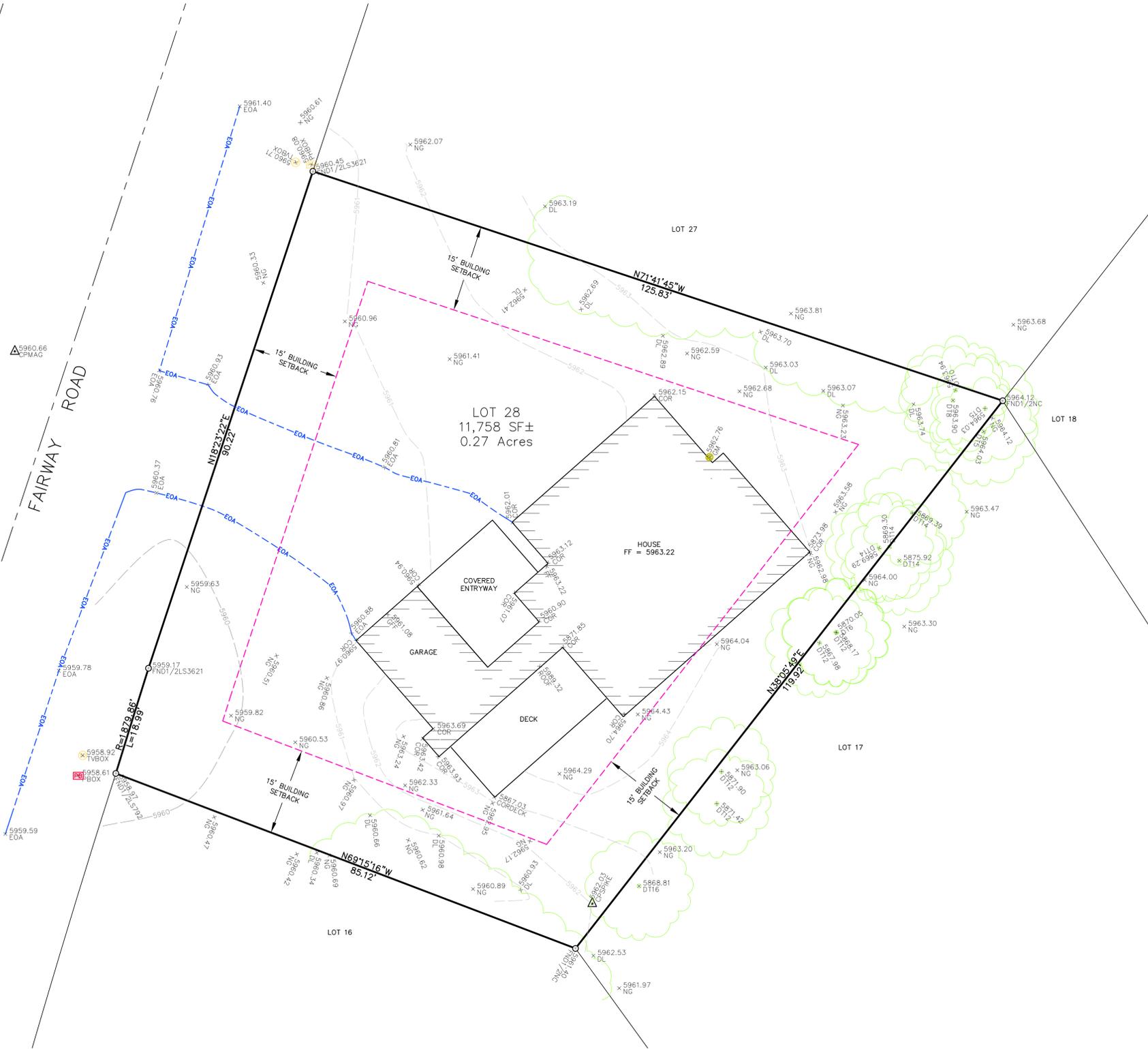


LEGAL DESCRIPTION
LOT 28, FAIRWAY SUBDIVISION
WITHIN SECTION S 5&8, T.4N, R.18E., B.M., CITY OF SUN VALLEY, BLAINE COUNTY, IDAHO



SITE PLAN

LOT 33

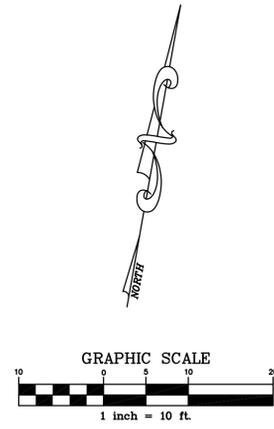


LEGEND

- Property Line
- - - Adjoiners Lot Line
- - - Right of Way Centerline
- - - Building Setback
- - - Edge of Asphalt
- - - 5' Contour Interval
- - - 1' Contour Interval
- - - DL = Dripline
- Existing Building
- Found 1/2" Rebar
- △ Survey Control Point
- PHBOX = Telephone Riser
- TVBOX = Television Riser
- PBOX = Power Box
- GM = Gas Meter
- DT = Deciduous Tree
- Corner
- NG Natural Ground
- FF Finished Floor
- GFF Garage Finished Floor

NOTES

- 1) The purpose of this map is to show topographical information as it existed on the date the field survey was performed. Changes may have occurred to site conditions since survey date.
- 2) This survey was done with approximately 3 feet of snow on the ground. Items obscured by the snow are not shown.
- 3) This map was prepared for the express use of the client and is not transferable to others without written consent.
- 4) Boundary information is based on found monumentation. Refer to the Plat Notes, Conditions, Covenants, and Restrictions on the plat of Fairway Subdivision, recorded under Instrument No. 125090, Records of Blaine County ID.
- 5) Property is subject to the terms, provisions, covenants, conditions, restrictions, easements, charges, assessments and liens (provisions, if any, based on race, color, religion, or national origin are omitted) provided in the Declaration of Restrictions, recorded as Instrument Number 125092, records of Blaine County, Idaho.
- 6) Utility locations are approximate and locations should be verified before any excavation.
- 7) Galena Engineering Inc. has not received a Title Policy from the client and has not been requested to obtain one. Relevant information that may be contained within a Title Policy may therefore not appear on this map and may affect items shown hereon. It is the responsibility of the client to determine the significance of the Title Policy information and determine whether it should be included. If the client desires for the information to be included they must furnish said information to Galena Engineering, Inc. and request it be added to this map.
- 8) Elevation benchmark is a found 1/2" Rebar at the southwest corner of the property, elevation = 5958.97.



| NO | DATE | BY | REVISIONS | | | | | | | | |
|--|------|----|-----------|--|---|---|---|--|--|--|--|
| | | | | Galena Engineering Inc. Civil Engineers & Land Surveyors 880 Second Avenue North P.O. Box 425 Ketchum, Idaho 83340 (208) 726-4729 (208) 726-4783 fax email galena@galena-engineering.com | REUSE OF DRAWINGS These drawings, or any portion thereof, shall not be used on any Project or extensions of this Project except by agreement in writing with Galena Engineering, Inc. | FB 16-02/01 DESIGNED BY _____ DATE _____ DRAWN BY _____ DATE _____ CHECKED BY _____ DATE _____ | A TOPOGRAPHIC MAP SHOWING LOT 28, FAIRWAY SUBDIVISION WITHIN SECTION 5 & 8 T.4N., R.18E., B.M., CITY OF SUN VALLEY, BLAINE COUNTY, IDAHO PREPARED FOR THE JARVIS GROUP | | | | |
| | | | | | | | | | | | |
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| PROJECT INFORMATION P:\sds\proj\7226\dwg\Topo\7226topo.dwg 1/19/2016 9:54:16 AM MST | | | | | | | SHT 1 OF 1 | | | | |

**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
AGENDA REPORT**

From: Jae Hill, AICP, CFM, Community Development Director
Meeting Date: 28 July 2016

DESIGN REVIEW (DR 2016-02)

APPLICANT: Marvin J. Anderson, AIA for 5GL, LLC

LOCATION: 5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E

ZONING DISTRICTS: Recreation (REC) Zoning District

REQUEST: Construction of a new 2,900 square foot maintenance facility.

ANALYSIS: The applicant submitted an application for the construction of a new barn. During the first hearing of this project on June 9th, the Commission found that the Director had erred in reviewing this application as an “equestrian use” and instead agreed with the applicant’s interpretation that this facility is an “accessory maintenance use for recreation uses.” This newly ascribed use is permitted in the Recreation (REC) Zoning District.

The June 9th hearing was adjourned and continued to provide staff and the applicant time to explore options for providing alternative compliance regarding sprinklering or other fire-suppression, access for emergency vehicles, and the use of non-combustible building materials. On June 20th, City Staff – including the Fire Code Official, Fire Chief, Building Official, and Community Development Director – met with the property owners’ architect and representative to discuss viable options; several points of compromise were reached between the City and the applicant. On July 13th, however, the applicant sent an email to City staff stating that they would be proceeding with the application unrevised, and as originally submitted.

As the application hasn’t changed, the structure still complies with required setbacks but does not comply with the minimum established standards for emergency access or private driveways in SVMC § 7-6-13 [Driveways].

*A. Design: Driveways should be designed to run with the existing natural contours of the land. **The driveway consists of two switchbacks down the side of the bluff.***

B. Length: The minimum length of a driveway shall be twenty two feet (22') as measured from the property line, edge of right of way, edge of access easement or other similar purpose easement.

*C. Slope: Driveways shall not exceed a ten percent (10%) slope over the length of the driveway, and a four percent (4%) slope within twenty two feet (22') of the intersection of the driveway with the street. **The driveway exceeds 10% slope in several locations.***

D. *Inside Turning Radius:* The inside turning radius of any driveway shall not be less than fifteen feet (15'). **The inside turning radius is less than ten feet.**

E. *Width:* Unless otherwise determined by the city fire chief, driveways shall be a minimum of twenty feet (20') of unobstructed width. **The width narrows to as little as twelve feet.**

F. *Turnaround:* As determined by the city fire chief, driveways shall provide adequate turnaround. (Ord. 455, 12-6-2012) **The City Fire Department requested an auto-turn model to determine the degree of nonconformity of the existing driveway and identify potential improvements and remedies; no such analysis was provided.**

The proposed maintenance facility is considered Group U occupancy, and is Type V, Group B (wood construction) under 40 feet in height. The maximum allowable size of structure for this designation, under International Building Code standards, is 5,500 square feet.

RELEVANT DEFINITIONS:

9-1C-1 ACCESSORY FACILITIES FOR RECREATION MAINTENANCE: Accessory maintenance facilities specifically and directly related to outdoor recreation uses, including, but not limited to, pump houses, service facilities and yards.

DESIGN REVIEW CRITERIA [§ 9-3A-3]:

A. Design and Siting:

1. *The design of proposed improvements is appropriate and compatible to the lot and the surrounding neighborhood. Attention has been given to the location and design of streets, view corridors, privacy of adjacent properties, outdoor spaces, shadows, solar access, view access, lighting, vehicular access, building massing, privacy of other noise generating equipment, openings and doors as these elements impact adjacent properties. The proposed structure is on a lot surrounded almost entirely by the Sun Valley Golf Course, so there are no adjacent residential neighbors who can be negatively impacted by the proposed intensification of use.*

2. *The location and design of the proposed improvements has given consideration to special sites of historical, natural, ecological, architectural, archaeological, and scenic value or significance, including, but not limited to, those identified in the city's comprehensive plan. The essential character of special sites should be preserved and protected with any proposed site or structure improvements. Not applicable, as there are no special sites in the immediate vicinity.*

3. *The siting of the proposed improvements complies with the adopted uniform fire code and any other applicable regulations regarding emergency vehicle access and circulation as set forth in title 7 of this code. This lot does not provide adequate access for fire department apparatus, using the minimum turning radius and grade standards listed in SVMC § 7-6-13. Existing development is grandfathered with regards to the substandard access, but any new development is not legally non-conforming.*

4. *The proposed improvements are sited to meet the ingress, egress, and driveway standards and requirements set forth in title 7 of this code, and the siting standard in subsection A1 of this section. No*

changes are proposed to ingress, egress, or the driveway which doesn't meet the standards listed. The driveway doesn't meet minimum turning radius or grade requirements listed in SVMC § 7-6-13.

5. *The proposed improvements are sited to take into consideration and to mitigate natural hazards such as floodplains and avalanches as set forth in this chapter. Mitigation measures shall not adversely impact other properties. The structure is outside of the mapped floodplain extents, but may still experience flooding during high-water events or when Trail Creek is dammed by debris. Avalanche danger is highly unlikely.*

6. *The siting of the proposed improvements minimizes interference with natural drainage patterns and is designed to minimize adverse impact on other properties. All drainage shall comply with the standards set forth in title 7 of this code; be contained on site, or be connected to drainage easements or rights of way. No drainage shall be diverted off site onto private property. No drywells or roof drainage plans are indicated on the attached plans, but due to the topography, the only potential cross-lot drainage is not onto adjacent property but rather downslope into Trail Creek.*

7. *The site design provides for adequate space or means to maintain snow storage. Snow storage areas are in accordance with the requirements set forth in article G of this chapter. The applicant has proposed approximately 1,900 sq ft of snow storage area, which is less than the required 1,450 sq ft.*

8. *Appropriate address numbers and monuments are shown in accordance with the requirements as set forth in article G of this chapter. Address numbering will match the existing site, per the applicant's narrative.*

9. *The siting of the proposed improvements, including streets and driveways, where applicable, minimizes hillside visibility and, where applicable, skylining by using a combination of stepped building forms, natural colors and materials, sloped roofs, and landscaping. No ridges or prominent terrain features exist on or directly adjacent to the site.*

10. *Every lot shall be designed to be connected to public water and sewer systems, unless the property is over five hundred feet (500') from a public system as measured from the closest property line and an alternative utility system is approved by the city engineer. The existing lot is connected to existing water and sewer systems, but there are no facilities in the proposed structure which are proposed to be connected to the sewer.*

B. Grading:

1. *Essential grading is shaped to blend with natural landforms and to minimize the necessity of padding and/or terracing of building sites. Cut and fill are shaped, rounded, minimized and nonuniform to simulate natural existing contours. No grading will be significantly changed and the site is predominantly flat.*

2. *Areas which are not well suited for development because of existing soil conditions, ridges, ridgelines, ridge tops, knolls, saddles, summits, wildlife habitat, natural features or hydrology are allocated for open site area or recreational uses. This site, along Trail Creek, is used for recreational purposes.*

3. *The development is in accordance with the design criteria, as applicable, as set forth in article H of this chapter and title 7 of this code. The slope on the site is not subject to the City's Hillside requirements.*

C. Architectural Quality:

- 1. The proposed project maintains the quality of materials and design that is appropriate to the location, the lot and the neighborhood. **The barn will have a traditional appearance, and there is no “neighborhood” to speak of with a consistent design styling.***
- 2. The proposed improvements conform to natural landscape features by minimizing the degree of cuts and fills. **The project does not substantially alter the site’s grade.***
- 3. The plan includes the location of all exterior lighting. All lighting shall be directed onto the subject lot and shall not be directed towards other properties. **All new exterior lighting will be downcast and shielded as depicted on Sheet A2.01.***
- 4. Building design includes weather protection that prevents water from dripping or snow from sliding onto pedestrian or vehicle areas or onto adjacent properties. **Not applicable.***
- 5. Any exterior addition or alteration to an existing building is compatible with the design character of the original building. Any new detached structure is compatible with the design character of the existing buildings and/or structure(s). **The proposed accessory structure is separated from the existing primary and accessory structures by a distance of several hundred feet.***
- 6. All improvements are designed to minimize light and sound emanating to other properties as set forth in article B of this chapter. **The existing lighting conforms to the City’s Exterior Lighting Regulations.***
- 7. Rooftop chimneys and utilities are enclosed and design is consistent with the primary structure. **No new rooftop chimney or utilities will be installed.***

D. Pedestrian and Vehicle Circulation Design:

- 1. Pedestrian and vehicle accesses are provided that meet the requirements set forth in title 7 of this code and comply with the current and future circulation plans for streets and nonvehicular paths contained in the 1997 Sun Valley transportation plan and any amendments thereto. **There are no modifications identified for the property in any existing transportation plan.***
- 2. The site plan provides for safe and uninhibited traffic flow both within the project and onto adjacent streets. Sight distances and proper signage are in accordance with title 7 of this code. **The project’s private drive is only twelve feet in width and doesn’t meet city standards, nor do the switchback corners.***
- 3. Parking areas meet aisle dimensions, backup space and turning radius requirements in accordance with title 7 of this code. **Not applicable.***
- 4. Parking areas are designed to minimize adverse impacts upon living areas and upon adjacent properties with regard to noise, light, and visual impact. **Not applicable.***
- 5. Unobstructed access for fire and emergency vehicles complies with title 8 of this code and other applicable city regulations. Unobstructed access for snowplows, garbage trucks and similar service vehicles is provided to all necessary locations within the project. **The fire department has expressed concern over***

the narrow width and insufficient turning radii of the current drive and has requested a code-compliant driveway.

E. Landscaping Quality: **These standards are not applicable as the project does not propose any changes to the existing landscaping.**

F. Irrigation Limits: **The city's one-half-acre limit applies to residential zoned properties; this portion of the property is zoned Recreation and is not specifically enumerated in the code. The subject property appears to have more than one acre of irrigated land.**

G. Fences, Walls, Retaining Walls, Screens, and Dog Runs: **None proposed.**

H. Sign Design: **Not applicable.**

I. Exterior Lighting: **All proposed lighting is down-cast and shielded, and complies with the City's Exterior Lighting Regulations. See sheet A2.01 of the design review submittal.**

RECOMMENDATION: Staff recommends denial of DR2016-02.

RECOMMENDED MOTION: "I move to deny approval of DR2016-02, pursuant to the Findings of Fact."

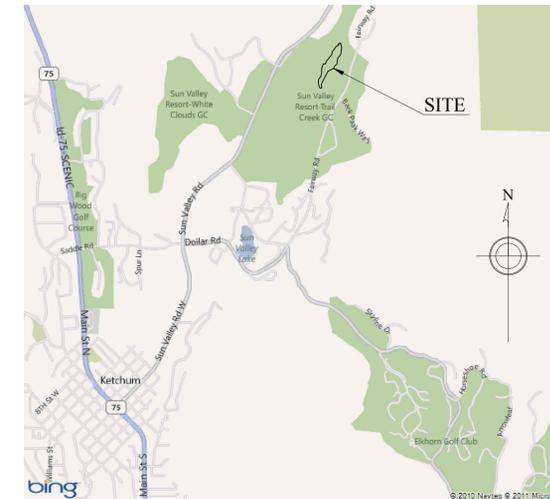
ALTERNATIVE ACTIONS: Move denial of the application and draft findings supporting denial.

ATTACHMENTS:

1. Findings of Fact
2. Application Materials

5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335

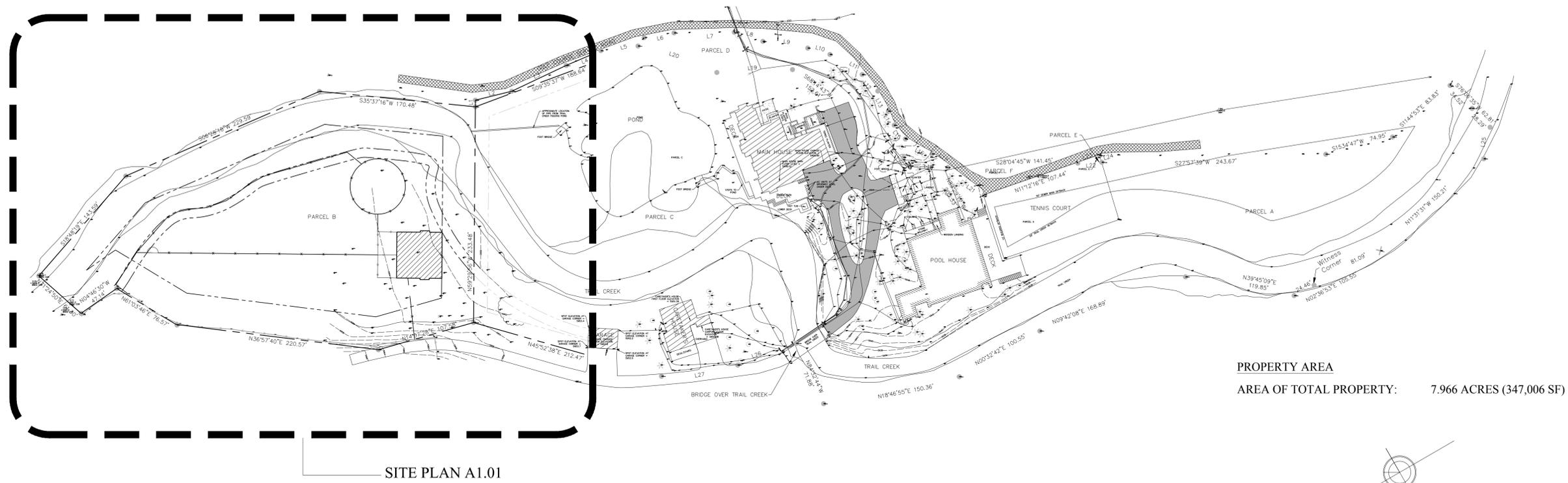


1 VICINITY MAP
NOT TO SCALE

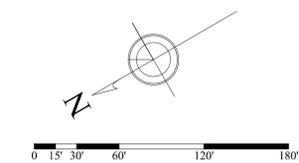
GENERAL
INFORMATION

Scale: As Shown
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

A0.01



2 PROPERTY SITE PLAN
SCALE: 1" = 60'-0"



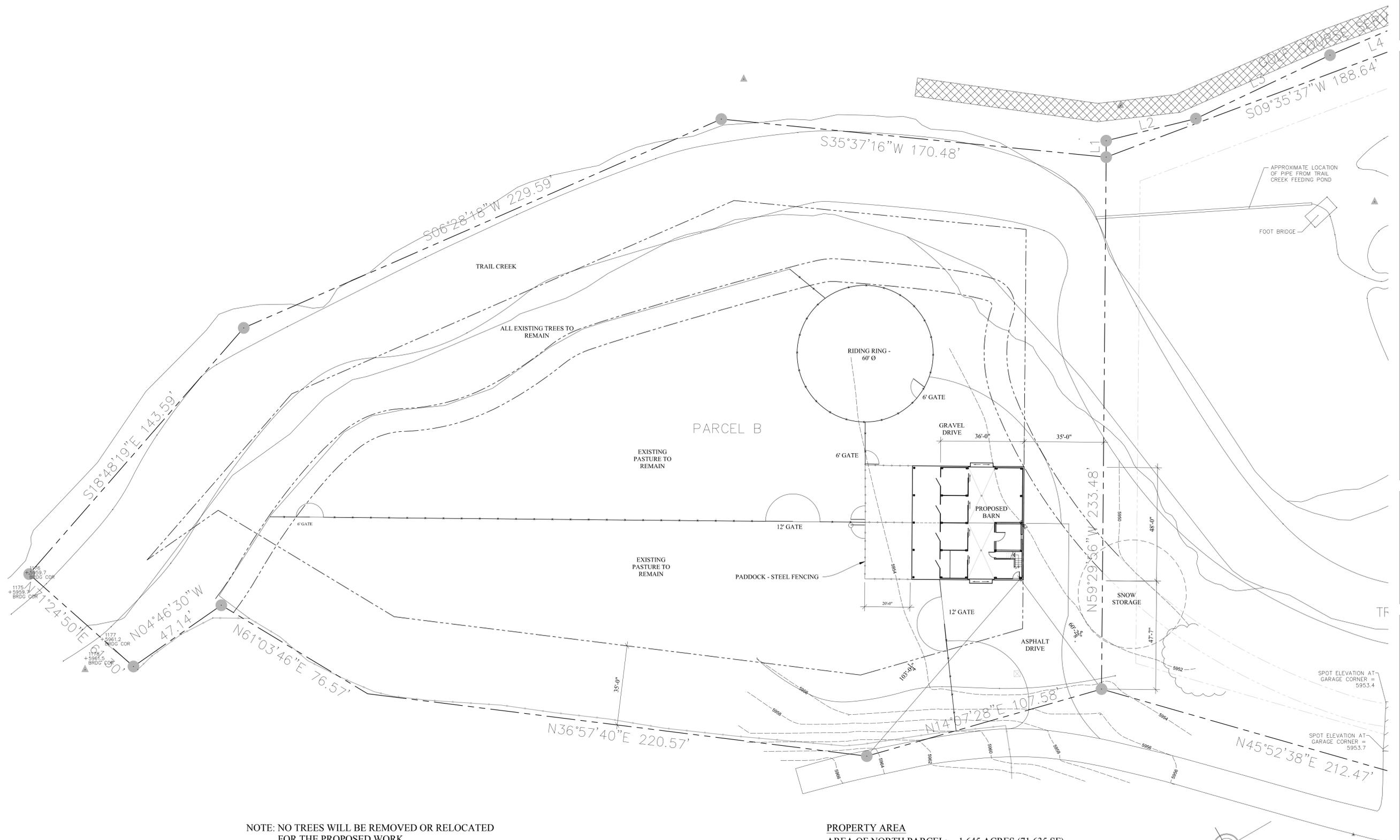
5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335

SITE PLAN

Scale: As Shown
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

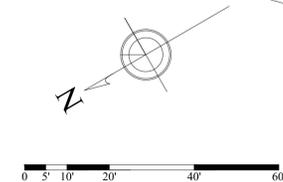
A1.01



NOTE: NO TREES WILL BE REMOVED OR RELOCATED FOR THE PROPOSED WORK

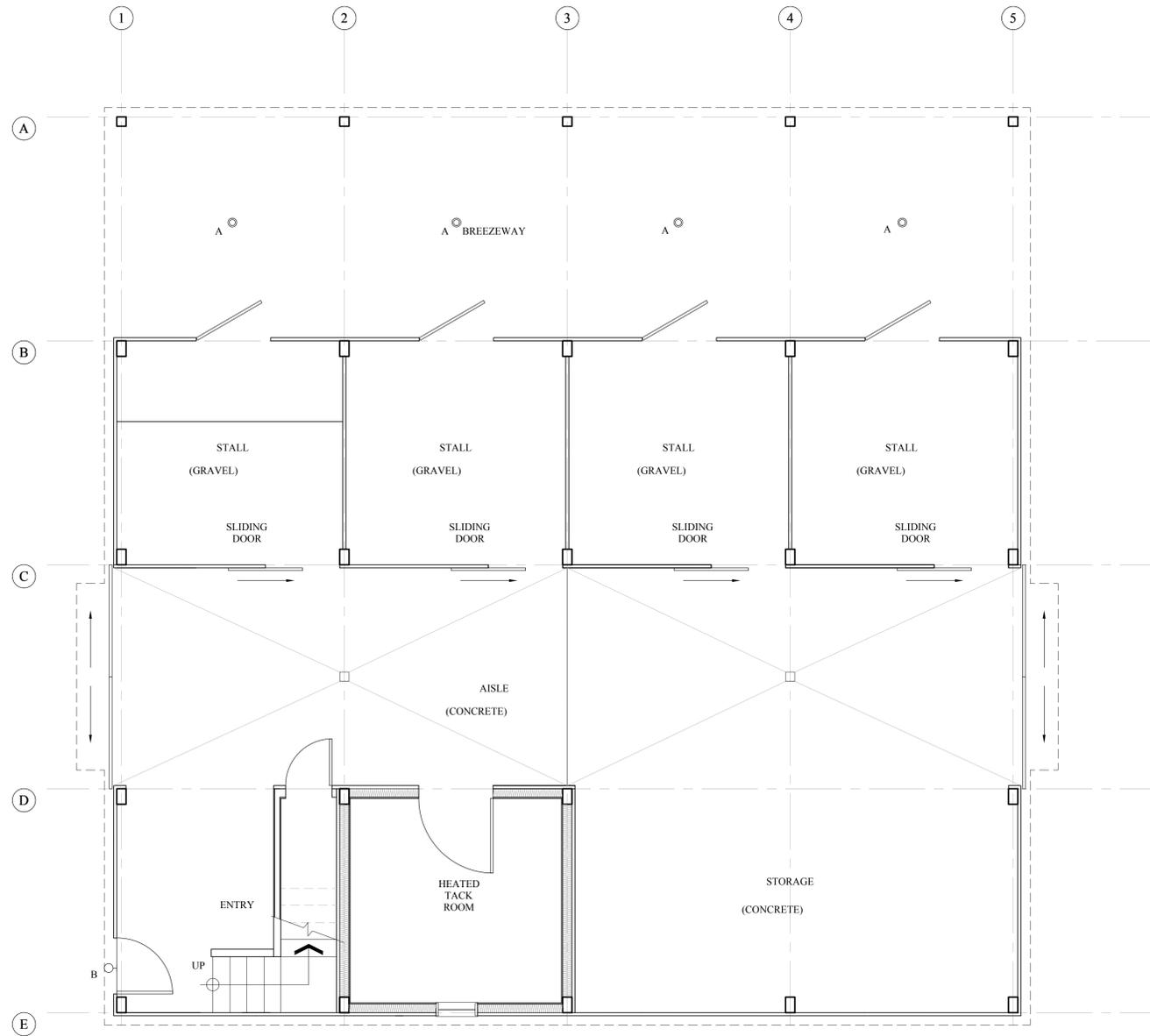
PROPERTY AREA
AREA OF NORTH PARCEL: 1.645 ACRES (71,635 SF)

1 SITE PLAN
SCALE: 1" = 20'-0"



5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335



A. EXTERIOR BREEZEWAY LIGHT
ARK LIGHTING: STANDARD DOME (AS18)
LUMEN OUTPUT: 4500 LM



B. EXTERIOR WALL LIGHT
ARK LIGHTING: STANDARD DOME WITH GOOSENECK BRACKET
(AS18-AGB103)
LUMEN OUTPUT: 4500 LM

FIRST FLOOR SQ. FT. CALCULATION

| | |
|-------------------|---------|
| INTERIOR AREA | 1748 SF |
| COVERED BREEZEWAY | 576 SF |
| TOTAL | 2304 SF |

OCCUPANCY CLASSIFICATION - GROUP U, BARN
TYPE OF CONSTRUCTION - TYPE V-B

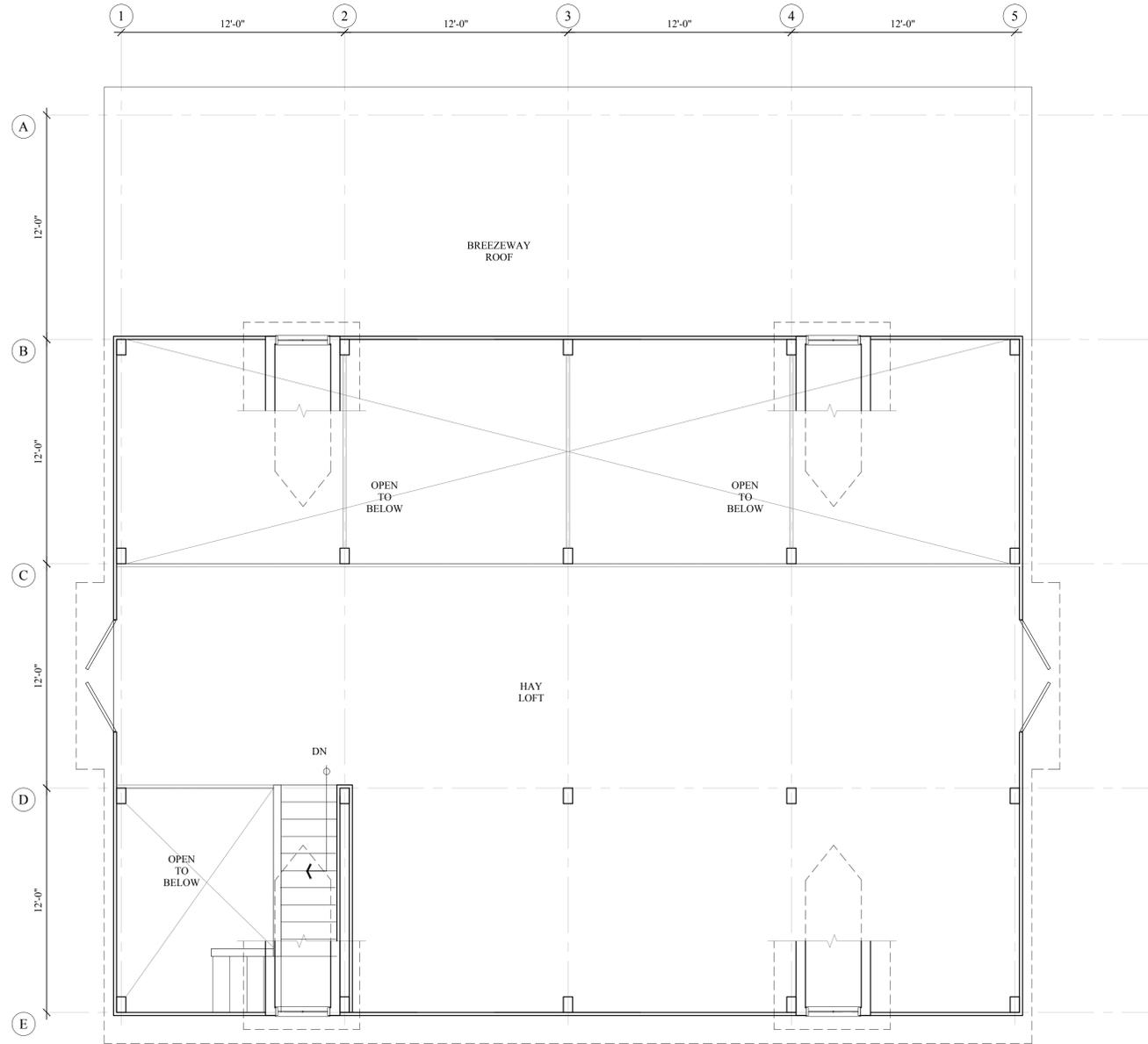


FIRST FLOOR
PLAN

Scale: 1/4" = 1'-0"
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335



UPPER FLOOR SQ. FT. CALCULATION
LOFT AREA: 1152 SF

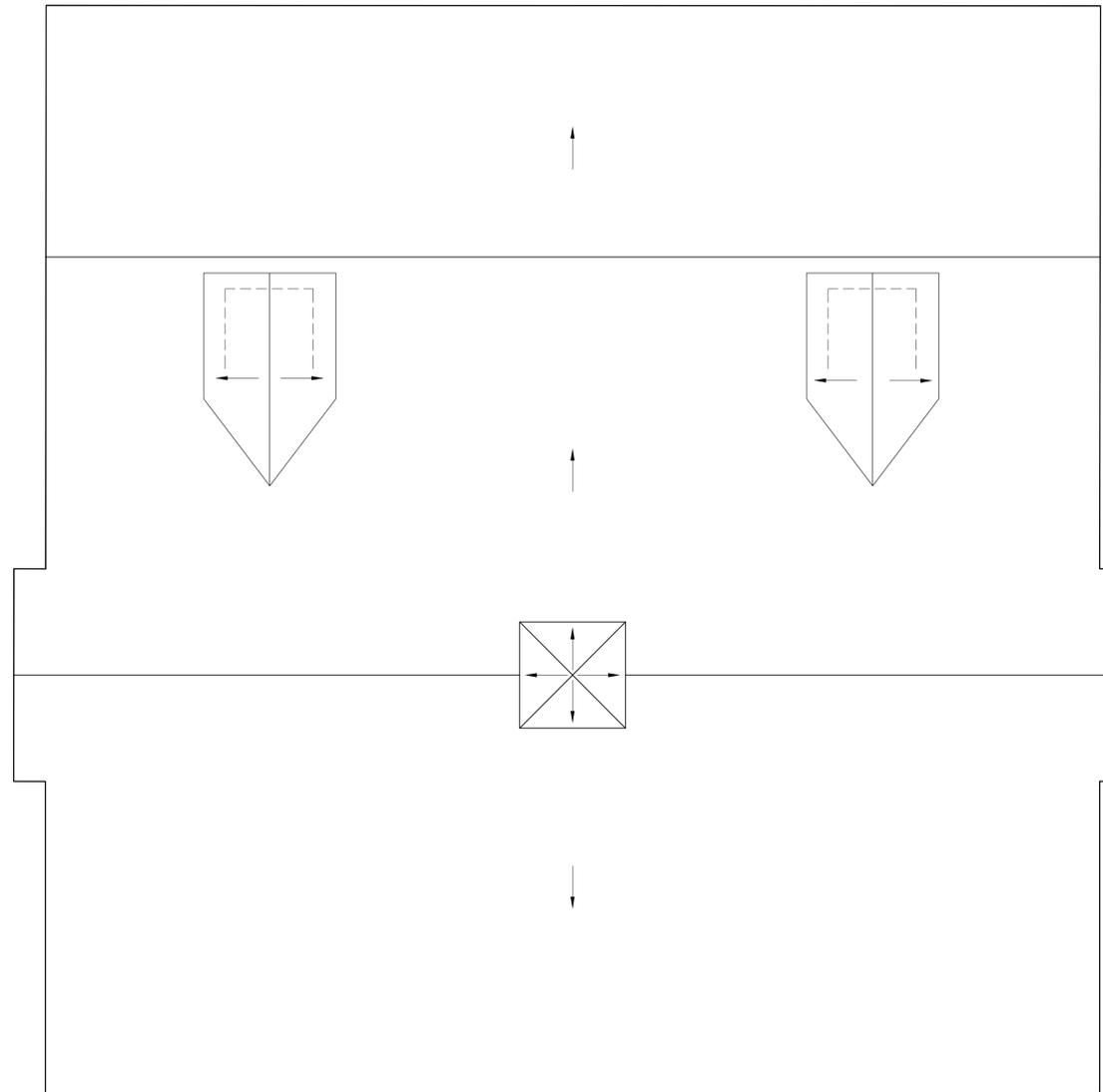


SECOND FLOOR
PLAN

Scale: 1/4"=1'-0"
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

5GL
BARN

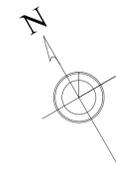
5 Golf Lane
Sun Valley, Idaho 8335



ROOF CALCULATION

TOTAL ROOF AREA: 2498 SF
ROOF AREA ABOVE 30': 25 SF
ROOF AREA ABOVE 35': 0 SF

ROOF AREA BETWEEN 30' AND 35': 25 SF
(~1% OF TOTAL ROOF AREA)



ROOF PLAN

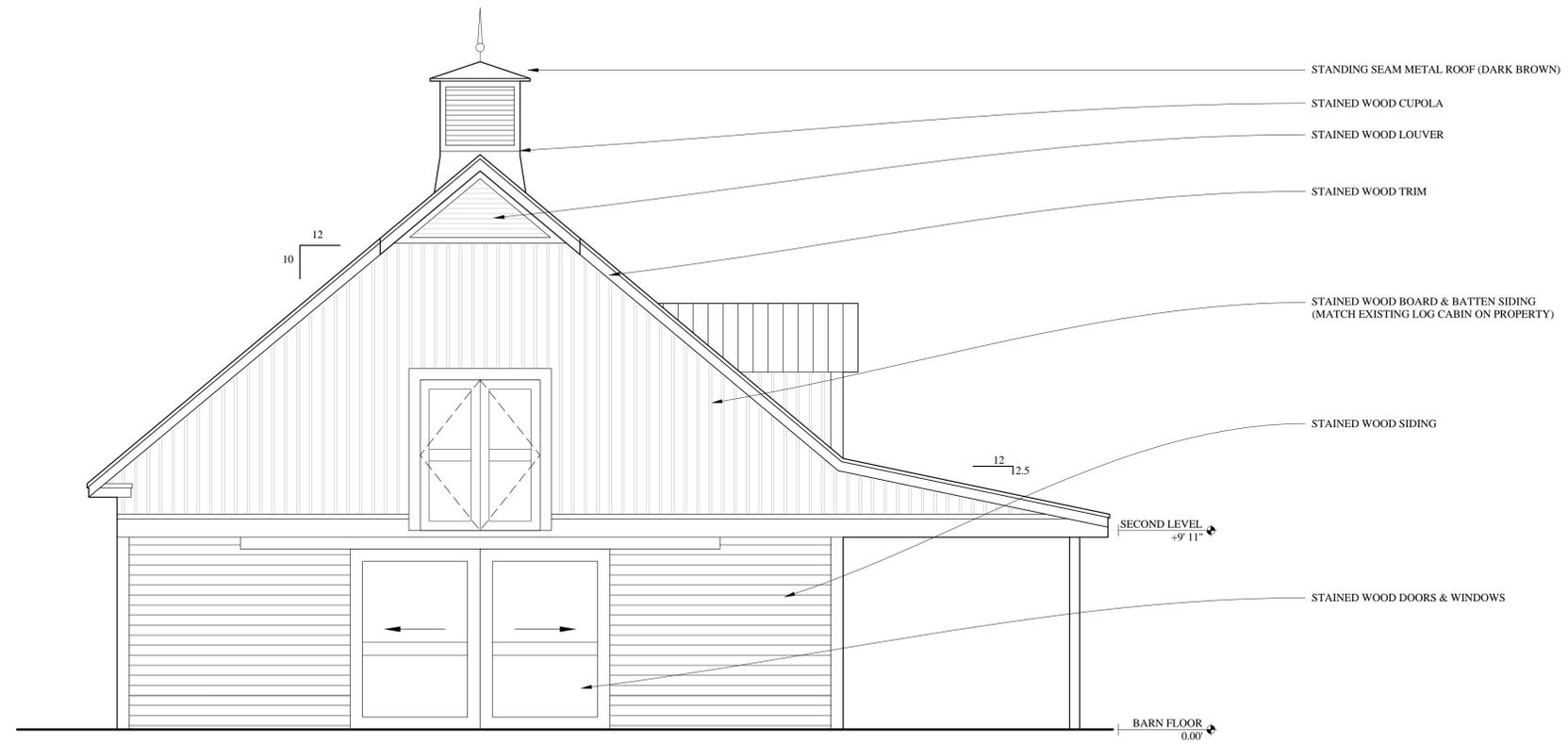
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Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335

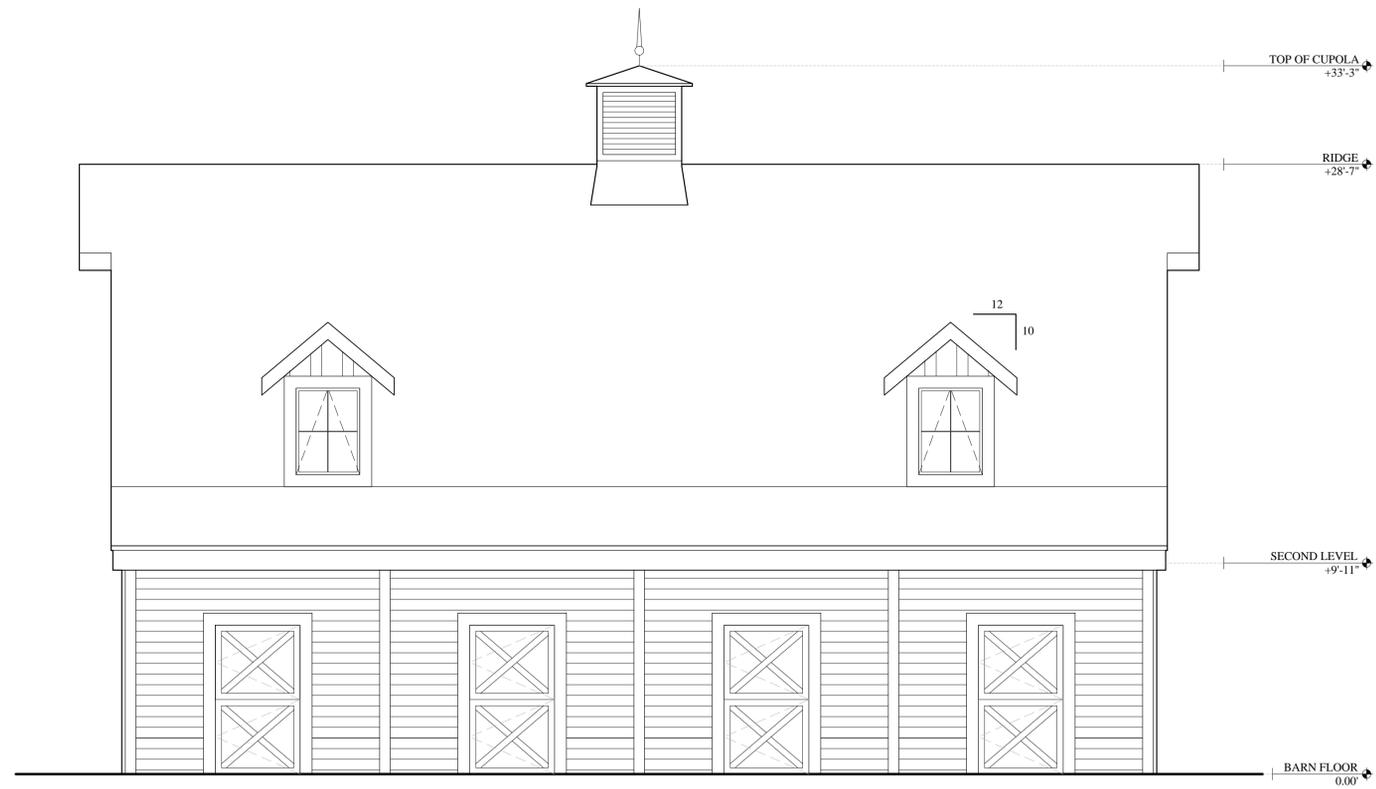
BUILDING
ELEVATIONS

Scale: As Shown
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:



EAST ELEVATION

SCALE: 1/4" = 1'-0"

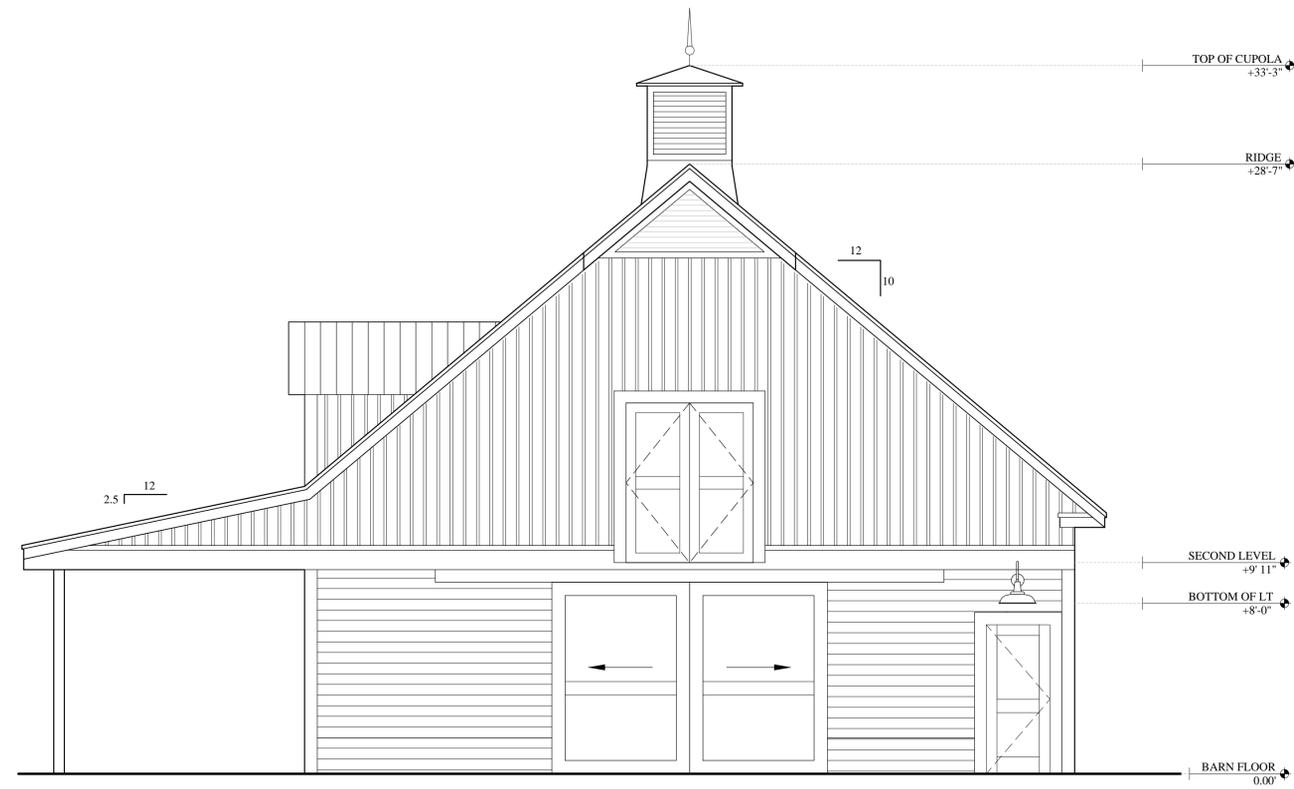


NORTH ELEVATION

SCALE: 1/4" = 1'-0"

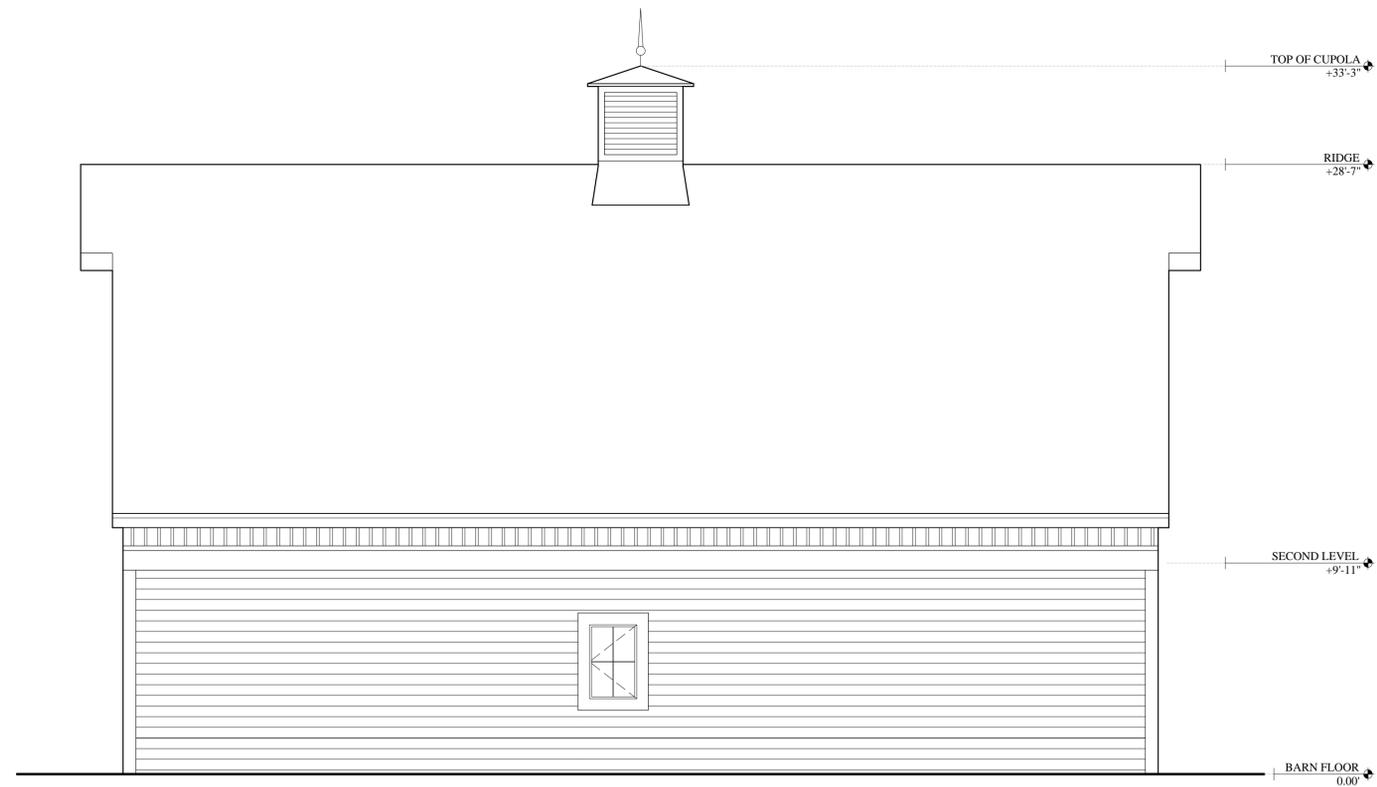
5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335



WEST ELEVATION

SCALE: 1/4" = 1'-0"



SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

BUILDING
ELEVATIONS

Scale: As Shown
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:

5GL
BARN

5 Golf Lane
Sun Valley, Idaho 8335

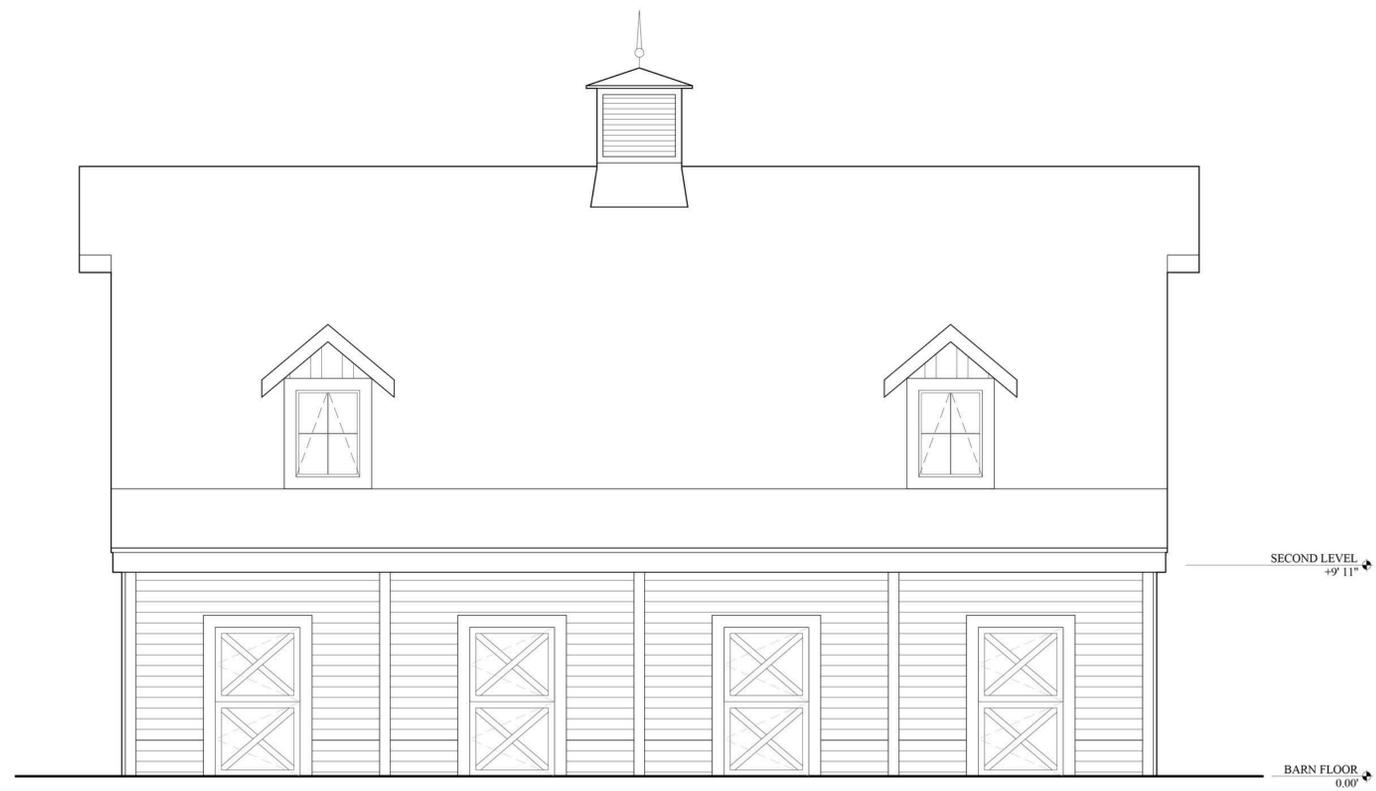
BUILDING
ELEVATIONS

Scale: As Shown
Drawn:
Checked: MJA
Date: OCTOBER 21, 2015
Issue: DESIGN REVIEW SET
Revisions:



EAST ELEVATION

SCALE: 1/4" = 1'-0"



NORTH ELEVATION

SCALE: 1/4" = 1'-0"

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY PLANNING & ZONING COMMISSION
DESIGN REVIEW**

Project Name: **5 Golf Lane Stable**

Applicant: **Marvin J. Anderson, AIA for 5GL, LLC**

Location: **5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E**

Zoning District: **Recreation (REC) Zoning District**

Project Description: The applicant has submitted an application for the construction of a new 2,900 square foot “accessory maintenance use for recreational uses” – a permitted use in the Recreation (REC) Zoning District in which this property is located.

Project Analysis: The proposed structure meets all setback and height requirements for the zoning district, but the property does not meet the minimum driveway standards as identified in SVMC § 7-6-13 and therefore required Findings #2 and #6 can not be affirmed at this time. All other currently existing uses on the property constitute previously-existing, legally-nonconforming uses and may continue to exist in their current state, without addition or enlargement.

Required Findings: Based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 3A (DESIGN REVIEW REGULATIONS)**, the Planning Commission has made the following findings supporting denial, pursuant to **Development Code Section 9-5B-3 (DESIGN REVIEW)**.

2. The proposed design is NOT in conformance with the standards for design review as set forth in Chapter 3A (DESIGN REVIEW REGULATIONS) of this Title. **City of Sun Valley Municipal Code Sections 9-3A-3.A.3, 9-3A-3.A.4, 9-3A-3.D.2, and 9-3A-3.A.D.5 all require suitable access for emergency vehicles and for the driveways to meet adopted codes and specific standards. The proposed structure does not provide for the driveway standards or emergency vehicle access necessary in Sun Valley Municipal Code § 7-6-13 or in the International Fire Code, and thereby doesn’t comply with the requirements of 9-3A-3.**

6. The proposed design DOES NOT adhere to standards for the protection of health, safety, and general welfare. **The proposed structure does not provide for the driveway standards or emergency vehicle access necessary in Sun Valley Municipal Code § 7-6-13 or in the International Fire Code.**

CONCLUSIONS OF LAW

Therefore, this project does not meet the standards for approval under Title 9, Chapter 3A, City of Sun Valley Municipal Code.

DECISION

Therefore, the Sun Valley Planning and Zoning Commission denies this Design Review Application No. DR2016-02.

Dated this 28th day of July, 2016.

Ken Herich, Chair
Sun Valley Planning and Zoning Commission

Date Findings of Fact signed _____

**Staff Report and Draft Findings
DR 2016-02 and CUP 2016-02
June 9, 2016 P&Z Meeting**

**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
AGENDA REPORT**

From: Jae Hill, AICP, CFM, Community Development Director
Meeting Date: 9 June 2016

DESIGN REVIEW (DR 2016-02)

APPLICANT: Marvin J. Anderson, AIA for 5GL, LLC

LOCATION: 5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E

ZONING DISTRICTS: Recreation (REC) Zoning District

REQUEST: Construction of a new 2,900 square foot barn.

ANALYSIS: The applicant has submitted an application for the construction of a new stable, which is an “equestrian use” as defined by Sun Valley Municipal Code § 9-1C-1 [Definitions], and is more specifically an “indoor equestrian use” – a conditionally permitted use in the Recreation (REC) Zoning District in which this property is located. This structure is a proposed accessory use to the already established recreational use on the property; “accessory uses for recreational uses, other than maintenance related” are also conditionally-permitted uses in the REC zone. *[The Applicant disagrees with Staff’s interpretation of the definition of “equestrian use” and has provided a letter in support of their opinion.]*

As this proposed use is conditionally permitted, a Condition of Approval has been added to this application requiring issuance of a Conditional Use Permit to allow the stable (“indoor equestrian use”) as an accessory use to the recreational use.

The development lot is split zoned, with the northern portion being zoned REC and the southern portion being zoned Single-Family Residential (RS-1) which contains a residence and a pool house.

Minimum setbacks in the REC zone are 35 feet; the proposed stable has a 35 foot southern setback and exceeds the required setback on the western property line by well over twenty feet. The maximum height of a structure in the REC zone is limited to 44 feet; this proposal does not exceed 33 feet. There are no footprint or coverage requirements in the subject zoning district.

The Fire Code Official has reviewed this project and determined that there is not adequate access for emergency apparatus, and has also determined that there is not sufficient water pressure to maintain adequate flow for fire suppression [See attached]; as such, two recommended Conditions of Approval have been attached to the Conditional Use Permit to address these issues. *[The Applicant disagrees with the Fire Department’s interpretation and has provided a brief in support of their opinion.]*

RELEVANT DEFINITIONS:

9-1C-1 EQUESTRIAN USES: The use of a site for the keeping of horses, including **stables** and paddocks.

DESIGN REVIEW CRITERIA [§ 9-3A-3]:

A. Design and Siting:

1. *The design of proposed improvements is appropriate and compatible to the lot and the surrounding neighborhood. Attention has been given to the location and design of streets, view corridors, privacy of adjacent properties, outdoor spaces, shadows, solar access, view access, lighting, vehicular access, building massing, privacy of other noise generating equipment, openings and doors as these elements impact adjacent properties. **The proposed structure is on a lot surrounded almost entirely by the Sun Valley Golf Course, so there are no adjacent residential neighbors who can be negatively impacted by the proposed intensification of use.***

2. *The location and design of the proposed improvements has given consideration to special sites of historical, natural, ecological, architectural, archaeological, and scenic value or significance, including, but not limited to, those identified in the city's comprehensive plan. The essential character of special sites should be preserved and protected with any proposed site or structure improvements. **Not applicable, as there are no special sites in the immediate vicinity.***

3. *The siting of the proposed improvements complies with the adopted uniform fire code and any other applicable regulations regarding emergency vehicle access and circulation as set forth in title 7 of this code. **This lot does not provide adequate access for fire department apparatus nor does it provide sufficient water pressure for fire suppression.***

4. *The proposed improvements are sited to meet the ingress, egress, and driveway standards and requirements set forth in title 7 of this code, and the siting standard in subsection A1 of this section. **No changes are proposed to ingress, egress, or the driveway.***

5. *The proposed improvements are sited to take into consideration and to mitigate natural hazards such as floodplains and avalanches as set forth in this chapter. Mitigation measures shall not adversely impact other properties. **The structure is outside of the mapped floodplain extents, but may still experience flooding during high-water events or when Trail Creek is dammed by debris. Avalanche danger is highly unlikely.***

6. *The siting of the proposed improvements minimizes interference with natural drainage patterns and is designed to minimize adverse impact on other properties. All drainage shall comply with the standards set forth in title 7 of this code; be contained on site, or be connected to drainage easements or rights of way. No drainage shall be diverted off site onto private property. **No drywells or roof drainage plans are indicated on the attached plans, but due to the topography, the only potential cross-lot drainage is not onto adjacent property but rather downslope into Trail Creek.***

7. *The site design provides for adequate space or means to maintain snow storage. Snow storage areas are in accordance with the requirements set forth in article G of this chapter. **The applicant has proposed approximately 1,900 sq ft of snow storage area, which is less than the required 1,450 sq ft.***

8. *Appropriate address numbers and monuments are shown in accordance with the requirements as set forth in article G of this chapter. **Address numbering will match the existing site, per the applicant's narrative.***

9. *The siting of the proposed improvements, including streets and driveways, where applicable, minimizes hillside visibility and, where applicable, skylining by using a combination of stepped building forms, natural colors and materials, sloped roofs, and landscaping. **No ridges or prominent terrain features exist on or directly adjacent to the site.***

10. *Every lot shall be designed to be connected to public water and sewer systems, unless the property is over five hundred feet (500') from a public system as measured from the closest property line and an alternative utility system is approved by the city engineer. **The existing lot is connected to existing water and sewer systems, but there are no facilities in the proposed structure which are proposed to be connected to the sewer.***

B. Grading:

1. *Essential grading is shaped to blend with natural landforms and to minimize the necessity of padding and/or terracing of building sites. Cut and fill are shaped, rounded, minimized and nonuniform to simulate natural existing contours. **No grading will be significantly changed and the site is predominantly flat.***

2. *Areas which are not well suited for development because of existing soil conditions, ridges, ridgelines, ridge tops, knolls, saddles, summits, wildlife habitat, natural features or hydrology are allocated for open site area or recreational uses. **This site, along Trail Creek, is used for recreational purposes.***

3. *The development is in accordance with the design criteria, as applicable, as set forth in article H of this chapter and title 7 of this code. **The slope on the site is not subject to the City's Hillside requirements.***

C. Architectural Quality:

1. *The proposed project maintains the quality of materials and design that is appropriate to the location, the lot and the neighborhood. **The barn will have a traditional appearance, and there is no "neighborhood" to speak of with a consistent design styling.***

2. *The proposed improvements conform to natural landscape features by minimizing the degree of cuts and fills. **The project does not substantially alter the site's grade.***

3. *The plan includes the location of all exterior lighting. All lighting shall be directed onto the subject lot and shall not be directed towards other properties. **All new exterior lighting will be downcast and shielded as depicted on Sheet A2.01.***

4. *Building design includes weather protection that prevents water from dripping or snow from sliding onto pedestrian or vehicle areas or onto adjacent properties. **Not applicable.***

5. *Any exterior addition or alteration to an existing building is compatible with the design character of the original building. Any new detached structure is compatible with the design character of the existing*

buildings and/or structure(s). **The proposed accessory structure is separated from the existing primary and accessory structures by distance of several hundred feet.**

6. *All improvements are designed to minimize light and sound emanating to other properties as set forth in article B of this chapter.* **The existing lighting conforms to the City's Exterior Lighting Regulations.**

7. *Rooftop chimneys and utilities are enclosed and design is consistent with the primary structure.* **No new rooftop chimney or utilities will be installed.**

D. Pedestrian and Vehicle Circulation Design:

1. *Pedestrian and vehicle accesses are provided that meet the requirements set forth in title 7 of this code and comply with the current and future circulation plans for streets and nonvehicular paths contained in the 1997 Sun Valley transportation plan and any amendments thereto.* **There are no modifications identified for the property in any existing transportation plan.**

2. *The site plan provides for safe and uninhibited traffic flow both within the project and onto adjacent streets. Sight distances and proper signage are in accordance with title 7 of this code.* **The project's private drive is only twelve feet in width and doesn't meet city standards.**

3. *Parking areas meet aisle dimensions, backup space and turning radius requirements in accordance with title 7 of this code.* **Not applicable.**

4. *Parking areas are designed to minimize adverse impacts upon living areas and upon adjacent properties with regard to noise, light, and visual impact.* **Not applicable.**

5. *Unobstructed access for fire and emergency vehicles complies with title 8 of this code and other applicable city regulations. Unobstructed access for snowplows, garbage trucks and similar service vehicles is provided to all necessary locations within the project.* **The fire department has expressed concern over the narrow width of the current drive and has requested a code-compliant driveway.**

E. Landscaping Quality: **These standards are not applicable as the project does not propose any changes to the existing landscaping.**

F. Irrigation Limits: **The city's one-half-acre limit applies to irrigated areas.**

G. Fences, Walls, Retaining Walls, Screens, and Dog Runs: **None proposed.**

H. Sign Design: **Not applicable.**

I. Exterior Lighting: **All proposed lighting is down-cast and shielded, and complies with the City's Exterior Lighting Regulations. See sheet A2.01 of the design review submittal.**

RECOMMENDATION: Staff recommends approval of DR2016-02, as conditioned.

RECOMMENDED MOTION: "I move to approve DR2016-02 to allow for construction of a 2,900 square foot stable, pursuant to the Findings of Fact and Conditions of Approval."

ALTERNATIVE ACTIONS: Move denial of the application and draft findings supporting denial.

ATTACHMENTS:

1. Findings of Fact
2. Application Materials

DRAFT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY PLANNING & ZONING COMMISSION
DESIGN REVIEW

Project Name: **5 Golf Lane Stable**

Applicant: **Marvin J. Anderson, AIA for 5GL, LLC**

Location: **5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E**

Zoning District: **Recreation (REC) Zoning District**

Project Description: The applicant has submitted an application for the construction of a new 2,900 square foot stable, which is an “equestrian use” as defined by Sun Valley Municipal Code § 9-1C-1 [Definitions], and is more specifically an “indoor equestrian use” – a conditionally permitted use in the Recreation (REC) Zoning District in which this property is located. This structure is a proposed accessory use to the already established recreational use on the property; “accessory uses for recreational uses, other than maintenance related” are also conditionally-permitted uses in the REC zone. Approval of this design review is subject to the approval of a Conditional Use Permit. The proposed structure meets all setback and height requirements for the zoning district.

Required Findings: In order to approve a design review application and based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 3A (DESIGN REVIEW REGULATIONS)**, the Planning Commission shall make the following findings pursuant to **Development Code Section 9-5B-3 (DESIGN REVIEW)**.

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district. **The design of the stable is appropriate for a recreational equestrian facility and generally matches the appearance of the existing buildings along the private drive. A stable – an indoor equestrian use as an accessory to a recreational use – is conditionally-permitted in the Recreation Zone.**
2. The proposed design is in conformance with the standards for design review as set forth in Chapter 3A (DESIGN REVIEW REGULATIONS) of this Title. **The proposed structure meets the setback and height requirements established in the zone. With approval of a Conditional Use permit addressing emergency access and water supply issues, the conditionally-permitted use will meet all of the city’s standards for Design Review.**
3. The proposed design does not significantly impact the natural, scenic character and aesthetic value of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits in the City. **No ridges or prominent terrain features exist directly on the site.**
4. The proposed design is in context and complimentary to adjacent properties. **The materials and colors are consistent with other adjacent buildings on site and with properties in the greater Sun Valley area.**
5. The proposed design is compatible with the community character and scale of the neighborhood. **The**

2,900 square foot structure is smaller than many of the structures on the existing site.

6. The proposed design adheres to standards for the protection of health, safety, and general welfare. **As conditioned in the associated Conditional Use approval, the project meets the requirements of the Sun Valley Fire Department for safety and access.**
7. The proposed design is of quality architectural character and materials. **The proposed design of the structure is a traditional barn-like style with subdued colors.**
8. The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City. **The proposed use/structure is a conditionally-permitted use in the Recreation Zoning District and further supported by the Recreational designation in the Comprehensive Plan's Future Land Use Map. As conditioned, the project will meet the intent of the International Fire Code, as adopted by the City of Sun Valley.**

CONDITIONS OF APPROVAL

1. Applicant and their representatives shall comply with all applicable City codes and ordinances, including those related to noise (Section 4-4D-2 and 3) and water pollution control (Section 4-4C-2).
2. Design Review approval is good for one year from the date of approval, unless extended pursuant to Sun Valley Municipal Code Section 9-5A-8.
3. Any requirements and/or approvals of private associations or other entities are the sole responsibility of the property owner.
4. Any permits issued during the 10-day appeal period provided for under section 9-5A-9 may be subject to a stop work order in the event of an appeal. Any work commenced during the appeal period shall be at the applicant's own risk.
5. Approval is specific to the project drawings and the construction management plan dated received by the City of Sun Valley on January 12, 2016.
6. Any planned permanent address lettering shall meet all applicable requirements of City Code Section 9-3G-14, including letter size and height.
7. Golf Lane shall be kept free and clear for emergency vehicle access at all times. Any significant access issues shall be brought to the attention of the City in advance.
8. No modifications to the approved plans shall be made without written permission of the Community Development Director, Building Official, and Fire Code Official.
9. Approval of this Design Review application is contingent on approval of Conditional Use Permit 2016-02, which is required to make the proposed structure and use legally conforming in the Recreation (REC) Zoning District.

CONCLUSIONS OF LAW

Therefore, this project does meet the standards for approval under Title 9, Chapter 3A, City of Sun Valley Municipal Code provided the conditions of approval are met. Design Review approval shall expire 365 days from the date of approval, unless extended as per Municipal Code Section 9-5A-8.

DECISION

Therefore, the Sun Valley Planning and Zoning Commission approves this Design Review Application No. DR2016-02.

Dated this 9th day of June, 2016.

Jake Provonsha, Vice-Chairman
Sun Valley Planning and Zoning Commission

Date Findings of Fact signed _____

CITY OF SUN VALLEY
DESIGN REVIEW APPLICATION

File No. DR-2016-02 Submittal Date 1/12/16 Fee \$225

Project Name 5GL Barn

Legal Description of Property: Lot Sun Valley TL 8239 Sec 5 AN 18E
Block See attached Subdivision

Street Address of Property: 5 Golf Lane, Sun Valley, ID 83353

Current Zoning of Property: REC

Existing Building gross sq. ft. (if applicable) _____ Proposed addition or new construction sq. ft. 2900

Name of Owner of Property: 5GL, LLC (Mary Kay McCaw, Manager)

Mailing Address: 201 Terry Ave N., Suite A City: Seattle State: WA Zip: 98109

Phone: (206) 328 - 0866 Fax: () - Cell: () -

Email Address: bill@kmmk.com

Property Owner Consent:

By signature hereon, the property owner acknowledges that City officials and/or employees may, in the performance of their functions, enter upon the property to inspect, post legal notices, and/or other standard activities in the course of processing this application, pursuant to Idaho Code§67-6507. The property owner is also hereby notified that members of the Planning and Zoning Commission and City Council are required to generally disclose the content of any *ex parte* discussion (outside the hearing) with any person, including the property owner or representative, regarding this application.

Property Owner's Signature: 

Application Contact (if different than above): Marvin J Anderson (Architect)

***Contact will be the primary point of contact for questions related to the application.*

Mailing Address: 1108 19th Ave E City: Seattle State: WA Zip: 98112

Phone: (206) 525 - 5054 Fax: () - Cell: () -

Email Address: marvin@marvinandersonarchitects.com

Description of Project Construction of new barn with associated fencing.

See reverse page for items that must be submitted in order for the application to be considered complete.

Action Taken: Approved Denied Conditionally Approved Other

**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
AGENDA REPORT**

From: Jae Hill, AICP, CFM, Community Development Director
Meeting Date: 9 June 2016

CONDITIONAL USE PERMIT (CUP 2016-02)

APPLICANT: Marvin J. Anderson, AIA for 5GL, LLC

LOCATION: 5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E

ZONING DISTRICTS: Recreation (REC) Zoning District

REQUEST: Construction of a new 2,900 square foot barn.

ANALYSIS: The applicant has submitted an application for the construction of a new 2,900 sf stable, which is an “equestrian use” as defined by Sun Valley Municipal Code § 9-1C-1 [Definitions], and is more specifically an “indoor equestrian use” – a conditionally permitted use in the Recreation (REC) Zoning District in which this property is located. This structure is a proposed accessory use to the already established recreational use on the property; “accessory uses for recreational uses, other than maintenance related” are also conditionally-permitted uses in the REC zone. *[The Applicant disagrees with Staff’s interpretation of the definition of “equestrian use” and has provided a letter in support of their opinion.]*

As this proposed use is conditionally permitted, approval of the associated Design Review application DR2016-02 is contingent on approval of this Conditional Use Permit (CUP) application.

The site is served by a narrow private road, measuring only twelve feet in width, which switchbacks down a steep embankment and makes a difficult dog-leg turn to the property. The Fire Code Official has reviewed this project and determined that there is not adequate access for large emergency apparatus to reach the site in event of fire or medical emergencies; moreover, the Fire Chief is concerned about the possibility of stranding equipment at the bottom of the hill if emergency personnel had to retreat from an uncontrollable conflagration, or the possibility of trapping personnel as well.

The site is only served by one 600gpm wet fire hydrant and another 1000gpm dry hydrant, neither of which meets the required 1,500gpm flow necessary to protect a structure of the size of the proposed barn, to say nothing of the 2,700gpm flow required to protect the other 22,000 square feet of large structures already developed on the site. The Fire Code Official has therefore determined that there is not sufficient water pressure to maintain adequate flow for fire suppression

In light of both insufficient access and insufficient fire flow, two recommended Conditions of Approval have been attached to the draft Conditional Use Permit to address these issues. *[The Applicant disagrees with the Fire Department's interpretation and has provided a brief in support of their opinion.]*

Per SVMC § 9-5B-2.C.4, the Commission may attach Conditions of Approval to a CUP including, but not limited to, those:

- a. Minimizing adverse impact on other development;*
- b. Controlling the sequence and timing of development;*
- c. Controlling the duration of development;*
- d. Assuring that development is maintained properly;*
- e. Designating the exact location and nature of development;*
- f. Requiring provision for on site or off site public facilities or services;***
- g. Requiring more restrictive standards than those generally required in an applicable ordinance;*
- h. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.***

The bolded conditions (above) recognize the importance of context-appropriate development by mitigating increased development on the site through requiring mitigation and/or requiring provision of essential services – either on-site or off-site as necessary.

Conditional Use Permit approval is subject to the CUP's required findings detailed in SVMC § 9-5B-2D.

- 1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;***
- 2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;***
- 3. The use will not unreasonably diminish either the health, safety or welfare of the community; and***
- 4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.*

While the use is appropriate to the neighborhood and compatible with the uses permitted in the applicable zoning district, it's not appropriate to that particular lot or location until its emergency access and fire suppression issues have been mitigated in keeping with required findings 2, 3, and 4. As such, Staff agrees that the recommended conditions by the Fire Department are necessary to mitigate adverse impacts on the provision of fire service to the property, thereby ensuring the health and safety of the community and of our City's first responders.

RELEVANT DEFINITIONS:

9-1C-1 EQUESTRIAN USES: The use of a site for the keeping of horses, including **stables** and paddocks.

RECOMMENDATION: Staff recommends approval of CUP2016-02, as conditioned.

RECOMMENDED MOTION: "I move to approve CUP2016-02 to allow for construction of a 2,900 square foot stable, pursuant to the Findings of Fact and Conditions of Approval."

ALTERNATIVE ACTIONS: Move denial of the application and draft findings supporting denial.

ATTACHMENTS:

1. Findings of Fact
2. Letter and Supplemental Materials from Fire Department
3. Project Timeline and Analysis of Additional Materials
4. Application Materials

DRAFT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY PLANNING & ZONING COMMISSION
CONDITIONAL USE PERMIT

Project Name: **5 Golf Lane Stable**

Applicant: **Marvin J. Anderson, AIA for 5GL, LLC**

Location: **5 Golf Lane, Sun Valley TL 8239 SEC 5 4N 18E**

Zoning District: **Recreation (REC) Zoning District**

Project Description: The applicant has submitted an application for the construction of a new 2,900 square foot stable, which is an “equestrian use” as defined by Sun Valley Municipal Code § 9-1C-1 [Definitions], and is more specifically an “indoor equestrian use” – a conditionally permitted use in the Recreation (REC) Zoning District in which this property is located. This structure is a proposed accessory use to the already established recreational use on the property; “accessory uses for recreational uses, other than maintenance related” are also conditionally-permitted uses in the REC zone. This approval is also subject to the associated Design Review Application 2016-02, which is contingent on approval of this Conditional Use Permit.

The site is served by a narrow private road, measuring only twelve feet in width, which switchbacks down a steep embankment and makes a difficult dog-leg turn to the property. The Fire Code Official has reviewed this project and determined that there is not adequate access for large emergency apparatus to reach the site in event of fire or medical emergencies.

The site is only served by one 600gpm wet fire hydrant and another 1000gpm dry hydrant, neither of which meets the required 1,500gpm flow necessary to protect a structure of the size of the proposed barn, to say nothing of the 2,700gpm flow required to protect the other 22,000 square feet of large structures already developed on the site. The Fire Code Official has therefore determined that there is not sufficient water pressure to maintain adequate flow for fire suppression

In light of both insufficient access and insufficient fire flow, two recommended Conditions of Approval have been attached to the draft Conditional Use Permit to address these issues.

Per SVMC § 9-5B-2.C.4, the Commission may attach Conditions of Approval to a CUP including, but not limited to, those requiring the provision of on-site (or off-site) public services and those requiring the mitigation of effects of the proposed development on delivery of fire service to the site.

Required Findings: In order to approve a conditional use permit application and based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 5B-2 (CONDITIONAL USE)**, the Planning and Zoning Commission shall make the following findings:

1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district. **The proposed use and structure are a conditionally-permitted use in the Recreation Zoning District and surrounded by the large recreational Sun Valley Trail Creek Golf Course,**

and not adjacent to any residentially-zone properties other than the appurtenant primary residence and accessory structures on the same lot. The use will be appropriate to the location when the emergency access and fire suppression issues have been resolved through the Conditions of Approval associated with this Conditional Use Permit.

2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts. **As conditioned, the current difficulties of the Sun Valley Fire Department to adequately access and defend the property will be mitigated.**

3. The use will not unreasonably diminish either the health, safety or welfare of the community. **As conditioned, the use will provide enhanced fire access, protection, and suppression abilities which will protect the subject property and a large region of the community.**

4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city. **With receipt of the Conditional Use Permit, the subject proposal will constitute a legally-conforming and permitted use, supported by the Recreation Zoning District and the Recreational Designation of the Comprehensive Plan's Future Land Use Map. As conditioned, the subject property will conform to the International Fire Code's requirements for access and structure protection.**

CONDITIONS OF APPROVAL

1. The applicant shall increase the width of the access road (Golf Lane) from a width of 12 feet to a minimum of 26 feet, or to the satisfaction of the Fire Code Official, whichever is the lesser.
2. The applicant shall provide a fire hydrant on the property which can provide a minimum of 1,500 gallons of water per minute for 2 hours, or alternative fire suppression capacity to the satisfaction of the Fire Code Official, whichever is lesser.
3. Prior to any new construction activity, the applicant shall receive City approval for the associated Design Review Application No. 2016-02 and any necessary building permit applications.

CONCLUSIONS OF LAW

The Sun Valley Planning & Zoning Commission concludes that the proposed “indoor equestrian facility” – an accessory use to the existing recreational use at 5 Golf Lane – meets the standards for approval under Title 9, Chapter 5, City of Sun Valley Municipal Code provided the above Conditions of Approval are met.

DECISION

Therefore, the Sun Valley Planning & Zoning Commission **approves** the subject Conditional Use Permit Application No. CUP 2016-02 for the proposed accessory structure subject to the Conditions of Approval above.

Dated this 9th day of June, 2016.

Ken Herich, Chairman
Sun Valley Planning & Zoning Commission

Date Findings of Fact signed

CITY OF SUN VALLEY
CONDITIONAL USE PERMIT APPLICATION

File No. CUP- 2016-02

Submittal Date 5/2/16

Project Name 5GL Barn

Legal Description of Property: Lot _____ Block _____ Subdivision See attached

Street Address of Property: 5 Golf Lane, Sun Valley, ID 83353

Current Zoning of Property: REC

Proposed Use: Outdoor equestrian use with barn.

Application Fee: \$450 Public Notice Fee: _____ Total Fee: _____

Name of Owner of Property: 5 GL LLC (Mary Kay McCaw, Manager)

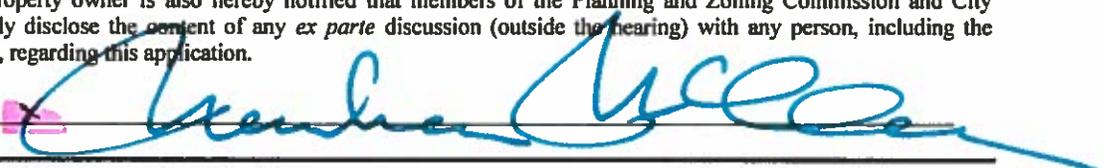
Mailing Address: 201 Terry Ave N, Suite A City: Seattle State: WA Zip: 98109

Phone: 206-328-0866 Fax: _____ Cell: _____

Email Address: bill@kmmk.com

Property Owner Consent:

By signature hereon, the property owner acknowledges that City officials and/or employees may, in the performance of their functions, enter upon the property to inspect, post legal notices, and/or other standard activities in the course of processing this application, pursuant to Idaho Code §67-6507. The property owner is also hereby notified that members of the Planning and Zoning Commission and City Council are required to generally disclose the content of any *ex parte* discussion (outside the hearing) with any person, including the property owner or representative, regarding this application.

Property Owner's Signature: 

Application Contact (if different than above): Marvin J Anderson (Architect)

***Contact will be the primary point of contact for questions related to the application.*

Mailing Address: 1108 19th Ave E City: Seattle State: WA Zip: 98112

Phone: 206-525-5054 Fax: _____ Cell: _____

Email Address: marvin@marvinandersonarchitects.com

Project Description:

Construction of an accessory facility for recreation maintenance; namely an accessory structure incidental to outdoor equestrian use.

Timeline

DR 2016-02 and CUP 2016-02

June 9, 2016 P&Z Meeting

5 GOLF LANE – TIMELINE FOR APPLICATION REVIEW AND RESPONSE TO APPLICANT’S CLAIMS

January 12, 2016: the City of Sun Valley received Design Review application (DR2016-02) for a “barn” at 5 Golf Lane, a lot with the Assessor’s Parcel ID of RPS0000000024A. The parcel is split-zoned: the northern portion containing the pasture is zoned Recreational (REC) while the southern portion is zoned Single-Family Residential (RS-1) and contains the home and pool house. The application was assigned to Abby Rivin, Associate Planner, for review.

January 28: the City notified the applicant Design Review application was facially incomplete, missing both the required compliance statement and a construction management plan, which were later received on February 16 via email and February 23 via hardcopy.

February 16: the Design Review application was determined to be complete. During this completeness review, Staff concluded that the application materials met the requirements on the application checklist, but made no judgment or evaluation to the validity of the project or the compliance with other existing codes. An application can not be reviewed for compliance with the code without all required and necessary submittal materials.

February 17: the City informed the applicant that the Sun Valley Fire Department’s Fire Code Official had completed his review of the application and had suggested conditions of approval for the Planning and Zoning Commission approval, which included upgrades to access and water service (to meet fire flow standards) to the property. City staff gave the applicant the option to either redesign to accommodate the suggested changes, or the alternative to include them with the Staff Report and Findings of Fact as Conditions of Approval.

February 24: initial public notice was posted on-site and in the Idaho Mountain Express. No staff report or detailed review had yet been completed. Notice is sent to the newspaper twenty-one days before the hearing for publication. The project was agendaized for the March 10 Planning & Zoning Commission hearing. Staff reports are now available one week before the hearing, an increase from the previous four days headway.

March 2: the City received a request from Marvin Anderson Architects to postpone review of the application for 60 days.

March 29: the applicant requested that the application be placed on the June 9 Planning and Zoning Commission Agenda, and then asserted that all additional materials in response to the Fire Department’s requests would be received by April 19.

April 19: the City received a legal brief from Scott Campbell – with the law firm Moffatt Thomas, representing the applicant and owner – objecting to the Fire Department’s proposed conditions. No substantive changes to the application materials were provided with this brief. The brief included a series of claims, including:

II.A – That the building is exempt from building and fire code regulations because it is agricultural in nature. The property is not zoned for “agriculture” as a use, as no zoning districts within the City of Sun Valley allow for “agriculture” as a permitted or conditionally-permitted use. If the applicant is claiming that the proposed equestrian uses are “agricultural” in nature and definition, then the applicant is proposing a use which is neither permitted nor conditionally-

permitted in the Recreation (REC) Zoning District: the district allows only for equestrian uses, when conditionally permitted. Agriculture, as a commercial operation, is prohibited in the zone.

The structure itself *may* be exempt from the International Fire Code and International Building Code requirements due to meeting the definition of an agricultural building, and is therefore not required to be sprinklered or engineered for fire ratings, but the intensification of use (and creation of a new accessory use) triggers review on a property that is already underserved by Fire Department access and water pressure for fire suppression.

The Idaho “Right to Farm Act” (Idaho Code Title 22, Chapter 45) states that neither agricultural operations nor facilities shall be considered a nuisance if in constant and responsible operations. This structure is proposed and an intensification of use. Nothing on the property has been declared a nuisance, in this case, and Mr. Campbell is taking this section out of context.

Idaho Code § 50-1301 identifies agricultural lands as a minimum subdivided area of five acres, which further makes the case against the 1.7 acre portion of the property currently-zoned REC being used for agricultural operations.

II.B – That the city’s Title 9 definition of “agriculture” doesn’t comply with the 2012 International Building Code or the State code. The city’s definition relates to city approvals only and doesn’t conflict with the other applicable codes when reviewing those codes independently. The City code defers conflicting municipal standards to the stricter of the two, and City code can not conflict with State or Federal regulations, so an interpretation must be made that reconciles the two – or the City will defer in relevant instances to the State and Federal regulations.

II.C – That the Design Review Application, as submitted, satisfies the City’s requirements in 9-3A-1. The applicant’s attorney claims here that the barn is exempt from Fire Department review by state law, and therefore not subject to our own requirements for Fire Department access and fire code compliance detailed in 9-3A-3.A.3. SVMC Title 7, Chapter 5, clearly expresses that private streets and driveways are permitted, but that the city retains a prescriptive easement for entry and access for emergency vehicles (§ 7-5-3) and that those streets shall be maintained in such a manner to permit such access (§ 7-5-4, § 7-5-5). The city has documented concerns about emergency access and fire flow to this property since at least 2005.

II.D – “That the City Should Not Delegate Its Design Review Authority, Or Otherwise Act As the Instrumentality to Extract Private Funding for a Public Utility.” The Community Development Department, in reviewing this application, has neither delegated any authority nor attempted to “extract” funding. The Sun Valley Water and Sewer District, whom the attorney references for several pages, was not consulted by the Community Development Department in this particular application for Design Review.

April 19: the review period had been postponed by the Applicant since March 2nd, but with the new submittal items, the review period recommenced at this time. As now the application appeared to be heading toward litigation (due to the reply coming from an attorney instead of the original applicant), the Community Development Director, Jae Hill, assumed review authority for the project. A thorough review of the project was completed to develop the necessary analysis required for the completion of a staff report and recommendation. During analysis, the Director found that the proposed stable, located in the

REC zone, meets the definition of “Equestrian Uses” as defined in Sun Valley Municipal Code (SVMC) Section 9-1C-1: “the use of a site for the keeping of horses, including stables and paddocks.” Per Table 9-2C-1, in SVMC § 9-2C-2, “Equestrian Uses, Indoor” in the REC zone are Conditionally Permitted.

Note: the code definition of “equestrian use” does not specifically delineate the difference between indoor and outdoor equestrian uses though stables and paddocks are clearly indoor uses and outdoor uses, respectively.

The Director sent a letter to Marvin Anderson restating the timeline of approvals, postponements, and review periods; this letter also instructed the applicant that a Conditional Use Permit would be required and that the City required further input to proceed.

April 20: Scott Campbell sent an email to Frederick Allington, Interim City Attorney, in response to the City’s request for Conditional Use approval. The letter stated that “This latest change in the rules for treatment of the Application for Design Review for the 5GL Barn is transparently a reaction to the issues we raised in the Brief that we filed with the City and served on your office.” There was no change in the rules, as the requirements for review of conditionally-permitted uses in the REC zone has been established since before 2006. The only “reaction” from the City is that now the application was back in review, and that the Director was reviewing it personally and thoroughly.

Mr. Campbell then said “In view of these facts, I am reluctant to contact Jae Hill without your permission or joint participation” – a clear indication that the applicants are solely interested in pursuing litigation as opposed to cordially navigating the legally-established processes established by the city.

April 20: Community Development Director Jae Hill contacted Scott Campbell by phone and had a lengthy discussion. Mr. Campbell accused the city of being prejudicial in their review of this application due to some lengthy history of approvals with the owners. Mr. Hill has only been an employee of the City since June 2015 and Ms. Rivin since December 2014, with no prior history regarding the 5 Golf Lane property, the owners, the applicant, or their attorney. Mr. Hill stated that he was simply reviewing the application through the lens of the code as written and wanted to resolve the situation through the Planning & Zoning Commission review without simply gearing up for needless litigation. Mr. Campbell indicated, at that time, that he also wanted an amicable resolution to the situation and discuss options with the property owners.

April 28: staff received both a CUP submittal from Marvin Anderson and another letter from Scott Campbell of Moffatt Thomas. The letter repeatedly states that the application is being filed “under protest” (though requests for additional land use entitlements can not be filed under protest) and then makes another series of fallacious claims against Mr. Hill and the City’s review.

1. **That the Design Review application was determined to be complete on January 15, 2016 because of public notice of the pending hearing.** Notice was neither published nor posted on-site until February 24th. The Application for Design Review was determined to be complete on February 16th. A complete application simply means that the required items from the checklist are present and that review can subsequently proceed. That review period was postponed – at the applicant’s request – until April 19th, at which time the application was reviewed for compliance with the code and the need for a Conditional Use approval was discovered. This is akin to an applicant submitting a complete application for a subdivision with an undisclosed

substandard lot requiring a variance; though a complete application may have been submitted, an additional application for further review was discovered during processing.

2. **That the Director, on February 17th, had forwarded recommended Conditions of Approval from the Fire Code Official to the applicants, but had failed to state that such requirements were “unreasonable and untenable.”** There is no responsibility of the Director to make such bizarrely-slanted or inaccurate claims.
3. **That the Director didn’t reference the Brief (provided April 19) in his letter dated April 19.** Any additional materials submitted after receipt of the application of the initial application are added to the file and provided to the Planning and Zoning Commission for their review. Receipt of the brief had no bearing on review of the application other than receipt of said brief allowed project review to commence. The Director is not obligated to respond directly to claims submitted by the applicant or their counsel except in providing analysis and advice to the P&Z Commission; final approval authority rests with the Commission, not with the Director.
4. **That the Director erred in his interpretation of the Conditional Use requirements because Mr. Campbell believes that “Indoor Equestrian Uses” are only riding arenas.** From SVMC § 9-5A-2.C [Duties and Authority], the Community Development Director “shall be the administrative official for the development code” and his or her duties include the responsibility to “interpret provisions in the enforcement and administration of this title.” If Mr. Campbell disagrees with Staff’s interpretation, he may formally appeal such interpretation to the Planning Commission (SVMC § 9-5A-2.B.5) but he has not made such an appeal, except informally through his letters. Mr. Campbell instead believes that this is an “accessory use” and states such an opinion throughout his correspondence; in fact “accessory uses for recreation uses, other than maintenance related” is also a expressly-listed, Conditionally-Permitted Use in the REC zone.
5. **That the Director has required this CUP approval as a “knee-jerk reaction” and “transparently” in response to the submission of the legal brief.** Once again, no thorough review of the merits of the project occurred until the review period was allowed to recommence, which occurred after submission of the legal brief on April 19. Mr. Campbell is attempting to concoct a false narrative – on the record – which may be used for future and probable litigation against the City should the Commission and Council fail to agree with the Applicant’s interpretation of City and State codes.
6. **That because the proposed use (barn) is only 2.4% of the property’s area, it shouldn’t be reviewed because it’s only an accessory use to the primary “outdoor equestrian use.”** Mr. Campbell starts making desperate accusations, stating that “Mr. Hill would have the City ignore 97% of the Property at issue and determine that the Property’s use is actually comprised entirely of an over-expansive interpretation of the barn’s accessory use...” This is ludicrous hyperbole, and unsupported by any statements or correspondence on the record by Mr. Hill. And once again, Mr. Campbell – in his own words – calls this an accessory use to the recreational use, which requires a Conditional Use approval in the REC zone.

May 6: the City informed the Applicant, Marvin Anderson, that the application materials had been received and would proceed to the June 9th agenda of the Planning and Zoning Commission.

CONCLUSION

The City of Sun Valley's Community Development Department would genuinely like to reach an amicable resolution and satisfactory approval by the Commission with the property owners, their applicant & attorney, and the Sun Valley Fire Department. The Community Development Department has reached out to the applicant, Marvin Anderson, for redesign or alternative compliance, and the only responses have been from the property owners' attorney, Scott Campbell.

Mr. Campbell, by his own words on the phone on April 20 and twice in writing on April 28, admits that this project is an "accessory use to the recreational use", which requires a Conditional Use Permit, even if he doesn't agree that this is an "indoor equestrian use" under the code – also requiring Conditional Use approval.

Mr. Campbell's assertions regarding the actions of Staff as prejudicial or reactive (circumferentially because of the abrasiveness of Mr. Campbell's actions) are fallacious, and seemingly indicate that he's actively trying to precipitate the conditions required to create an inharmonious environment in which litigation would be ripe. Nothing could be further from the truth, as Community Development Department Staff has no *opinion* or *feelings* regarding the project; Staff is, in fact, recommending approval, with reasonable conditions, of the associated applications. Mr. Campbell's concocted narrative – even after supposedly agreeing that he wanted an amicable resolution – serves only to establish a false record with which to begin litigation under specious pretenses.

And finally, Mr. Campbell appears to be distorting both the status and reality of the project: no conditions have yet been formally required or imposed, the City has not delegated its authority for design review or land use approvals, there's been no collusion on the part of City staff and the Water District to injure his client, and no final action on the applications has yet been taken.

Correspondence
DR 2016-02 and CUP 2016-02
June 9, 2016 P&Z Meeting

Abby Rivin

From: Abby Rivin
Sent: Thursday, January 28, 2016 10:27 AM
To: 'marvin@marvinandersonarchitects.com'
Subject: 5 Golf Lane Design Review Application

Hi Marvin,

The Community Development Department has reviewed your submittal for the barn at 5 Golf Lane. In order to ensure that your project complies with City Code, the department requires two additional items detailed below.

1. The design review application requires a compliance statement ([SVMC 9-5A-4.A](#)) with an explanation of the project's compliance with the standards of review, which include ([SVMC 9-3A-3](#)):
 - Design and Siting;
 - Grading;
 - Architectural Quality
 - Pedestrian and Vehicle Circulation Design;
 - Landscaping Quality;
 - Irrigation Limits;
 - Fences, Walls, Retaining Walls, Screens and Dog Runs;
 - Sign Design; and
 - Exterior Lighting.

**Note: Some standards may not be applicable to the specific design review application.*

Please click [here](#) to view the criteria for each standard of review listed above.

2. The department requires a construction management plan indicating contractor staging, parking, and access.

Thanks in advance for providing these materials so the department can continue to process your design review application. If you have any further questions, please don't hesitate to call or email.

Best,
Abby

Abby Rivin
Associate Planner
City of Sun Valley
(208) 622-4438
arivin@svidaho.org

Abby Rivin

From: Marvin Anderson <marvin@marvinandersonarchitects.com>
Sent: Wednesday, March 02, 2016 1:56 PM
To: Abby Rivin; Jae Hill
Subject: 5 Golf Lane Barn Design Review Application

Dear Ms. Rivin and Mr. Hill,

On behalf of the owner of 5 Golf Lane, I am writing to request a 60 day postponement of Planning & Zoning review of the submitted design review package for the proposed barn at 5 Golf Lane.

I thank both of you for your attention to this project and for your efforts to facilitate this postponement. If you could, please acknowledge this postponement via return e-mail.

Please do not hesitate to contact me if you have any questions.

Sincerely,
Marvin

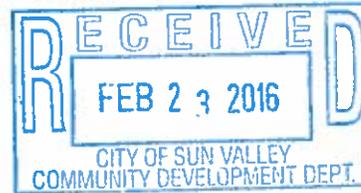
Marvin J. Anderson AIA
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Seattle, Washington 98112
P: 206-525-5054
C: 206-715-4567

MARVIN ANDERSON ARCHITECTS PLLC

1108 Nineteenth Avenue East • Seattle, WA 98112 • 206-525-5054 • marvinandersonarchitects.com

February 16, 2016

Ms. Abby Rivin
Associate Planner
City of Sun Valley



RE: Design Review Application
Proposed Barn
5 Golf Lane
Sun Valley, Idaho

Dear Ms. Rivin,

In accordance with Sun Valley Municipal Code 9-5A-4.A, please find below an explanation of the proposed project's compliance with standards of design review. This explanation follows SVMC 9-3A-3.

A. Design and Siting:

1. The design of proposed barn is appropriate and compatible with the lot, which is zoned REC, recreation. In this zone, outdoor equestrian uses are permitted (SVMC Table 9-2C-1): the proposed barn is to support this use. The barn has been sited toward the southern edge of this parcel adjacent to existing trees along Trail Creek rather than in the center of the parcel which is an open pasture, in order for it to better blend with the existing natural features of the property. The parcel is completely surrounded by the Sun Valley Golf Course, its eastern edge the tree-lined Trail Creek and its western edge a high bluff.

Exterior materials of the proposed barn are stained wood siding with brown metal roof, selected for the building to be architecturally compatible with existing buildings on the adjacent parcel and to blend with the natural environment instead of standing out.

2. This parcel contains no special sites of historical, natural, ecological, architectural, archaeological, and scenic value or significance. The proposed building has been set back from Trail Creek in accordance with all requirements, and preserves the existing trees lining the creek.
3. The siting of the proposed building is adjacent to the existing driveway and provides for emergency vehicle access and circulation per adopted standards of the International Fire Code.
4. The proposed improvements will utilize the existing driveway into the property.

5. The proposed improvements are sited to take into consideration and to mitigate natural hazards of seasonal flooding of Trail Creek.
6. The siting of the proposed improvements has no impact on natural drainage patterns on the parcel and has no adverse impact to other properties. No drainage is diverted onto other properties or public ways.
7. The site design provides adequate space around the building and driveway apron for snow storage.
8. Address letters will be provided for this building to match approved address letters on other buildings on the property.
9. The siting of the proposed barn is in a natural valley with no hillside visibility or skylining.
10. This parcel is served by a private water system common to the property, which draws from Sun Valley's public water system. The proposed barn has no facilities that will require connection to the sewer system.

B. Grading:

1. The proposed building is sited on existing level land and requires no grading. The approach to the building from the existing driveway will require very minimal grading; all cut and fill materials will be used onsite to blend improvements with natural existing land contours.

C. Architectural Quality:

1. The proposed barn maintains the quality of materials and design that is appropriate to the existing property and to adjacent properties.
2. Proposed improvements conform to natural landscape and minimize the degree of cuts and fills.
3. Submitted drawings include the location and type of all exterior lighting, which is directed onto the property and meets Sun Valley dark skies requirements (SVMC 9-3B).
4. All snow or snow melt from the building will fall away onto the parcel, away from pedestrian or vehicle areas.

D. Pedestrian and Vehicle Circulation Design:

1. Pedestrian and vehicle accesses are provided to the proposed barn from the existing driveway on the property.
2. The site plan provides for safe and uninhibited traffic flow within the project. Traffic flow from the property onto adjacent streets will be unchanged.
3. Parking provided adjacent to the building meets all requirements for dimension, backup space and turning radii.
4. Parking areas are located between the proposed barn and western bluff, and will have no noise, light, or visual impact on adjacent properties.

5. Unobstructed access for fire and emergency vehicles is provided to the proposed barn from the existing driveway.

E. Landscaping Quality:

1. Existing natural landscaping on the parcel will provide significant screening of the building from adjacent properties, although the building will be visible from areas of the golf course and some nearby existing residences.
2. Landscape materials on the parcel are native drought resistant and winter hardy plant materials
3. Existing trees, shrub masses, and important landscape features are preserved on the parcel.
4. Existing landscape buffer areas to adjacent properties will be maintained.

F. Irrigation Limits: N/A

G. Fences, Walls, Retaining Walls, Screens, and Dog Runs:

1. Fences around the existing parcel are finished on both sides and will be maintained. New fences adjacent to the proposed barn will match existing.

H. Sign Design:

1. Other than an address letter, there are no proposed signs associated with this building.

I. Exterior Lighting:

1. All proposed lights meet Sun Valley dark skies requirements (SVMC 9-3B).

Please do not hesitate to let us know if we may answer any questions.

Sincerely,



Marvin J. Anderson, AIA
Principal

cc. Owner, 5 Golf Lane



**PLANNING AND ZONING COMMISSION
PUBLIC HEARING NOTICE
Meeting to be held on
Thursday, March 10, 2016**

The meeting will begin with a *site visit at 9:00am* at 5 Golf Lane and then adjourn to the Council Chambers of City Hall, 81 Elkhorn Road, Sun Valley, Idaho directly thereafter for the required public hearing.

The Sun Valley Planning and Zoning Commission will be holding a public hearing on the following development application:

- **Design Review #2016-02:** Application for the proposed construction of a 2,900 square foot barn in the Recreation (REC) Zoning District. Applicant: Marvin J. Anderson for 5GL, LLC. Location: 5 Golf Lane; Sun Valley TL 8239 Sec 5 4N 18E.

NOTICE IS FURTHER GIVEN that at the aforementioned time and place, all interested persons may appear and shall be given an opportunity to comment on the matter stated above. Comments and questions prior to the public meeting should be directed to the City of Sun Valley Community Development Department, (208) 622-4438, mailed to PO Box 416, Sun Valley, ID 83353, emailed to jhill@svidaho.org or arivin@svidaho.org, or faxed to (208) 622-3401. Written comments received prior to the meeting shall be made part of the public record at the meeting. **The supporting documents for the above development application are on file in the Community Development Department located in City Hall for public inspection during normal City Hall business hours.**

Any person needing special assistance to participate in the above noticed meeting should contact Sun Valley City Hall prior to the meeting at (208) 622-4438. City Hall is located at 81 Elkhorn Road, Sun Valley, Idaho.



Date: 2/17/2016
To: Jae Hill, Abby Rivin
Re: 2016-02 5 Golf Lane

The Fire Department has reviewed the submitted plans for the construction of a new 3,456 square foot barn at 5 Golf Lane.

In order for the Fire Department to approve the project, the plans will need to be resubmitted showing a revised fire apparatus access and the addition of required water supply.

A fire apparatus access road provides fire engine access from a fire station to a facility, building, or portion thereof. This is a general term inclusive of other terms such as fire lane, Public Street, Private Street, parking lot lane, and access roadway. Approved fire apparatus access roads must be provided for every facility, building, or portion of a building constructed or moved into or within the jurisdiction (503.1.1). The fire apparatus access road must extend to within 150 feet (45720mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

The existing fire apparatus access from Trail Creek Road to the proposed building lot on the property is 12 feet wide and **must be widened to 26 feet** in order to meet the *2012 International Fire Code Appendix D Fire Apparatus Access Roads* (Table D103.4) requirements. Fire apparatus access roads between 501 to 750 feet in length must have a width of 26 feet and a grade of no more than 7%.

The existing water supply on the property is an existing nonconformity. The addition of the barn increases the amount of water necessary to fight a fire in any of the structures located on 5 Golf Lane site. **The Fire Department requires the addition of a fire hydrant that is capable of supplying the required water in case of a fire emergency, which is 1,500 gallons per minute for 2 hours.**

For Fire Department Approval, the applicant must resubmit the plans showing the required fire apparatus access widened to 26 feet and a new fire hydrant.

Reid Black

City of Sun Valley Fire Department
Fire Code Official

The Sun Valley Fire Department Mission is to do no harm, survive and be courteous. We accomplish this through compassionate, professional response to all situations where we are called for assistance.

Scott L. Campbell, ISB No. 2251
Matthew J. McGee, ISB No. 7979
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
mjm@moffatt.com
18975.0006

Attorneys for 5 GL, LLC, Petitioner

BEFORE THE CITY OF SUN VALLEY PLANNING AND ZONING COMMISSION

5 GL, LLC, a Washington limited liability
company registered in Idaho;

APPLICANT

**BRIEF IN SUPPORT OF 5 GL, LLC BARN
DESIGN REVIEW APPLICATION**

**I.
INTRODUCTION**

On January 12, 2016, Applicant, 5 GL, LLC filed the pending Design Review Application (No. DR-2016-02 Golf Lane). The Application seeks design approval under Sun Valley City Municipal Code 9-3A-3.

On January 15, 2016, the City published notice of a March 10, 2016, Planning and Zoning Commission hearing to consider the Application.

On February 17, 2016, Reid Black, City Fire Code Official, presented a letter to Mr. Jae Hill and Ms. Abby Rivin, City Development Department officials. See Letter from

Sun Valley Fire Department, dated February 17, 2016 (Ex. A). The letter commented upon Mr. Black's review of "plans submitted for the construction of a new 3,456 square foot barn at 5 Golf Lane," the Applicant's proposal. *Id.* Apparently relying on provisions of the 2012 International Fire Code, Mr. Black stated: "In order for the Fire Department to approve the project, the plans will need to be resubmitted showing a revised fire apparatus access and the addition of required water supply." *Id.*

In addition, Mr. Black states, "The existing fire apparatus access from Trail Creek Road to the proposed building lot on the property is 12 feet wide and **must be widened to 26 feet** in order to meet the 2012 International Fire Code Appendix D Fire Apparatus Access Roads (Table D103.4) requirements." *Id.* (emphasis added).

He also states, "**The Fire Department requires the addition of a fire hydrant that is capable of supplying the required water in case of a fire emergency, which is 1,500 gallons per minute for 2 hours.**" *Id.* (emphasis added).

Apparently, Mr. Black believes that the Fire Department has full authority to demand these conditions in the City's Design Review process. Applicant disagrees and rejects these conditions for the following reasons.

II. ARGUMENT

A. **The Idaho Building Code Act (Chapter 41, Title 39, Idaho Code) Exempts Applicant's Barn From Building Code And Fire Code Regulation**

The Idaho Building Code Act, Chapter 41, Title 39, Idaho Code, sets forth the Idaho statutory framework for establishment and enforcement of building codes. *See* IDAHO CODE § 39-4101.

The City is a “local government,” as defined in Idaho Code Section 39-4105(7). As such, the City is required to “enforce all of the provisions of this chapter that govern application by local governments.” See IDAHO CODE § 39-4104.

Idaho Code Section 39-4111 confirms enforcement by the City. It states, in pertinent part:

(2) It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure in a local government jurisdiction enforcing building codes, without first procuring a permit in accordance with the applicable ordinance or ordinances of the local government.

Consequently, under typical circumstances, the City has full authority to impose building permit and fire code requirements for new buildings proposed for construction within the City. However, the Applicant’s proposed barn construction is not a typical circumstance.

Applicant’s proposed barn is an agricultural building for shelter of horses, feed, supplies, and ancillary equipment, tools, and tack. As such, the barn is exempt from the City’s building and fire code requirements.

This conclusion results from the application of Idaho Code Section 39-4116. It states, in pertinent part:

(1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section

* * *

(5) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

Based upon these mandatory provisions, the City “shall exempt” Applicant’s barn (“agricultural building”) from the building code, fire code, and other “codes enumerated in this chapter and the rules promulgated by the board.” IDAHO CODE § 39-4116(5). Any contrary action by the City would violate state law and constitute void, “ultra vires” acts. *See Black v. Young*, 122 Idaho 302, 308, 834 P.2d 304, 310 (1991).

B. The City’s Definition of “Agriculture” Conflicts With The Applicable Definitions In The Idaho Right To Farm Act And The International Building Code And Unreasonably Restricts Applicant’s Proposed Barn Construction

In response to the December 18, 2013 letter from Applicant’s attorney (Ex. B), on January 21, 2014, Mr. Adam King, writing as the City’s attorney, stated:

At present, there is not enough information to determine if the proposed barn is an agricultural building as defined in the City and state codes. The City defines “agricultural” [sic] at 9-1C-1, and there are various state codes that contain definitions of “agriculture” and “agricultural.”

King Letter (Ex. C), p. 3.

The City’s definition of “agriculture” in Municipal Code 9-1C-1 is “the cultivation and harvesting of crops for commercial use.” This definition conflicts with the definition adopted by the City in the 2012 International Building Code. *See* Municipal Code 8-1-1:A.

Chapter 2 – Definitions of the International Building Code, states:

AGRICULTURAL BUILDING. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Applicant’s proposed barn meets these definitional terms.

Moreover, the Idaho Right to Farm Act, Chapter 45, Title 22, Idaho Code, also supports this conclusion. The definitions section, Idaho Code Section 22-4502, states:

As used in this chapter: (1) **Agricultural facility** includes, without limitation, any land, **building**, ditch, drain, pond, impoundment, appurtenance, machinery or equipment that is used in an agricultural operation.

(2) **“Agricultural operation”** means an activity or condition that occurs in the production of agricultural products for food, fiber, fuel and other lawful uses, and includes, without limitation:

(a) **Construction, expansion, use, maintenance and repair of an agricultural facility;**

* * *

(e) **Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals**

(Emphasis added.)

These definitions clearly include use of Applicant’s property for “construction . . . use, maintenance and repair of an agricultural facility.” Applicant’s proposed barn for horses would definitely fall within this definition of an “agricultural facility.” Because it is a “building, structure . . . used in an agricultural operation” and would be used for “feeding and keeping livestock,” it should be protected by the other sections of the Right to Farm Act.

Idaho Code Section 22-4504 contains language that also limits the City’s power to impose design review or zoning ordinance restrictions upon Applicant’s proposed barn construction. In pertinent part, the section states:

No city . . . shall adopt any ordinance or resolution that declares any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a nuisance, **nor shall any zoning ordinance that requires abatement as a nuisance or forces the closure of any such agricultural operation or agricultural**

facility be adopted. Any such ordinance or resolution shall be void and shall have no force or effect. . . .

Because of this provision, Applicant's construction of a barn would be protected against City legal proceedings to deem it a nuisance and require abatement. This conclusion results, because City Code Section 9-5A-11: **ENFORCEMENT**: states, in part:

A. **Violations a Nuisance:** No land in the city may be used for a purpose not permitted under this title. Any use of land or structure contrary to this provision is unlawful and a public nuisance. On order of the city council, the city attorney shall commence an action for the abatement and removal of the nuisance and for an injunction preventing the further unlawful use.

Any enforcement action by the City would conflict with the statutory protections for the barn under Idaho Code Section 22-4504.

C. Applicant's Design Review Application Satisfies The Purposes Of Design Review Standards As Established By Municipal Code 9-3A-1

Municipal Code 9-3A-1 sets forth the City's articulation of the purposes of the design review standards:

The purpose of the design review standards is to ensure that development is designed and built in a manner that is context sensitive, complementary to adjacent property, protects the natural landscape, is of high design quality, and is compatible with the character and scale of the neighborhood. These standards are intended to prohibit buildings and related improvements that significantly impact aesthetic value of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits in the city.

Applicant's barn proposal should be evaluated with these purposes in mind, because they circumscribe the extent of the City's design review powers. Applicant's barn proposal meets or exceeds these purposes and adopted standards.

Municipal Code 9-3A-3 specifies the criteria that must be used:

The following criteria shall be used in evaluating proposed developments seeking design review approval and shall be the basis for the findings set forth in chapter 5 of this title.

(Emphasis added.)

Following this mandatory admonition, Municipal Code 9-3A-3A, captioned “Design and Siting,” describes the only Code provision that potentially could form the basis for imposing fire code restrictions in the design review process. Municipal Code 9-3A-3A.3 states:

The siting of the proposed improvements complies with the adopted uniform fire code and any other applicable regulations regarding emergency vehicle access and circulation as set forth in Title 7 of this Code.

(Emphasis added.)

As discussed above, Idaho Code Section 39-4116(5) prohibits the City from requiring the Applicant to meet building or uniform fire code requirements. However, if the City construes Municipal Code 9-3A-3A.3 to allow it to impose fire code requirements, the language specifically limits any restrictions to “siting” of the barn, nothing else. Water flows, fire hydrants, and a new access road clearly do not fall within the meaning of “siting” for the barn.

Additionally, the Title 7 reference to emergency vehicle access cannot be construed to grant fire code authority, because Title 7 standards apply to:

[N]ew construction, reconstruction operation, or maintenance of public or private streets and driveways

Municipal Code 7-1-3.A.

Here, Applicant’s lane (5 Golf Lane) is a private driveway that has existed for approximately 46 years. No modifications are necessary or proposed for Applicant’s barn, despite the Fire Department’s attempt to impose unrealistic and infeasible access road construction requirements as conditions of approval.

D. The City Should Not Delegate Its Design Review Authority, Or Otherwise Act As The Instrumentality To Extract Private Funding For A Public Utility

Even if the City's design review authority included the ability to impose restrictions other than siting of the barn, the facts tend to demonstrate that the City has improperly allowed for, and participated in, the use of such limited design review authority to attempt to extract off-site system improvements for the benefit of the Sun Valley Water and Sewer District (the "District"). At best, a denial by the City in reliance upon fire flow inadequacies improperly delegates or abdicates the City's unworkable design review authority to the District. After all, the City has effectively rejected any fire flow proposals by Applicant other than Applicant funding District improvements. At worst, a denial by the City reflects an unconscionable joint attempt by the City and the District to extract system improvements from a private citizen.

Some additional factual background is helpful to explain this improper delegation. On February 5, 2013, Applicant met with certain principals of Sun Valley Water and Sewer District, as well as principals representing the City and the Fire Department. *See Memorandum to File re Fire Department Access (Ex. D)* at 2. The purpose of the meeting was the discussion of forthcoming proposed onsite utility replacement by Applicant as part of Applicant's pool house renovation. The parties discussed permits and timing, and Mr. Reid Black of the Fire Department requested the installation of a second hydrant "that works." The parties did not discuss the adequacy of fire flows provided by the District.

On March 7, 2013, Applicant met with Mr. Black to discuss site improvements. *See id.* The parties reviewed the site plan, the proposed hydrant locations, including the addition of a third dry hydrant/standpipe, bridge capacity and signage, and the width of the driveway

where a pumper would park at the hydrant. Mr. Black was pleased with the addition of the dry standpipe. The parties did not discuss the adequacy of fire flows provided by the District.

In June of 2013, a fire flow analysis was requested from the Applicant relating to the on-site system improvements. *See* 5 Golf Lane E-mail Chain (Ex. E) at 5. At the request of the Applicant, the District sought flow rate modeling from its engineer for the on-site improvement, but also took the opportunity to request additional modeling that incorporated a “looping addition” improvement to the District’s system. *See id.* On August 13, 2013, Mr. Pat McMahon, the District’s Manager, e-mailed the District’s engineer and stated as follows: “If we can demonstrate that the minimum fire flow can be met with the looping addition, I think we can leverage with the City to require the homeowner [sic] to fund these improvements.” *Id.* at 4.

In a follow-up e-mail on the same day describing the requested additional modeling, Mr. McMahon stated as follows: “I am using city muscle to bring these folks [the Applicant] to the negotiation table.” *Id.* Indeed, Mr. McMahon pressed for improvement of the District’s system by the Applicant. *See* September 17, 2013 Meeting Notes (Ex. F) at 2.

The additional modeling requested by Mr. McMahon revealed that substantial off-site improvements to District infrastructure, including a “looping addition” that is part of the District’s long-term plan, would significantly improve fire flows to the Applicant’s property. *See* October 23, 2013 Meeting Notes (Ex. G) at 1, 2; *see also* Hydraulic Evaluation for the 5 Golf Lane Property (Ex. H). To that end, and in response to several fire suppression alternatives proposed by the Applicant (including the use of one or more cisterns or the existing pond), the Fire Department expressed a strong preference for the use of municipal water, i.e., the substantial and expensive off-site improvements modeled at Mr. McMahon’s request by the District’s engineer. *See* October 23, 2013 Meeting Notes at 2.

On November 27, 2013, Mr. Black stated as follows with respect to certain utility improvements on the property:

The Sun Valley fire department has reviewed the plans submitted for the 5 Golf Lane utility improvements. The plans appear to meet the intent of the fire code for the property.

What is not included in the plans is the information on the improvements to the 8" water main servicing the 5 Golf Lane property.

The fire department is requesting that the water main improvement information be submitted before giving a final review of the plans.

November 27, 2013 E-mail from Reid Black (Ex. I).

Based on Mr. Black's letter of February 17, 2016, the Fire Department's position that the Applicant must fund the District's water main improvement has not changed. Under the circumstances, that position is unreasonable, unworkable, and legally deficient.

1. A Denial Of The Application Based On Fire Flow Issues Resulting From The Inadequacies Of The District's System Improperly Delegates The City's Design Review Authority To The District

The City has design review authority (although, as set forth *supra*, the scope and extent of that authority are among the issues that are in dispute), but does not have jurisdiction over the District's waterworks. The District, on the other hand, has the authority and jurisdiction to maintain and improve its waterworks and assess District customers within the City for the use thereof, but does not have the City's design review authority. Importantly, the Applicant can only comply with the City's design review requirements insofar as it can propose design improvements to *the Applicant's* property. The Applicant has neither the right nor the obligation

to improve or maintain the District's public water works. *See Pocatello Water Co. v. Standley*, 7 Idaho 155, 160-61 (1900)¹; *see also* IDAHO CODE § 42-3212.

Should the City interpret its design review authority as dependent, in whole or in part, upon the District's provision of adequate fire flows to patron City residents in compliance with Idaho law, such interpretation delegates the City's exclusive design review authority relating to construction of agricultural buildings to the District. In essence, the Applicant will be deprived of the right to utilize its property without regard to an otherwise compliant Application until, if at all, the District (not the City or the Applicant) decides to provide fire flows in conformance with Idaho law. "The city council, like the legislature, cannot delegate its legislative power to any other authority." *Local Union 283, Intern. Broth. of Elec. Workers v. Robison*, 91 Idaho 445 (1967) (Taylor, C.J. concurring). "Municipal officers, acting within the authority given them, are in the exercise of a portion of the sovereign power of the state; it is not theirs to deal with as they see fit. Any attempt on their part, by contract or otherwise, to alienate or dilute their official authority is void." *Id.* Clearly, a denial based on the District's inaction to provide adequate water flows delegates authority over the Application's approval to the District, in violation of well-established principals of municipal law.

¹[The water company] cannot compel the user of water to pay for such work or pipes, but it may require him to pay reasonable compensation for furnishing him the water. In other words, the company cannot compel the citizen to pay for a part of the system of waterworks it has agreed to construct but must construct its own system within its franchise limits, at its own expense. It cannot compel the user of water to pay for any part of such system. Beyond the franchise limits, the user of water must lay his own water pipes at his expense, and within such limits the company must lay all pipes at its expense.

Id.

By the same token, guidelines for design review should be “workable.” *Anderson v. City of Issaquah*, 851 P.2d 744, 754 (Wash. App. 1993) (citing *Morristown Rd. Assocs. v. Mayor and Common Council and Planning Bd. of Borough of Bernardsville*, 394 A.2d 157, 163 (N.J. 1978)). “Too broad a discretion permits determinations based upon whim, caprice, or subjective considerations.” *Id.* A valid design review ordinance should impose standards capable of reasonable application and that effectively limit discretion. See 83 AM. JUR. 2D *Zoning and Planning* § 155 (2003).

In this case, it is clearly not “workable” to impose design review requirements that rely exclusively upon the District’s provision of adequate municipal fire flows. The District has made clear it does not intend to complete system improvements necessary to provide fire flows to the Applicant’s property that are consistent with its legal obligations at any point in the next several years. Accordingly, the Applicant proposed and constructed an alternative workable fire suppression option involving improvements to the Applicant’s own property and onsite systems.² The Fire Department has nonetheless expressed a strong preference to have access to the municipal water the District is obligated to provide. Under the circumstances, such a preference is not grounds to deny the Application. The District, not the Applicant, fails to deliver the necessary municipal fire flows within its jurisdiction, and again, the Applicant has neither the right nor the responsibility to improve the District’s system.

² These improvements consist of an engineered intake structure in the Applicant’s pond, standpipe connected to the structure, and proper connection devices and control equipment. This was all designed and constructed with full communication with Fire Department officials. Despite investing over \$750,000 in design and construction of this alternative firefighting water system, the City rejects it.

“Justice delayed is justice denied, the saying goes; and at some point delay must ripen into deprivation. . . .” *Schroeder v. City of Chicago*, 927 F.2d 957, 960 (7th Cir. 1991). Denying and/or delaying City approval of the Application in reliance upon the District’s continuing inaction will eventually ripen into a deprivation of the Applicant’s valuable property rights. For the reasons articulated in Sections A-C *supra*, and because design review in this case both improperly delegates authority to the District and sets forth unworkable requirements, the City should **not** deny the Application based on inadequate municipal fire flows.

2. The Attempt To Extract District Improvements From A Private Citizen Is Unconscionable Conduct

The City, like the Applicant, prefers that the Applicant’s property receive better fire flows. As the City has experienced rapid development and growth in recent years, there can be little dispute that the District’s system has been increasingly burdened. Among the improvements that might alleviate such additional burdens on the District’s system is what Mr. McMahon described as the “looping addition.” Although not on the immediate horizon, the District’s long-term plan clearly contemplates implementation of the “looping addition” to the District’s main line.

The District clearly seized upon its own diminishing fire flows, and the Applicant’s desire to update and improve its property, including the improvement that is the subject of this Application, to attempt to “leverage” the City’s fire code enforcement authority (which existence Applicant disputes in the case of this design review) to bring the Applicant “to the negotiating table” to fund a “looping addition” ahead of the District’s long-term plan. Mr. McMahon’s correspondence with the District’s engineer states as much.

Unfortunately, the City, and more specifically the Fire Department, up to this point, has capitulated as the District's leverage instrument. The District and the City have been aware of the District's diminishing fire flows for some time. And, in support of its recent property improvements and updates, the Applicant designed and constructed the alternative fire suppression system for the Fire Department. However, the City has made it clear that, even for purposes of design review approval of an agricultural building (which allows Fire Department evaluation solely for siting), it expects the Applicant to privately fund substantial District improvements. The City is holding District improvements over the Applicant's head.

The conduct of both the City and the District in this regard has in the past been described by Justice Bistline as unconscionable. In *Black v. Young*, 122 Idaho 302, 834 P.2d 304 (1992), the City of Ketchum conditioned an ordinance vacating an alley upon the issuance of a building permit, including design review, and the funding from an institutional lender to pay the costs to construct a motel. In order to pass the ordinance, the applicant donated money and property to the City, and signed an estoppel affidavit providing that the conditions of the proposed ordinance were acceptable to them and would not be challenged. When neither condition was met, the applicant filed suit and sought a quitclaim deed for the vacated alley property. Ultimately, the Idaho Supreme Court held that imposing such conditions in the ordinance was *ultra vires*, and reversed the district court, which had upheld the City Council's decision not to approve the plan for construction of the motel.

In a special concurrence, Justice Bistline stated as follows:

In his presentation of the background which led up to legal action in district court, Justice McDevitt has stated as to the meeting on December 29, 1987, "the Blacks offered the City of Ketchum \$5,000.00, an old log cabin on the property, and any salvageable material from the service station." At 303, 834 P.2d at 305. He

also illustrates that on April 4, 1988, the “City Council unanimously adopted Ordinance 471, and that, on the same day, the Blacks signed the Estoppel Affidavit which provided that the conditions of the ordinance were acceptable to them and would not be challenged by them.” At 304, 834 P.2d at 306. To the average person the foregoing recapitulation of those events may not raise an eyebrow. *Be that as it may, experienced lawyers will readily see that exchange for what it was: in return for the beneficence of the city officials in providing an ordinance vacating an alley, which is part and parcel of their official duty, the Blacks were required to “donate” the aforementioned items, including an estoppel affidavit. It was clearly a situation of no donations and no estoppel affidavit, no ordinance. True, that extortion did not put so much as an ounce of silver in any officials’ pocket, but, putting that aside, it was, nevertheless, on the part of Ketchum’s governing officialdom, not a legitimate function. Moreover, it was unconscionable conduct. The Blacks had no alternative but to accede to the official voices who wanted to know: “What is in it for the City?”*

Id. at 315, 834 P.2d at 317 (emphasis added).

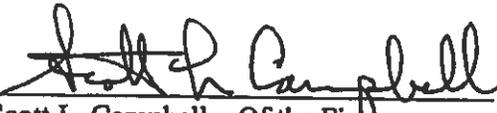
Likewise, in this case, without a private donation of significant improvements to the District’s waterworks (which in turn may allow for continued development of City tax base), the Applicant will not be permitted to build a barn, notwithstanding the fact that it otherwise complies with the City’s design requirements. That is not a legitimate governmental function. It is unconscionable conduct. As it stands with the Fire Department, to build a barn, the Applicant has no alternative but to fund significant District improvements. For that reason, the Applicant respectfully request that the City decline to act as the District’s leverage for private funding of District facilities, and approve the Application.

**III.
CONCLUSION**

For the foregoing reasons, and because the submitted Application complies in all respects with the City's design review requirements, the Applicant respectfully requests that the Commission approve the Application.

DATED this 18th day of April, 2016.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By 
Scott L. Campbell – Of the Firm
Attorneys for Attorneys for 5 GL, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of April, 2016, I caused a true and correct copy of the foregoing **BRIEF IN SUPPORT OF 5 GL, LLC BARN DESIGN REVIEW APPLICATION** to be served by the method indicated below, and addressed to the following:

Ken Herich, Chairman
Sun Valley Planning and Zoning Commission
City of Sun Valley
P.O. Box 416
81 Elkhorn Road
Sun Valley, ID 83353
Facsimile: 208-622-3401

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Frederick C. Allington
Interim City Attorney – City of Sun Valley
115 2nd Avenue South
Hailey, ID 83333
Facsimile: 208-788-7901

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile



Scott L. Campbell

EXHIBIT A



CITY of SUN VALLEY
FIRE DEPARTMENT

Date: 2/17/2016
To: Jae Hill, Abby Rivin
Re: 2016-02 5 Golf Lane

The Fire Department has reviewed the submitted plans for the construction of a new 3,456 square foot barn at 5 Golf Lane.

In order for the Fire Department to approve the project, the plans will need to be resubmitted showing a revised fire apparatus access and the addition of required water supply.

A fire apparatus access road provides fire engine access from a fire station to a facility, building, or portion thereof. This is a general term inclusive of other terms such as fire lane, Public Street, Private Street, parking lot lane, and access roadway. Approved fire apparatus access roads must be provided for every facility, building, or portion of a building constructed or moved into or within the jurisdiction (503.1.1). The fire apparatus access road must extend to within 150 feet (45720mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

The existing fire apparatus access from Trail Creek Road to the proposed building lot on the property is 12 feet wide and **must be widened to 26 feet** in order to meet the *2012 International Fire Code Appendix D Fire Apparatus Access Roads* (Table D103.4) requirements. Fire apparatus access roads between 501 to 750 feet in length must have a width of 26 feet and a grade of no more than 7%.

The existing water supply on the property is an existing nonconformity. The addition of the barn increases the amount of water necessary to fight a fire in any of the structures located on 5 Golf Lane site. **The Fire Department requires the addition of a fire hydrant that is capable of supplying the required water in case of a fire emergency, which is 1,500 gallons per minute for 2 hours.**

For Fire Department Approval, the applicant must resubmit the plans showing the required fire apparatus access widened to 26 feet and a new fire hydrant.

Reid Black

**City of Sun Valley Fire Department
Fire Code Official**

The Sun Valley Fire Department Mission is to do no harm, survive and be courteous. We accomplish this through compassionate, professional response to all situations where we are called for assistance.

EXHIBIT B

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello

Richard C. Fields
John S. Simko
John C. Ward
David B. Lincoln
Gary T. Duncos
Larry C. Hunter
Randall A. Petersman
Mark S. Przynski
Stephen R. Thomas
Gerald T. Husch
Scott L. Campbell
Robert B. Burns
Patricia M. Olson
Christine E. Nicholas
Bradley J. Williams

Ler Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGraham
David P. Gardner
Julian E. Gabiola
Kimberly D. Evans Ross
Jon A. Srenquist
Mark C. Peterson
Tyler J. Anderson
Andrew J. Waldern
Dylan B. Lawrence
C. Edward Cather III

Benjamin C. Ritchie
Noah G. Hillen
Matthew J. McGee
Mindy M. Willman
Jetta Hatch Mathews
Andres J. Rosholt
Marie O. Hart

Noemio M. Semanko, of counsel
Terri L. Ackerman, of counsel

Willis C. Moffatt, 1907-1980
Eugene C. Thomas, 1931-2010
John W. Barrett, 1931-2011
Kirk R. Helvic, 1956-2003

December 18, 2013

Mailing Address
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Boise ID 83701-0829

Physical Address
US Bank Plaza
101 S Capitol Blvd 10th Fl
Boise ID 83702-7710

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Eric Adams
Building Official
City of Sun Valley
P.O. Box 416
Sun Valley, ID 83353

Re: 5 Golf Lane, Sun Valley, Idaho
MTBR&F File No. 18975.0006

Dear Mr. Adams:

My firm has been retained by Newfoundland Partners, the owner of the property at 5 Golf Lane in Sun Valley, to communicate with the City of Sun Valley regarding the status of the proposed improvements to that property. I am writing in order to initiate a dialogue with the City that I hope will lead to a timely resolution of the issues, without the need for legal action or further unnecessary delay. At the suggestion of the City's outside counsel Adam King, I am sending this letter to you. While I believe you are already familiar with this project, I will begin by describing my understanding of the background and significant events that have led up to my writing this letter. This is a complex matter, and I do not intend for this letter to be exhaustive, but I believe this will help to ensure we are on the same page.

More than two years ago, our client elected to renovate the poolhouse, and retained the services of an architect (Marvin Anderson) and a civil engineer (Rick Tomkins), among others, for that purpose. In the course of investigating the utility work that would be necessary to complement those renovations, our client and her representatives discovered that much of the underground utility infrastructure within her property was in need of significant rehabilitation. For one thing, many of the utility lines were simply in need of replacement due to their size or condition. In addition, the utility lines had been installed in an overlapping fashion that would complicate any future utility repairs. Therefore, our client elected to completely replace and relocate all of the utility lines within her property. This includes the replacement of all water lines on the property, relocation and improvement of an existing fire hydrant on the property, and installation of a dry standpipe on the property. These are improvements that our client is voluntarily making at her own expense.

Client:3126322.4

SCANNED

Eric Adams
December 18, 2013
Page 2

In connection with this decision, our client has also agreed with the various utility companies that, after the utility work is complete, their responsibilities will end at her property line, and that she will thereafter be responsible for all utility work within her property. This is in contrast to the typical situation, in which the utility provider is often responsible for repairs up to the building or meter. In addition, Rick Tomkins, at our client's expense, has coordinated the preparation of a written easement agreement across the Sun Valley Company golf course for all of the utility lines that serve her property. While that was not our client's responsibility, she was willing to coordinate and fund that effort. In short, our client's actions in connection with her utility work have already had significant benefits for her utility providers.

While the utility work associated with the poolhouse renovations was originally scheduled to take place in the summer of 2012, that timing was no longer feasible once our client chose to completely overhaul her underground utilities, because it is more efficient to perform all of the utility work at the same time. In order to allow adequate time for planning and communication with local officials, our client then targeted the spring of 2014 as the time to break ground on the utility work, to ensure completion prior to freeze-up later that year.

In order to provide adequate time for City review of the utility plans, our client's representatives met with City representatives on February 5 and March 7, 2013, and followed up by submitting preliminary drawings of the improvements to the City in March 2013. Since that time, there have been several meetings and discussions regarding those plans between representatives of the City and our client, without any formal decision from the City.

Becoming concerned about the approaching 2014 construction season, our client, through her representatives, met with City representatives on November 13, 2013, and formally requested a decision on the construction plans via letters dated November 12 and 15, 2013, requesting a response by November 26, 2013. On November 27, 2013, Reid Black responded to Mr. Anderson via e-mail. For your reference and convenience, I have enclosed copies of these correspondences with this letter.

As you can see, Mr. Black's e-mail states that the plans "appear to meet the intent of the fire code for the property." However, it then proceeds to state that, "[w]hat is not included in the plans is the information on the improvements to the 8" water main servicing the 5 Golf Lane property," and that "[t]he fire department is requesting that the water main improvement information be submitted before giving a final review of the plans."

I believe this reference to "improvements to the 8" water main servicing the 5 Golf Lane property" relates to a previous verbal proposal by the Sun Valley Water & Sewer District to construct a new 8" water line "loop" through our client's property in order to connect the water main currently serving her property with a 12" water main that crosses the Sun Valley Company golf course to the south of our client's property. As you know, our client's property is currently served by a 4"-6" dead-end mainline for water, and for years, it has been common knowledge that the District has not been meeting its duties to provide adequate fire flow to our client's property under authorities such as Rules 003.51 and 501.18(a) of the Idaho Rules for

Client:3126322.4

Eric Adams
December 18, 2013
Page 3

Public Drinking Water Systems. This is a systemic problem that affects properties other than just our client's; indeed, we are aware of the City's approval of other nearby construction projects, despite low fire flows to those residences.

Modeling conducted recently by the District indicates that upsizing and connecting the line currently servicing our client's property with the 12" line to the south will improve fire flows, though they will still be below fire code guidelines. However, as recent correspondence from the District confirms, the District has no definite timeline for constructing these improvements. In our opinion, it is inappropriate to delay the approval of our client's onsite utility work when it is the District's responsibility to provide adequate fire flow.

As I am sure you can appreciate, our client has legitimate concerns regarding the construction of a portion of a regulated public water system through her property. However, even if our client were to agree to the concept generally, it is nothing more than that—a concept—at this time. Such an arrangement would have many details to work out, and to this date, the District has not provided our client with any written proposals or agreements to consider.

Given how much time would be necessary to resolve those details, these two projects—the utility work within our client's property that has already been proposed in detail to the City, and the proposal to construct a connecting "loop" through our client's property—must be dealt with separately.

In this regard, I have enclosed a copy of December 13, 2013 correspondence from Evan Robertson, attorney for the District. As you can see, the District has no immediate plans for construction of the potential "loop."¹ The District's potential future improvements should not further delay the approval of the utility work that is to be conducted entirely within our client's property, that has now been pending since March 2013.

Therefore, our client is again requesting a formal, final decision by the City regarding the onsite utility plans that she has already submitted. Given the length of time that this matter has already been pending, and Mr. Black's acknowledgment that the utility plans "appear to meet the intent of the fire code for the property," I expect the City can render such a decision in relatively short order.

Another issue that has arisen with the City is our client's proposed construction of a barn on the northern portion of her property, which is already zoned for agricultural use. Our client has not formally submitted any construction plans to the City, but her representatives have discussed this project with City officials on multiple occasions. In these prior meetings, City representatives have indicated their belief that the City has jurisdiction over fire safety with respect to the construction of the barn. While it is certainly our client's intent to construct a fire-safe barn, the City's assertion of jurisdiction over construction of the barn seems inconsistent

¹ Please note, however, that we have corrected Mr. Robertson's misunderstanding that our client is planning to replace the 4"-6" line serving her property with an 8" line. All of the work currently proposed is within the property boundaries of 5 Golf Lane.

Eric Adams
December 18, 2013
Page 4

with the building code exemption for agricultural buildings in Idaho Code Section 39-4116(5). And, even if one were to conclude that Section 39-4116(5) does not exempt agricultural buildings from fire code requirements, the City's own design review ordinances only apply the fire code to the "siting" of proposed improvements. Sun Valley City Code § 9-3A-3(A)(1). This use of the term "siting" demonstrates that the City's jurisdiction to determine compliance with the fire code, to the extent it is not already preempted entirely by Section 39-4116(5), is limited to approving the location of the barn within our client's property. This is consistent with the overall purpose of the design review ordinances, which is "to ensure that development is designed and built in a manner that is context sensitive, complementary to adjacent property, protects the natural landscape, is of high design quality, and is compatible with the character and scale of the neighborhood." Sun Valley City Code § 9-3A-1. Therefore, in addition to requesting the City's formal approval of the onsite utility plans, I am also requesting the City's concurrence that our client does not need any building code or fire code approvals for the construction of the barn.

Please review this letter and respond at your earliest convenience. My client still awaits a final decision from the City before finalizing arrangements to break ground on the improvements this spring, so we would appreciate your prompt attention to this matter. To the extent you disagree with my analysis, conclusions, or description of the factual background, please provide a detailed explanation for the basis of your position. I believe open, clear, and thorough communication between us will help ensure an expeditious and favorable resolution of these matters.

Thank you for your cooperation.

Very truly yours,


Scott L. Campbell

SLC/kam
Enclosures

Client:3126322.4

EXHIBIT C

E-MAIL: ABK@KETCHUMLEGAL.COM
Fax 208.726.8116
WWW.KETCHUMLEGAL.COM

ADAM B. KING
ATTORNEY AT LAW, PC
371 NORTH WALNUT AVE., SUITE A
P.O. BOX 4962
KETCHUM, IDAHO 83340
208.721.7859

IDAHO BAR NO. 5565
MEMBER, AMERICAN
IMMIGRATION LAWYERS
ASSOCIATION

January 21, 2014

Via e-mail
Scott L. Campbell, Esq.
Moffatt Thomas
P.O. Box 829
101 S. Capitol Blvd., 10th Fl.
Boise, ID 83702-7710

Re: 5 Golf Lane

Dear Scott:

I am in receipt of your December 18, 2013 letter to Building Official Eric Adams, and I have been authorized to respond with the City of Sun Valley's position and views.

Water Line Issues

The first important issue to address is Reid Black's e-mail of November 27, 2013. While clearly not an approval of the entire water scheme, the e-mail basically states that the plans for the utility improvements on the property are adequate, but questions how the 8" water main will be adequately served. That remains the issue: the plans appear to attempt to serve an 8" water line on the property with a 4" supply. [Because water pressure is roughly a function of the square of the radius of a line, a 4" line is only about one quarter the volume of an 8" line.]

The main issue surrounds concerns that as development of the property has proceeded over the years in piecemeal fashion under prior administrations and the former Fire Chief, the water volume needs for the property have increased substantially, while the water supply simply has not. Any further structures on the property would push the firefighting water needs not to, but rather past, the breaking point. Further construction on the property will not be permitted until the property can be

810.01.01031146.1

ADAM B. KING, ATTORNEY AT LAW, PC
JANUARY 21, 2014
PAGE 2

served with adequate water to properly pressurize the 8" line planned - and tentatively approved - on the property, or until other adequate code-compliant plans are provided for such a supply.

I am not suggesting, and the City is not contending at this time, that any condemnation or corrective action will be taken vis-à-vis existing conditions or already-issued permits, as to a certain extent those rights are vested. It is the case, however, that under IFC 110.1, the fire department can order the abatement of any condition on the premises which constitutes a threat to human life. [See Code provisions attached.]

This determination is based on the discretion afforded the Fire Chief in Section 110.1.1, and the parameters of Section 507.1 and 507.2.

Section 110.1.1 states:

110.1.1 Unsafe Conditions.- Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by section 311 shall be deemed unsafe.

Section 507.1 states:

507.1 Required water supply: An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

Section 507.2 states:

507.2 Type of water supply.- A water supply shall consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow.

B10.01.0103/146.1

ADAM B. KING, ATTORNEY AT LAW, PC

JANUARY 21, 2014

PAGE 3

Also pertinent is Section 507.3:

507.3 Fire flow. - Fire-flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method.

Consequently, under applicable City Codes, in particular Section 110.1.1, Unsafe Conditions, the Fire Chief, working in concert with Code Officials, has determined that any additional structures on the property will not be permitted until the water supply issues are resolved to the Fire Department's satisfaction.

As you are aware, the City of Sun Valley does not provide water service, but has the power, in the interest of public safety and preservation of property, to determine that a property is or would be inadequately served. It appears that your client's concerns about water service and water volumes are more properly addressed to the Sun Valley Water and Sewer District, a separate entity from the City.

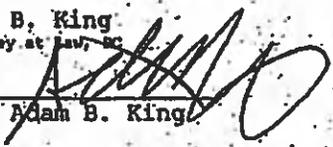
The Barn

At present, there is not enough information to determine if the proposed barn is an agricultural building as defined in the City and State codes. The City defines "agricultural" at 9-1C-1, and there are various state codes that contain definitions of "agriculture" and "agricultural"¹. Please furnish additional information on the proposed uses for the barn so that a determination on the applicability of the fire code can be made.

Thank you very much for your inquiry, its detail has been very useful in outlining the pertinent issues. Please direct all further correspondence to my office.

Very truly yours,

Adam B. King
Attorney at Law, PC

By: 

Adam B. King

¹ See, e.g. Idaho Code Sections 18-7040, 22-2005, 22-4502, 25-3083, 28-41-381, 39-7403, and 44-1601.

Attachment:

City of Sun Valley Code Provisions. Please note that the City of Sun Valley will shortly adopt the applicable 2012 International Codes. While the substance of the International Codes germane to these sections has not changed in the 2006, 2009 and 2012 versions, there are slight numbering differences. The numbering differences do not affect the present analysis.

Excerpts from City of Sun Valley Code:

101.3 Intent. – The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing building, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations.

101.4 Severability. – If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this code.

101.5 Validity. – In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provision hereof, which are determined to be legal; and it shall be presumed that this code would have been adopted without such illegal or invalid parts or provision.

102.5 Application of residential code. – Where structures are designed and constructed in accordance with the *International Residential Code*, the provision of this code shall apply as follows:

1. Construction and design provisions: provisions of this code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits require by section 105.7 of the code shall also apply.

2. Administrative, operational and maintenance provision: All such provisions of this code shall apply.

110.1 General. If during the inspection of a premises, a building or structure or any building system, in whole or in part, constitutes a clear and imminent threat to human life, safety or health, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

110.1.1 Unsafe Conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by section 311 shall be deemed unsafe.

Section 507.

507.1 Required water supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

507.2 Type of water supply. A water supply shall consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow.

507.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method.

507.5 Fire hydrant system. Fire hydrant system shall comply with section 507.5.1 through 507.5.6.

507.5.1 Where required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrant and mains shall be provided where required by the fire code official.

Exceptions:

1. For group R-3 and group U occupancies, the distance requirements shall be 600 feet (183 m).

ADAM B. KING, ATTORNEY AT LAW, PC
JANUARY 21, 2014
PAGE 6

2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2, the distance requirements shall be 600 feet (183 m).

510.01.0103.146.1

EXHIBIT D

MARVIN ANDERSON ARCHITECTS PLLC

1108 Nineteenth Avenue East • Seattle, Washington 98112 • 206-525-5054 • marvinandersonarchitects.com

MEMO

DATE: March 25, 2014

FROM: Marvin Anderson

RE: 5 Golf Lane
Fire Department Access

Below is a timeline of discussions regarding fire department access to 5 Golf Lane compiled from e-mail, meeting notes, and other correspondence.

December 5, 2011 Meeting in Sun Valley with Eric Adams (Sun Valley Building Official) and Reid Black (Sun Valley Fire Department) to discuss poolhouse renovation. The project scope of work was reviewed, and all agreed this is a renovation rather than new construction for the purposes of code compliance. A sprinkler system is not required for renovation, but Reid urged the Owner to consider installing one for added fire protection. Reid stated that addition of a fire truck turnaround would be required as per the code. There was no discussion of fire flow or water availability on the property.

January 17, 2012 Phone call between Marvin Anderson and Reid Black followed by e-mail to Reid with Eric Adams and Bill Beck copied.

"As we discussed on the phone a few minutes ago, with your approval we would like to defer construction of the turnaround until the summer of 2013 when utilities are replaced. This is for two reasons: first, to construct the turnaround we will have to locate the existing hydrant near the poolhouse, and would rather do this in conjunction with other utility work than as a separate project. Second, replacement of utilities will involve trenching and resurfacing; we would rather not tear up in 2013 a turnaround we have constructed in 2012."

Reid Black and Eric Adams both approved deferred construction of the fire turnaround; drawings approved for the building permit show this as "future turnaround."

March 30, 2012 E-mail from Reid Black to Marvin Anderson. Reid was reviewing drawings submitted for the building permit and sought clarification about the driveway:

"The driveway will be brought up to the IFC 2009 503.2.1 Dimensions. *Fire apparatus access roads shall have an unobstructed width of not less than 20 feet exclusive of shoulders, except for approved security gates in accordance with section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.* The plans show the acceptable alternative to 120" Hammerhead but do not show the driveway width change to 20 feet from the property line as we discussed."

Reid continued:

"I also strongly suggest that the owner install a automatic fire suppression system. It would be required if this was a new building because of the following. The ridge line of the structure is over 30 feet and would trigger a 26 foot driveway (*IFC appendix D D105.1*), and the building exceeds the requirements in 503.1.1 Buildings and Facilities. *Approved fire apparatus access roads shall be provide for every facility, building or portion of a building hereafter constructed*

or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 Feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the Building or facility"

"If the building is protected by an Automatic fire suppression system then I would give you an exception to both the driveway and increase the dimensions in 503.1.1."

"Let me know about the Driveway width and good luck in the remodel."

March 30, 2012 Building permit issued for poolhouse renovation.

April 2, 2012 E-mail correspondence from Marvin Anderson to Reid Black.

"Thanks for your e-mail. I have one question related to widening the driveway, and that has to do with where we consider the property line. As the property map (A0.D1) and site survey in the permit application drawings indicate, access to the property from Trail Creek Road is through an easement on property of the Sun Valley Company. The driveway first crosses the property line at the north end of the bridge. Does the change in driveway width to 20' occur at the south end of the bridge?"

April 2, 2012 E-mail response from Reid Black to Marvin Anderson.

"The driveway shall be brought up to code after the bridge."

April 5, 2012 E-mail from Marvin Anderson to Eric Adams. Marvin noted that Reid Black requested modification of the driveway width and asked if that could be added in red onto the permit drawings. Eric responded it could be either marked on the drawings or a new sheet could be added. [A new sheet was added to the set of drawings and included with other additional permit information in a submittal to the City.]

February 5, 2013 Meeting at Sun Valley Water and Sewer District to discuss onsite utility replacement. Attending: Pat McMahon, SVWSD; Chris Benson, SVWSD, Mark Hofman, City of Sun Valley; Eric Adams, City of Sun Valley; Reid Black, SVFD; Ray Franco, SVFD; Bill Beck; Rick Tomkins, Marvin Anderson. Intent of meeting to introduce onsite utility replacement project, gather rules and regulations, discuss permits, and discuss timing. Reid requested second hydrant "that works."

March 7, 2013 Meeting with Bill Beck, Marvin Anderson, and Reid Black in Sun Valley to discuss site improvements. In that meeting a site plan with proposed hydrant locations was reviewed, and the owner / design team also proposed adding a dry hydrant to the north side of the bridge. (Note that this was not a request or requirement by SVFD.) According to my notes e-mailed to Rick Tomkins, Reid approved the fire truck turnaround, the two proposed hydrant locations, and was pleased by addition of the dry standpipe. He questioned if the bridge was built with a permit and if it could support a fire truck. He made three further comments:

1) At the hydrant in the island, the driveway needs to be 26 feet wide per IFC D103.1 so there is sufficient room for a vehicle to pass when a pumper is parked at the hydrant.

2) The second hydrant - the currently east of the house - should be replaced with a hydrant brand that "works."

3) A sign should be posted at the bridge listing the load limit.

Site drawings were left with Reid, at his request, for review and comment.

March 11, 2013 E-mail Marvin Anderson to Reid Black providing information on the bridge width and weight capacity from the original engineering drawings. Also included was the building permit number for the bridge and a photograph of the bridge supporting a truck from the Sun Valley Fire Department.

March 15, 2013 E-mail from Bill Sherrerd (Superintendent, Krekow Jennings Construction) to Marvin Anderson regarding construction of the fire truck turnaround.

"I spoke to Eric Adams and the permit is good for 2 years. he does not have any issue with giving us a C of O on the pool house prior to the Fire access issues being completed as he knows they are in process."

A temporary certificate of occupancy was subsequently issued for the poolhouse pending completion of the fire truck turnaround and landscaping.

September 17, 2013 Meeting at Sun Valley City Hall. Attending: Mark Hofman, Eric Adams, Reid Black, Ray Franco, Pat McMahon, Bill Beck, Marvin Anderson. Rick Tomkins joined by conference call. Later that afternoon, Rick e-mailed onsite water improvement drawings to Reid Black per his request at the meeting.

September 25, 2013 E-mail from Marvin Anderson to Reid Black regarding the strength of the bridge:

"Following up on that meeting i talked earlier today with Paul Gilham of Western Wood Structures, who was the structural engineer for the bridge over Trail Creek when it was designed in the summer of 1993. He told me the weight limit for the bridge is 20 tons for a two axle vehicle and 36 tons for a three axle vehicle. If acceptable to you, we propose to have a wooden sign made with these weight limits, one with routed and painted letters, rather than purchasing a "typical" highway sign which would appear quite out of place on that bridge."

September 26, 2013 E-mail from Reid Black to Marvin Anderson:

"And I agree that the making a sign would look better than a manufactured highway sign. I am trying to find in the codes anything that would prevent you from making the sign and requiring you to have a manufactured sign."

November 13, 2013 Letter from Marvin Anderson to Reid Black requesting approval of onsite utility improvement drawings. Letter and drawings were hand delivered to Sun Valley City Hall.

November 27, 2013 E-mail from Reid Black to Marvin Anderson:

"The Sun Valley fire department has reviewed the plans submitted for the 5 Golf Lane utility improvements. The plans appear to meet the intent of the fire code for the property. What is not included in the plans is the information on the improvements to the 8" water main servicing the 5 Golf Lane property."

"The fire department is requesting that the water main improvement information be submitted before giving a final review of the plans."

"The Load limit sign for the bridge appears to meet the intent of the code and you have approval to proceed with the manufacture of the sign."

March 2014 Bridge sign has been fabricated and will be installed within the next month.

EXHIBIT E

REDACTED

REDACTED

From: Pat McMahon [<mailto:pat@svwsd.com>]
Sent: Tuesday, August 13, 2013 1:18 PM
To: Rick Tomkins
Cc: eadams@svdaho.org; Bill Beck; mhofman@svdaho.org; rblack@svdaho.org; Marvin Anderson
Subject: Re: District approval of onsite water and sewer improvements

I have stirred the modeling fire, that information will drive the wording on the "will serve".
On Aug 13, 2013, at 11:44 AM, Rick Tomkins <rtomkins@triadassociates.net> wrote:

Hi Pat -

Thank you for facilitating our discussion today and for confirming that our latest (6/21/13) water and sewer improvement drawings are acceptable to the District. Please go ahead and issue the offered approval letter, attention myself and copied to Bill Beck.

Best,

- Rick

Richard A. Tomkins, P.E. | Vice President
Director of Engineering

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12112 115th Ave NE
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C: 206.794.9265
F: 425.821.3481
E: rtomkins@triadassociates.net
W: www.triadassociates.net

Civil Engineers | Surveyors | Planners | Landscape Architects

From: Pat McMahon [<mailto:pat@svwsd.com>]
Sent: Friday, August 16, 2013 8:47 AM
To: Rick Tomkins
Subject: Fwd: 5 golf lane

Rick,
Do you have a better illustration for Jennifer?
Pat

Begin forwarded message:

From: <Jennifer.Henke@CH2M.com>
Subject: RE: 5 golf lane
Date: August 15, 2013 11:08:44 PM MDT
To: <pat@svwsd.com>
Cc: <John.Wiskus@CH2M.com>

Hi Pat-

John forwarded me this information. I think that my email address was incorrect (no "l" in "my" Henke☺), so I apologize for not connecting earlier. I've inserted a figure below that shows the existing piping to this area (4-inch) that we have in the model. Can you mark up the attached figure to indicate what other piping we should consider, and we'll work to get this back to you for Monday. Please feel free to contact me to talk real time:

Office: 425-233-3639

Cell: 425-241-6318

Thanks,

Jennifer



From: Wiskus, John/BOI
Sent: Wednesday, August 14, 2013 5:44 PM
To: Henke, Jennifer/SEA
Subject: Fw: 5 golf lane

Sent from my BlackBerry Wireless Handheld

From: Pat McMahon [mailto:pat@swwsd.com]
Sent: Tuesday, August 13, 2013 04:14 PM Mountain Standard Time
To: Wiskus, John/BOI

Cc: jennifer.heinke@ch2m.com <jennifer.heinke@ch2m.com>
Subject: Re: 5 golf lane

Hi John and Jennifer,

This is a self imposed deadline. I am using city muscle to bring these folks to the negotiation table. The minimum fire flow requirement is also a work in progress at this time. The improvement scenario that I would like to see modeled is;

Connecting an 8" or 10" watermain from the 5 Golf Lane property approximately 220' south to connect with the 12" main installed from Fairway Road to the Golf Clubhouse across the SV golf course. There is a "T" in place to facilitate connection, with a fire hydrant currently attached to this "T". We can flow this hydrant and one at 5GL to provide baseline #'s. This flowtest will be accomplished this week. If we get the data to you, can you run it to ballpark available flows. If we can demonstrate a significant increase the home owner is willing to pay. This is the best case for all if you can assist.

Pat

On Aug 13, 2013, at 3:19 PM, John.Wiskus@CH2M.com wrote:

Pat,

We will need to know the minimum fire flow requirement. Also as I recall the line into the home site is a deadend. Are we suggesting a loop and if so from what location off of Fairway Road?

Will need to hear from Jennifer on her availability. What is Plan B if we cannot get something by the 19th? Is this a P&Z meeting?

Thanks,

John

From: Pat McMahon [<mailto:pat@svwsd.com>]

Sent: Tuesday, August 13, 2013 2:07 PM

To: Wiskus, John/BOI

Cc: jennifer.heinke@ch2m.com

Subject: Re: 5 golf lane

Hi John,

This came up again today. If we can demonstrate that the minimum fire flow can be met with the looping addition, I think we can leverage with the City to require the homeowner to fund these improvements. The catch being that I need some numbers by 8/19. Jennifer, I am forwarding this to you because John is on vacation. Let me know if you can help.

Pat

On Jun 13, 2013, at 3:51 PM, John.Wiskus@CH2M.com wrote:

Pat,

I do not have modeling available at this point although Jennifer and I discussed. She is out until next week so I would agree let's get a hydrant flow test if we need to respond quickly.

John

From: Pat McMahon [<mailto:pat@svwsd.com>]

Sent: Thursday, June 13, 2013 2:20 PM

To: Wiskus, John/BOI

Subject: Fwd: 5 golf lane

John,

I think we are down to the "one new wrinkle"

We could insist on them testing if modeling is not available.

Pat

Begin forwarded message:

From: "Rick Tomkins" <rtonkins@triadassociates.net>

Subject: 5 golf lane

Date: June 13, 2013 11:34:44 AM MDT

To: "Pat McMahon" <pat@svwsd.com>

Cc: "Marvin Anderson" <marvin@marvinandersonarchitects.com>, <Bill@kmmk.com>

Pat-

Thank you Pat for responding to my questions in the attached pdf. I have followed-up with IDEQ and the Plumbing Bureau and received further direction/clarification with respect to pipe separation, and submittal requirements.

According to Brian Reed (IDEQ review engineer), IDEQ has no jurisdiction beyond the mainline sewer and water systems. Service lines, including the discharge line from the private grinder pump station, fall under the jurisdiction of the Plumbing Bureau. Per John Nielson (Plumbing Bureau program manager) we can carry the domestic, sanitary, and irrigation service lines all within the same heated carrier pipe under the bridge and within common trenches so long as each line is constructed of pressure class pipe suitable for use inside of a foundation, and each non-potable pipe is marked accordingly.

As you indicated, IDEQ requires that we provide 10' separation between mainline water and irrigation lines - I will revise our plan accordingly.

One new wrinkle:

Brian Reed is requiring that we submit a fire flow analysis with our submittal to them. Can you have your engineer update your flow model with our proposed improvements to obtain calculated fire flow available at the new hydrant? Alternatively, we will need to request a flow test.

Regarding easements/ownership:

Our client is unwilling to further encumber her property with additional easements. She prefers to maintain the current arrangement with the District:

District responsibility for mainline water ends at/near the property line. With the proposed improvements we have provided a valve at the point of connection, which we suggest should be the terminus of District ownership.

District responsibility for mainline sewer ends at the existing manhole. We will revise our side sewer and forcemain connections to terminate at this existing manhole, rather than extend new main and install a new manhole.

I think these were the remaining outstanding issues resulting from plans review. I will call you this afternoon to address any further concerns you may have, prior to resubmittal for final approval.

Thank you,

Rick

Sheet Number 2 of 5

1. The limit of the Districts system needs to be defined on the drawings. *Will SVWSD own, operate, maintain the new main up to the new hydrant? Typically yes and including the new fire hydrant.*

Richard A. Tomkins, P.E. | Vice President
Director of Engineering

Triad Associates
12112 115th Ave NE
Kirkland, WA 98034

D: 425.216.2149

C: 206.794.9265

F: 425.821.3481

E: rtomkins@triadassociates.net

W: www.triadassociates.net

Civil Engineers | Surveyors | Planners | Landscape Architects

EXHIBIT F

MARVIN ANDERSON ARCHITECTS PLLC

1108 Nineteenth Avenue East • Seattle, Washington 98112 • 206-525-5054 • marvinandersonarchitects.com

MEETING NOTES

TOPIC: 5 Golf Lane Fire Flow and Water Service

DATE: September 17, 2013

LOCATION: Sun Valley City Hall

ATTENDING: Mark Hofman, Community Development Director, City of Sun Valley
Eric Adams, Building Official, City of Sun Valley
Reid Black, Fire Code Official, City of Sun Valley
Ray Franco, Fire Chief, City of Sun Valley
Pat McMahon, Manager, Sun Valley Water & Sewer District
Bill Beck, Owner's Representative
Marvin Anderson, Architect
Rick Tomkins, Civil Engineer, Triad Associates (by phone)

Water supply to the 5 Golf Lane property does not meet current IFC fire flow requirements. This has been known for some time and has been confirmed by recent flow tests at the property.

Eric Adams reviewed the IFC and found that fire flow requirements therein apply to the property and its buildings in two regards. First, both the poolhouse and Kinderhouse have been increased in size by renovation and remodeling. Second, if the Fire Code Official determines a hazardous condition exists, there is a provision requiring compliance with current IFC requirements. The Sun Valley Fire Department has determined there is a hazard on the property.

Current flow to the property is approx. 600 gpm which is approx.. 24% of the required flow of 2500 gpm.

Reid Black mentioned fire flow requirements are often less if buildings on a property are sprinklered. Marvin noted that adding a sprinkler system to the poolhouse was reviewed prior to issuance of the building permit and that the proposed work did not trigger the requirement for adding a sprinkler system. It is unknown if current water service to the property is sufficient to meet requirements of a sprinkler system, should one have been installed.

Given current conditions, discussion to ways to bring more water to the property:

- Pat suggested installation of a new 8" line from the property southward to the 12" line that currently crosses the golf course and serves the clubhouse. At the tee, this line has approximately 4400 gpm at 20%. He further suggested maintaining the existing supply from Fairway Road to the east side of the property, tying it to the new line and

thereby creating a loop through new piping to be installed on the property. In a fire situation this loop would provide water to the property from two directions. During other times it would improve water quality on the property and to Fairway Road, which would draw water through the loop.

- Pat suggested that this new line as well as piping on the property be paid for by the Owner of 5 Golf Lane.
- The Owner of 5 Golf Lane is currently proposing to replace – and upsize - all water lines on the property, to relocate and improve the existing hydrant now buried in the landscape east of the main house, to install a dry standpipe to the north side of the bridge, and to pay for these improvements to what are now municipal systems. Bill and Marvin stated that the Owner is not interested in voluntarily paying for offsite improvements to the municipal water system as well. Nor is the Owner interested in having the municipal water system cross the property.
- Discussion went to alternative means of providing sufficient water to the property. A cistern, for example, could be built to augment fireflow through the existing service. During a fire situation, a pump could be temporarily placed in either the pond or the creek. While these options will be looked at further – especially the cistern – discussion then shifted to means of improving municipal water supply to the property.
- The distance from the property south to the 12" line serving the clubhouse is approximately 1500 ft, greater than the distance to Fairway Road. The line in Fairway is currently 8", and service from Fairway to the property appears to be a combination of 8" and 4" pipe. (Pat did not know and could not locate this information before the meeting. This should be verified.) According to Reid, the 8" in Fairway has sufficient gpm just south of the tee to 5 Golf Lane; modeling would determine how much of this flow and pressure could be maintained with a consistent 8" line to 5 Golf Lane.
- In the long term, the Water District plans to loop the Fairway line to the Trail Creek Road line, which would improve flows to the tee serving 5 Golf Lane. Timing for this improvement is undetermined (5-10 years?) as is the effect on service to 5 Golf Lane.
- It was decided that modeling should be done to determine how much water could be provided to 5 Golf Lane from the existing service in Fairway. If less than 2500 gpm, the Fire Department will consider if this is a situation they can approve pending looping the Fairway Road line to the Trail Creek Road line.

Discussion moved to other improvements to increase fire protection on the property:

- If it is required or recommended that fire protection water supplies on the property be made compliant with the IFC, then hydrant number and placement should be verified with code requirements.

- Reid would like the weight limit posted on the bridge. Marvin will send Reid all engineering for the bridge, and will determine load limits. [Note: Subsequent to the meeting, the original structural engineer for the bridge confirmed the load limits are 20 tons for a two axle vehicle and 36 tons for a three axle vehicle. Marvin will work with Reid on meeting signage requirements.]

Tasks:

- Water district to model 8" supply to property from Fairway Road to determine anticipated flows at the hydrant. Mark and Eric will contact Pat about modeling.
- Rick to send proposed water system improvement drawings to Fire Department. [Done.] Fire Department to review proposed hydrant improvements for IFC compliance. Marvin and Rick to also study for compliance.
- Marvin to look at cistern requirements.
- Marvin to send bridge info to Fire Department. Marvin to determine load capacity of bridge and prepare sign with load limits.

These notes represent our understanding of decisions made at the meeting.
Please notify our office of any exceptions taken.

cc. All Attending

EXHIBIT G

- Reid will review the proposed on-site improvements (hydrant types and locations, dry standpipe to the north side of the bridge) and comment.
- Marvin asked Pat for a letter approving the on-site water system as required by the Idaho Department of Environmental Quality.
- Marvin stated the Owner's desire to proceed with design and construction of a horse barn on the north parcel, work that does not require building permits or conformance with building codes per Idaho State statutes. Mark noted that design review is required by the City of Sun Valley, and that public safety is part of the design review process.

Action Items:

- Bill and Marvin will review the Water District's proposal with the Owner of 5 Golf Lane.
- Reid and Ray will review the proposal to determine if immediate improvements to fire flow would be acceptable until long term off-site improvements are made that will bring fire flow to code-required levels.

These notes represent our understanding of decisions made at the meeting.
Please notify our office of any exceptions taken.

cc. All Attending
Eric Adams, Building Official, City of Sun Valley
Ray Franco, Fire Chief, City of Sun Valley
Rick Tomkins, Triad Engineers

EXHIBIT H

Hydraulic Evaluation for the 5 Golf Lane Property

PREPARED FOR: Sun Valley Water and Sewer District
 PREPARED BY: CH2M HILL
 DATE: April 17, 2014
 PROJECT NUMBER: 154047.A0.13

This Technical Memorandum was prepared to summarize the hydraulic evaluation for the 5 Golf Lane Property. The existing 5 Golf Lane Property project includes upgrading an existing 4-inch water line on the property to a 12-inch water line to the hydrant near the existing pool house and then an 8-inch pipeline from the pool house to the last hydrant near the existing garage. These pipelines are shown to be connected to the existing 4-inch pipeline that runs across the golf course from Fairway Road and a future pipeline across the golf course. The size of this future pipeline is not indicated on the 5 Golf Lane drawings and is assessed in this hydraulic evaluation. The general location is shown in Figure 1.

A fire flow analysis was modeled under maximum day demand conditions for 2013, and the hydraulic model predicted that the available fire flow at the proposed new fire hydrant adjacent to the pool house (refer to TRIAD Associates Sheet WS2 of 5 stamped 3-4-14) is approximately 700 gpm. This is comparable to historical fire flows observed in the field. This low fire flow is due to the headloss in the existing 4-inch pipeline across the golf course. The velocity in a 4-inch pipeline for a flow of 700 gpm is 17.8 fps, resulting in headloss and pressures less than 20 psi along Golf Lane for flows higher than 700 gpm.

We understand, based on information provided by the City of Sun Valley Fire Department, that the required target fire flow for the 5 Golf Lane Property, using the largest structure (Pool House), is 2750 gpm for a two hour duration. When assessing available fire flow with the hydraulic model, the model predicts fire flow available while maintaining a minimum 20 psi residual pressure at all other locations in the pressure zone where the analysis is being conducted. In several of the scenarios described below, the connection at the Gun Club is the location that limits the available fire flow along Golf Lane. The predicted residual pressure along Golf Lane, while maintaining 20 psi at the Gun Club, is greater than 20 psi. However, the available fire flow along Golf Lane is limited by the minimum 20 psi residual pressure at the Gun Club.

To obtain higher fire flow with the 5 Golf Lane Project, eight options were evaluated. Each of the options included the following components:

- Option A - 5GL Property upgrades the on-property water line from 4" to 8" and 12" and continues to be served by the existing pipeline from Fairway Road with the combination 8" from the Fairway Road which transitions to a 4" across the golf course.
- Option B - 5GL Property upgrades the on-property water line from 4" to 8" and 12" and upgrades the 4" pipeline across the golf course to an 8" pipeline.
- Option C - 5GL Property upgrades the on-property water line from 4" to 8" and 12" and upgrades the 4" pipeline across the golf course to a 12" pipeline.
- Option D - 5GL Property upgrades the on-property water line from 4" to 8" and 12" and upgrades the 4" pipeline across the golf course to a 12" pipeline and upgrades the 8" pipeline from Fairway Road to a 12-inch pipeline.
- Option E - 5GL Property upgrades the on-property water line from 4" to 8" and 12", upgrades the 4" pipeline across the golf course to an 8" pipeline, and brings a new 8" loop in from the south off of the existing 12" pipeline.

HYDRAULIC EVALUATION FOR THE 5 GOLF LANE PROPERTY

- Option F - 5GL Property upgrades the on-property water line from 4" to 8" and 12", upgrades the 4" pipeline across the golf course to an 12" pipeline, upgrades the 8" pipeline from Fairway Road to a 12-inch pipeline, and brings a new 12" loop in from the south off of the exiting 12" pipeline.
- Option G - 5GL Property upgrades the on-property water line from 4" to 8" and 12", upgrades the 4" pipeline across the golf course to an 12" pipeline, and loops the pipeline along Trail Creek Road out to the Gun Club with a 12" pipeline and adds a PRV station at the north end of Fairway Road between the two pressure zones.
- Option H - 5GL Property upgrades the on-property water line from 4" to 8" and 12", brings a new 8" loop in from the south off of the exiting 12" pipeline, and loops the pipeline along Trail Creek Road out to the Gun Club with a 12" pipeline and adds a PRV station at the north end of Fairway Road between the two pressure zones.

A summary of the fire flow results for each of these options is presented in Table 1. The results are shown for maintaining system-wide pressures above 20 psi for the fire flow condition. As noted above, the higher elevation of the Gun Club is often the limiting location for providing fire flow to Golf Lane.

TABLE 1
Summary of Fire Flow Results for 5GL Evaluation

| Option | Available Fire Flow for System-wide minimum Residual Pressure of 20 psi (gpm) | Limiting Location |
|--------|---|-------------------|
| A | 700 | 5 Golf Lane |
| B | 900 | Gun Club |
| C | 900 | Gun Club |
| D | 900 | Gun Club |
| E | 1600 | Gun Club |
| F | 1900 | Gun Club |
| G | 2500 | 5 Golf Lane |
| H | 3000 | 5 Golf Lane |

As seen in Table 1, the model predicts that the improvements outlined in Option H would need to be implemented in order to meet the required fire flow of 2,750 gpm for a two hour duration along Golf Lane.

FIGURE 1
Piping Included in 5 Golf Lane Evaluation

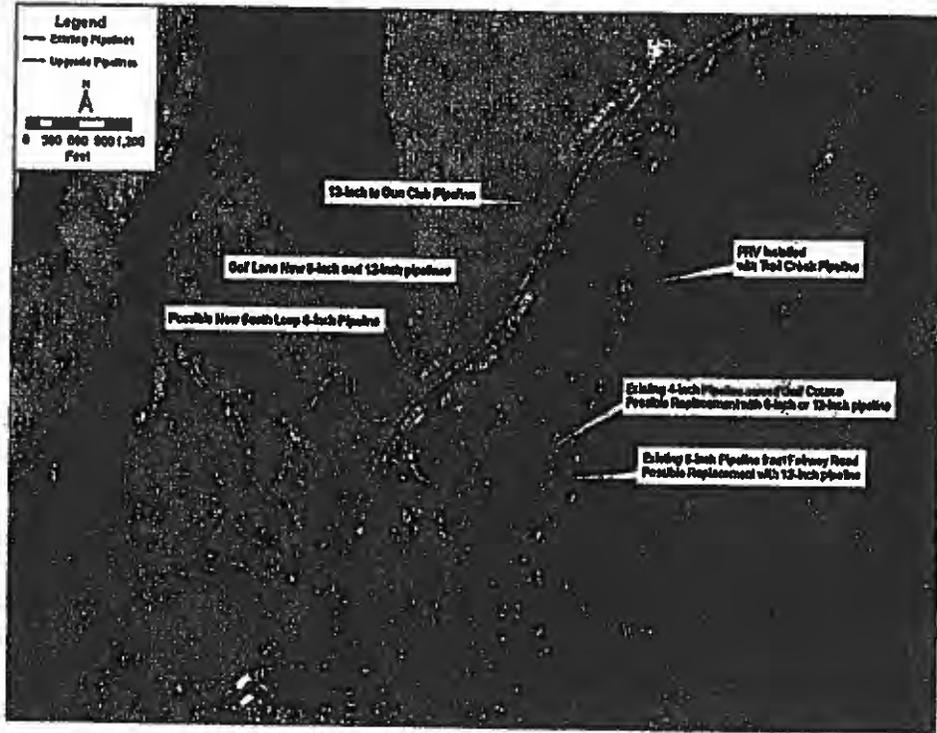


EXHIBIT I

REDACTED

From: Reid Black [mailto:rblack@svidaho.org]
Sent: Wednesday, November 27, 2013 8:57 AM
To: Marvin Anderson (marvin@marvinandersonarchitects.com)
Cc: Mark Hofman; Eric Adams; Ray Franco; Jim Bennion
Subject: 5 Golf Lane utility Improvements

Mr. Anderson,

The Sun Valley fire department has reviewed the plans submitted for the 5 Golf Lane utility improvements. The plans appear to meet the intent of the fire code for the property. What is not included in the plans is the information on the improvements to the 8" water main servicing the 5 Golf Lane property.

The fire department is requesting that the water main improvement information be submitted before giving a final review of the plans.

The Load limit sign for the bridge appears to meet the intent of the code and you have approval to proceed with the manufacture of the sign.

Feel free to call me with any questions or concerns.

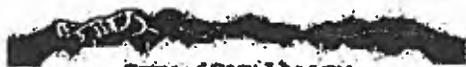
Reid Black

Reid Black

**Reid Black
Fire Code Official**

City of Sun Valley Fire Department

**Office: (208) 622-8234 Fax: (208) 622-7600 Cell: (208) 720-2318
PO Box 416 Sun Valley, ID 83353**



**CITY OF SUN VALLEY
FIRE DEPARTMENT**

Brian D. Yeager, PLS, PE
Galena Engineering, INC
317 N River St
Hailey, ID 83333

RE: Surveyor Certificate for 5 Golf Lane Design Review package

Community Development Director
City of Sun Valley
PO Box 416
Sun Valley, ID 83353

Dear Mark,

It is my understanding that Marvin Anderson of Marvin Anderson Architects, PLLC is in the process of submitting a Design Review package for 5 Golf Lane. Galena Engineering, INC performed a topographic and boundary survey on the property between the period of August 8th 2011 and August 15th 2011.

I hereby certify that I am a Registered Land Surveyor in the State of Idaho and that the topographic survey map included in the Design Review package is a true and accurate representation of a survey done under my direct supervision.

Please contact me if you have any questions or require further information. Thank you.

Sincerely,

Brian D. Yeager
Professional Land Surveyor No. 13260
State of Idaho



A LEGAL DESCRIPTION FOR TAX LOT 6577

A parcel of land located within Section 5, Township 4 North, Range 18 East, Boise Meridian, City of Sun Valley, Blaine County, Idaho, said property being described in a deed recorded as instrument number 491670, records of Blaine County Idaho and consisting of six separate parcels A through F, the exterior boundary of each parcel being more particularly described below based on a more recent survey recorded as instrument number 590815, records of Blaine County, Idaho:

PARCEL A

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 46°29'48" West 5857.47 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument, unless specifically described as a monument of a different type:

- South 66°59'31" West 49.65 feet;
- South 11°12'16" West 107.44 feet;
- South 28°04'45" West 26.12 feet;
- South 27°57'39" West 243.67 feet;
- South 15°34'47" West 74.95 feet;
- South 11°44'53" East 83.83 feet;
- South 76°06'35" West 34.52 feet;
- South 76°06'35" West 28.29 feet to an unmarked point;
- North 48°34'50" West 34.77 feet;
- North 11°31'31" West 150.21 feet to an unmarked point;
- North 02°36'53" East 81.09 feet;
- North 02°36'53" East 24.46 feet;
- North 39°45'09" East 119.85 feet;
- North 09°42'08" East 168.89 feet;
- South 89°29'17" East 203.33 feet to the TRUE POINT OF BEGINNING;

Said parcel containing 1.64 Acres or 71,608 square feet, more or less.

PARCEL B

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 51°02'38" West 4958.78 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument:

- South 18°48'19" East 143.59 feet;
- South 06°28'18" West 229.59 feet;
- South 35°37'16" West 170.48 feet;
- North 59°29'56" West 233.48 feet;



North 14°07'28" East 107.58 feet;
North 36°57'40" East 220.57 feet;
North 61°03'46" East 76.57 feet;
North 04°46'30" West 47.14 feet;
North 71°24'50" East 61.30 feet;

Said parcel containing 2.19 Acres or 95,316 square feet, more or less.

PARCEL C

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 47°23'05" West 5347.04 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument:

South 09°35'37" West 188.64 feet;
South 48°27'24" West 90.32 feet;
South 27°49'37" West 82.34 feet;
South 68°14'43" West 153.61 feet;
South 42°42'51" West 49.38 feet;
North 89°29'17" West 203.33 feet;
North 00°32'42" East 100.55 feet;
North 18°46'55" East 150.36 feet;
South 84°32'44" East 71.88 feet;
North 09°36'55" East 67.82 feet;
North 21°44'55" East 83.74 feet;
North 45°52'38" East 212.47 feet;
South 59°29'56" East 233.48 feet;

Said parcel containing 3.80 Acres or 165,578 square feet, more or less.

PARCEL D

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 46°29'48" West 5857.47 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument:

North 42°42'51" East 49.38 feet;
North 68°14'43" East 153.61 feet;
North 27°49'37" East 82.34 feet;
North 48°27'24" East 90.32 feet;
North 09°35'37" East 188.64 feet;
South 60°02'21" East 7.20 feet;



South 16°13'01" West 40.72 feet;
South 04°45'46" West 65.36 feet;
South 07°02'18" West 40.91 feet;
South 13°19'40" West 49.16 feet;
South 21°01'54" West 32.96 feet;
South 29°21'28" West 65.40 feet;
South 47°32'33" West 32.68 feet;
South 38°31'53" West 49.35 feet;
South 45°53'31" West 25.05 feet;
South 61°45'51" West 41.24 feet;
South 76°31'00" West 24.66 feet;
North 87°50'11" West 24.60 feet;
North 82°36'36" West 16.53 feet;
South 80°48'39" West 19.25 feet;
South 59°10'26" West 33.16 feet;
South 70°29'14" West 22.53 feet;

Said parcel containing 0.28 Acres or 12,169 square feet, more or less.

PARCEL E

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 46°29'48" West 5857.47 feet to a found ½" rebar monument, thence South 28°04'45" West 141.45 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument:

South 11°12'16" West 25.15 feet;
North 77°41'29" West 7.58 feet;
North 28°04'45" East 26.12 feet;

Said parcel containing 95 square feet, more or less.

PARCEL F

Commencing at a brass capped survey monument marking the north east corner of Section 5, Township 4 North, Range 18 East, Boise Meridian, Blaine County, Idaho; said corner falling South 28°41'35" West 3832.45 feet from a brass capped survey monument designated as Blaine County GIS point "R14"; thence South 46°29'48" West 5857.47 feet to a found ½" rebar monument, said point being the TRUE POINT OF BEGINNING;

Thence the following courses and distances to a ½" rebar monument:

South 28°04'45" West 141.45 feet;
North 11°12'16" East 107.44 feet;
North 66°59'31" East 49.65 feet;

Said parcel containing 0.05 Acres or 2205 square feet, more or less.



MARVIN ANDERSON ARCHITECTS PLLC

1108 Nineteenth Avenue East • Seattle, Washington 98112 • 206-525-5054 • marvinandersonarchitects.com

LETTER OF TRANSMITTAL

DATE: April 28, 2016

PROJECT: 5GL Barn

TO: Mr. Jae Hill
Community Development Director
City of Sun Valley
Sun Valley, Idaho

FROM: Marvin Anderson
MARVIN ANDERSON ARCHITECTS
1108 Nineteenth Avenue East
Seattle, Washington 98112

| DATE | COPIES | DESCRIPTION |
|-------------|---------------|--|
| | 1 | Conditional Use Permit Application |
| | 1 | Legal Description, 5 Golf Lane |
| | 1 | Surveyor Certificate of Qualifications |
| | 1 ea | Envelopes to Neighbors, List of Neighbors |
| 2/16/16 | 1 | Statement of effects, surrounding land use, and relationship to comprehensive plan |
| | 1 set | Full size drawings |
| | 6 sets | Drawings at 11" x 17" |
| | 1 | CD with all documents listed above |

COMMENTS

Mr. Hill,

Please find enclosed a Conditional Use Permit application for the 5 Golf Lane Barn in accordance with your letter of April 19, 2016. Please also be advised that this submission is intended to be considered contemporaneously with the letter from counsel for 5GL LLC of even date herewith, to be posted and delivered separately.

Please do not hesitate to contact me with any questions or if you would like any further information.





Marvin J. Anderson AIA
MARVIN ANDERSON ARCHITECTS PLLC
1108 Nineteenth Avenue East
Seattle, Washington 98112

April 19, 2016

RE: DR2016-02, Application for Design Review approval of a new "indoor equestrian use" at 5 Golf Lane

On January 12, 2016, the City of Sun Valley received Design Review application (DR2016-02) for a "barn" at 5 Golf Lane, a lot with the Assessor's Parcel ID of RPS0000000024A.

On January 28, the City notified you that your Design Review application was facially incomplete, missing both the required compliance statement and a construction management plan, which we later received on February 16 via email and February 23 via hardcopy.

On February 17, the City informed you that the Sun Valley Fire Department's Fire Code Official had completed his review of the application and had suggested conditions of approval.

On March 2, the City received a request to postpone review of the application for 60 days.

On March 29, you requested that the application be placed on the June 9 Planning and Zoning Commission Agenda, and then asserted that all materials would be received by April 19.

The proposed application meets the definition of "Equestrian Uses" as defined in Sun Valley Municipal Code Section 9-1C-1 as "the use of a site for the keeping of horses, including stables and paddocks."

Parcel RPS0000000024A is split-zoned: the southern portion containing the home and pool house is zoned Single-Family Residential (RS-1), while the northern portion containing the pasture is zoned Recreation (REC).

Per Table 9-2C-1, in SVMC § 9-2C-2, "Equestrian Uses, Indoor" in the REC zone are Conditionally Permitted and subject to review by the Planning & Zoning Commission pursuant to an application for a Conditional Use. The Design Review application can not proceed until Conditional Use approval is granted by the City's Planning & Zoning Commission.

As such, please submit an application for Conditional Use Permit and the required \$450 application fee. The Conditional Use requirements of our Municipal Code are attached to this letter. Should you have any further questions about the processing of this application, please contact our department at 208-622-4438. Abby Rivin is the staff planner assigned to this case, but I'm also available as needed.

Sincerely,

A handwritten signature in blue ink that reads "Jae Hill".

Jae Hill, AICP, CFM
Community Development Director
City of Sun Valley

9-5B-2: CONDITIONAL USE

A. Purpose: The purpose of this section is to establish procedures that allow for a particular use on a particular property subject to specific terms and conditions of approval.

B. Applicability: The provisions of this section apply to all conditional uses identified throughout this title.

C. General Provisions:

1. Commission Approval Required: Conditional uses, as have been designated throughout this title, shall be allowed only upon the approval of an application by the commission, subject to the requirements of this chapter 5 and such conditions as the commission may attach. Such approval shall be in the form of a written permit.

2. Precedent Not Created: A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits.

3. Transferability: Conditional use permits shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.

4. Conditions Of Approval: Upon the granting of a conditional use permit, the commission may attach conditions to said permit including, but not limited to, those:

- a. Minimizing adverse impact on other development;
- b. Controlling the sequence and timing of development;
- c. Controlling the duration of development;
- d. Assuring that development is maintained properly;
- e. Designating the exact location and nature of development;
- f. Requiring provision for on site or off site public facilities or services;
- g. Requiring more restrictive standards than those generally required in an applicable ordinance;
- h. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

5. Terms Of Permits:

a. At the discretion of the commission, a conditional use permit may contain an expiration date. If no extension is requested pursuant to this section, the original permit shall expire at the end of its stated term.

b. A conditional use permit is deemed void within one year after the permit is granted if the use has not been utilized.

c. Upon written request submitted by the applicant or successor in interest prior to the expiration date of a conditional use permit, the commission may extend the term of said permit. The commission shall hold a public hearing and give notice in the same manner as notice of an original hearing for an application for a conditional use permit.

d. A conditional use permit is deemed void if the use has ceased for a continuous period of one year or more.

6. Revocation:

a. The commission shall have the authority to review any conditional use permit based upon a written complaint; a change in any applicable city ordinances; or the conditions attached to the permit by the commission.

b. If the commission finds that there is a probable cause for revoking a conditional use permit, the commission shall give notice of a hearing to the applicant and the public in the same manner as a notice of a hearing for an application for a conditional use permit. The commission shall hold a hearing on the question of revoking the permit and, if it finds that grounds for revocation exist, it may revoke the permit.

c. The commission may revoke a conditional use permit for any of the following grounds:

(1) Violation of this code;

(2) Violation of the conditions of the permit after written notice of the violations and a ten (10) day period to correct said violations; or

(3) Causing or allowing a nuisance, as determined in title 4, chapter 1 of this code, in connection with the use for which the permit was granted.

D. Required Findings: In order to grant a conditional use permit, the commission shall make the following findings:

1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;

2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;

3. The use will not unreasonably diminish either the health, safety or welfare of the community; and

4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city. (Ord. 382, 10-25-2006)

Jae Hill

From: Frederick Allington <fcallington@gmail.com>
Sent: Wednesday, April 20, 2016 3:05 PM
To: Jae Hill
Subject: Fwd: City of Sun Valley DR2016-02 Application for Design Review Approval of 5GL Barn

----- Forwarded message -----

From: Scott Campbell <SLC@moffatt.com>
Date: Wed, Apr 20, 2016 at 2:34 PM
Subject: Re: City of Sun Valley DR2016-02 Application for Design Review Approval of 5GL Barn
To: "fcallington@gmail.com" <fcallington@gmail.com>

Good afternoon Mr. Allington,

We have not met, so let me introduce myself. I represent 5GL. Yesterday, I delivered a copy to your office of the Brief our firm prepared in support of the Design Review Application for the 5GL Barn. Late yesterday, Mr. Marvin Anderson, applicant's architect and representative in the process with the City of Sun Valley, received a letter from Mr. Jae Hill, Community Development Director, City of Sun Valley. His letter states that now the applicant must submit a conditional use permit application for the project.

Needless to say, 5GL is very concerned. This latest change in the rules for treatment of the Application for Design Review for the 5GL Barn is transparently a reaction to the issues we raised in the Brief that we filed with the City and served on your office. In view of these facts, I am reluctant to contact Jae Hill without your permission or joint participation. Please specify the City's and your preferences in this regard.

I will be discussing this latest development with my client soon. Consequently, your earliest attention to this request will be appreciated.

Thank you for your anticipated cooperation.

SCOTT L. CAMPBELL

Attorney

Direct [208 385 5432](tel:2083855432)

Main [208 345 2000](tel:2083452000)

Fax [208 385 5384](tel:2083855384)



SLC@moffatt.com
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MOFFATT THOMAS

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April 28, 2016
via FedEx Overnight

Alissa Weber
Sun Valley City Clerk
P.O. Box 416
81 Elkhorn Rd.
Sun Valley, ID 83353

Jae Hill
Community Development Director
City of Sun Valley
P.O. Box 416
81 Elkhorn Rd.
Sun Valley, ID 83353

**Re: 5GL, LLC Submission of Conditional Use Permit Application UNDER PROTEST
MTBR&F File No. 18975.0006**

Dear Ms. Weber and Mr. Hill:

The purpose of this letter is to notify the City of Sun Valley (the "City") that the Conditional Use Permit Application filed contemporaneously herewith by Marvin J. Anderson on behalf of property owner 5GL, LLC ("5GL") relating to certain property at 5 Golf Lane, Sun Valley, Idaho 83353 that is currently zoned REC (the "Property") is being filed UNDER PROTEST, and exclusively as a result of a letter from Jae Hill to Marvin J. Anderson dated April 19, 2016 (the "Letter"). Contrary to Mr. Hill's assertion in the Letter, the contemplated project does not require conditional use permission, as the following illustrates.

At the outset, 5GL must clarify a couple of matters missing from Mr. Hill's timeline:

First, on January 15, 2016, and in accordance with Sun Valley Municipal Code ("Code") Section 9-5A-3(C)(5), the City gave public notice of the pending public hearing or action on the application. Such public notice evidenced the completeness of the application submitted on January 12, 2016, for design approval and allowance of construction of the contemplated project on the Property. ("The director shall issue a notice of application acceptance and completion either by letter to the applicant or by public notice of the pending public hearing or action on the application.") The application contained the required information, including a "[s]tatement of project intent for making the application." See Code § 9-5A-3(B)(3)(c). Importantly, the Code provides that within 30 days of the application, but during a time period not to exceed 60 days, the director must find the application as complete for review "or require

additional information to be submitted.” See Code § 9-5A-3(C)(2). In short, with complete knowledge of the project intent, the director deemed the application complete. He did not demand additional information relating to a conditional use permit application.

Second, Mr. Hill notes that on February 17, 2016, the City informed 5GL that a fire code official had completed his review of the application and had “suggested conditions of approval.” What is not included in Mr. Hill’s communication is the statement that the fire department **required** certain unreasonable and untenable “access road alterations” as well as “enhancements to the hydrant system serving the property,” which enhancements included the private contribution of an extremely expensive capital project involving the public property of a taxpayer-funded municipal agency—the Sun Valley Water and Sewer District. This was the first indication that the City intended to use its limited design review authority inappropriately. Notwithstanding that fact, and more than a month after the application was submitted and deemed complete, the director failed to notify 5GL of any conditional use permit issues.

Third, and perhaps most jarring, is the omission from Mr. Hill’s timeline of 5GL’s filing a brief in support of its design review application. Consistent with the City’s alleged requirement that any supporting argument or information be submitted seven weeks in advance of the public hearing (a requirement for which 5GL never located, and was never provided, any authority), that brief was filed with the City on April 19, 2016. The brief addressed, among other issues, the plain language of the City’s ordinances in the context of certain legislative enactments. The brief demonstrates that the contemplated project is exempt from the City’s building and fire code regulations, and that denial of the application based on inadequate fire flows resulting from the deficiencies of a separate municipal entity is not an appropriate exercise of the City’s design review authority. (5GL incorporates by reference herein the brief in its entirety.) Transparently, Mr. Hill sent his letter to 5GL stating that a conditional use permit would be required for the contemplated project **immediately after the City’s receipt of the brief**, on April 19, 2016.

In summary, the City has waived its conditional use requirements relating to a decision on the contemplated project because it failed to timely request the additional information related thereto. What is more, the tortured interpretation of the ordinances utilized to manufacture a conditional use requiring a permit was very obviously a knee-jerk reaction to legal authority, illustrating that the City may not misuse its design review authority to extract unreasonable concessions from a private landowner—a landowner that has at every turn attempted to comply with the City’s requirements.

As to Mr. Hill’s interpretation of the ordinances, a plain and reasonable reading thereof illustrates that a conditional use permit is not required in this instance. Accordingly, even assuming the director’s efforts to require a conditional use permit were timely (which they were not), the City should ignore such requirement and approve the design review application for a permitted use appropriately submitted by 5GL.

An explanation of the contemplated project will be useful. As Mr. Hill notes, the Property at issue is zoned Recreational (REC). It is 1.645 acres, or 71,635 square feet. The proposed fenced pasture area on the Property is 47,710 square feet, or 65.8% of the total area of the Property at issue. The proposed accessory barn is 1,748 square feet, or 2.4% of the total Property area. The remainder of the Property area includes Trail Creek, riparian setback areas, parking, etc. 5GL proposes to use the Property for private recreation and equestrian activities, and to construct an accessory facility for recreation maintenance and, more specifically as an accessory structure incidental to the outdoor equestrian and recreational use. Under the Code, the contemplated use of the Property does not require a conditional use permit.

Section 9-2C-2 of the Code sets forth the permitted and conditional uses in a table, identified as Table 9-2C-1. Each of the following uses is permitted, and does not require a conditional use permit:

- (1) Recreation uses, outdoors;
- (2) Equestrian uses, outdoors;
- (3) Accessory maintenance uses for recreation uses.

In his Letter, Mr. Hill ignores each such use, which uses are collectively very clearly the uses on the Property, in favor of the conditional use “Equestrian uses, indoors.” The Property is not an indoor riding arena. The Property comprises nearly an acre of fenced pasture area—an outdoor equestrian and recreation area—that includes a modest accessory barn adjacent to those outdoor uses, which barn will comprise only 2.4% of the Property’s physical area. Application of common sense to the use description of the contemplated project alone illustrates Mr. Hill’s mistaken result-oriented approach. However, a careful evaluation of the applicable definitions provides even more authority for the proposition that the Property’s use is permitted and not conditional.

A recreation use is “[t]he use of a site for leisure activities, conducted indoors, outdoors, or in a partially enclosed space.” *See* Code § 9-1C-1. Clearly, horseback riding is the contemplated leisure activity that will take place on the Property, but it will not be conducted indoors in the accessory barn. It will be conducted in the large outdoor space. An equestrian use is “[t]he use of a site for the keeping of horses, including stables and paddocks.” *See id.* Again, the Property will be used for the keeping of horses, and the actual equestrian use will take place outdoors. Random House Webster’s College Dictionary defines “equestrian” as “of or pertaining to horseback riding or horseback riders; mounted on horseback; a person who rides horses.”¹ The Property on which the proposed construction will take place is very clearly to be used for outdoor recreation and equestrian uses.

¹ The City Code does not define “equestrian.”

Alissa Weber
Jae Hill
April 28, 2016
Page 4

“Accessory facilities for recreation maintenance,” which appears roughly equivalent to “accessory maintenance uses for recreation uses,” a permitted use, means “[a]ccessory maintenance facilities specifically and directly related to outdoor recreation uses, including, but not limited to, pump houses, service facilities and yards.” *See* Code § 9-1C-1. The definitions of “accessory structure” and “accessory use” add further meaning to that definition. An “accessory structure” is:

A building or structure, which is incidental or subordinate to the main building, principal dwelling unit, or use on the same building site, i.e., garage, barn, storage buildings, gazebo, artist studio and the like, and has no kitchen facilities.

See Code § 9-1C-1 (emphasis added). An “accessory use” is:

A use naturally and customarily incidental to, and subordinate to, and devoted exclusively to the main use of the premises.

See id. The proposed barn that Mr. Hill used to characterize the Property’s use as “equestrian uses, indoors,” is incidental and subordinate to the main use on the Property—horseback riding. It is a barn, which is also naturally and customarily incidental to, subordinate to, and devoted exclusively to that main use. Once again, while Mr. Hill would have the City ignore 97% of the Property at issue and determine that the Property’s use is actually comprised entirely of an over-expansive interpretation of the barn’s accessory use, there can be little dispute that the Property as a whole is for outdoor recreation and equestrian uses, including a permitted accessory maintenance use comprising a mere 2.4% of the Property’s physical area. The City must reject Mr. Hill’s conclusion that a conditional use permit is required in this case.

I must reiterate that the conditional use permit filed by Mr. Anderson on behalf of 5GL, LLC, and received concurrently herewith, is filed UNDER PROTEST, and is filed without waiving any argument that the contemplated use is permitted, including, but not limited to, the arguments set forth above. 5GL submits the application at this time solely to ensure that any and all issues related to the City staff’s various and inconsistent positions relating to the Property are appropriately consolidated and before the City for decision.

Sincerely,



Scott L. Campbell

SLC/bem

cc: Ken Herich