



CITY OF SUN VALLEY  
CITY COUNCIL  
AGENDA REPORT

To: Honorable Mayor and City Council  
From: *mh* Mark Hofman, Community Development Director  
Meeting Date: December 5, 2013  
Agenda Item: White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8  
Final Plat Application No. SUBFP 2013-09

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**SUBJECT:** Public hearing for a final plat application for Phase IV of a multi-family residential development consisting of three sublots for the final three constructed units of a twelve unit townhome subdivision. **Applicant:** Benchmark Associates, P.A. for Sun Valley Resort Property, LLC. **Application Filing Date:** November 12, 2013. **Location:** Parcel E Amended of White Clouds Corrected Subdivision; 26, 23, and 21 Cloud Nine Drive.

**BACKGROUND:** The White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 Final Plat application consists of a proposed final plat exhibit (**Exhibit "CC-6"**) showing the surveyed location, lot and townhome subplot boundary, common area, private driveway, land use, zoning, notes and related easements for three (3) newly constructed townhomes. The final plat application requires a public hearing with the City Council prior to City action. The townhome project area consists of an existing 2.58 acre parcel within the Multi-Family Residential (RM-1) Zoning District of the White Clouds Subdivision. The proposed final plat is directly associated with Preliminary Plat Application SUBPP 2010-08 and Design Review Application No. DR 2010-20 for the construction of twelve (12) total townhome units with associated site improvements. Nine of the twelve townhome units and related infrastructure improvements were constructed as part of Phases I, II, and III with final plats approved by the City (Application No. SUBFP 2012-06, SUBFP 2013-02, and SUBFP 2013-05). Phase IV, the final phase, consists of three newly completed townhome units.

The subject parcel, Parcel E, was created for multi-family residential development as part of the White Clouds Subdivision through the City's approval of the project's Master Plan, Zoning Map Amendment, Planned Unit Development (PUD), Preliminary Plat and Final Plat. Parcel E is one of five (5) multi-family parcels created by the White Clouds Corrected Subdivision. The RM-1 Zoning District provides for medium density residential apartment, condominium and/or townhouse dwellings and incidental uses. Multiple-family residential townhouse units are permitted by right within the RM-1 zone. The 2.58 acre parcel has a maximum density permitted by the Preliminary Plat of twelve townhome units. The project's three townhome unit fourth and final phase complies with the maximum density of 12 dwelling units for the parcel and with the maximum densities allowed within the RM-1 Zoning District.

The property owner filed a preliminary plat application on August 4, 2010 to subdivide Parcel E into twelve (12) townhome sublots with associated site improvements. The Planning and Zoning Commission recommended approval of the preliminary plat to the City Council on

September 23, 2010 and the City Council approved the preliminary plat application on October 21, 2010. The City Council's signed approval document, including findings of fact, conclusions of law and conditions of approval, for the preliminary plat is attached as **Exhibit "CC-4"**. Subsequently, improvement and utility plans were reviewed and approved by the City and various grading and building permits were issued for the project. Construction commenced and four townhome units were completed in 2012 and five more in 2013. The final three units have now been completed, receiving a Certificate of Occupancy (**Exhibit "CC-3"**) from the Building Official. The infrastructure for the entire project has been completed and the driveway access specific to the Phase IV units is in place.

**ANALYSIS:** As per City Code Section 9-4A-7B, Director's Review, the White Clouds Townhomes: Phase IV Final Plat was reviewed by the Community Development Director for compliance with the approved preliminary plat design and all applicable conditions of approval. As permitted by the City Code, the Director determined that the final plat did not significantly differ from the approved preliminary plat and, based on the review and comments from the City's Contract Engineer (CH2MHill), did not require that the final plat be submitted to the Planning and Zoning Commission for its evaluation and decision in the same manner as required in the preliminary plat process. Additionally, the final plat and application materials have been found to comply with all applicable standards and requirements of the City Code.

**Condition of Approval Compliance-** The White Clouds Development, Parcel E, Multi-Family Townhomes Preliminary Plat approval for Parcel E contains eleven (11) specific conditions of approval, listed as follows:

1. *The Preliminary Plat and all aspects of the subdivision design shall conform to the project drawings reviewed by the City Council and dated received by the City of Sun Valley on August 4, 2010. Construction of improvements, facilities, private streets, driveways and public utility improvements shall be completed to the satisfaction of the City.*
2. *The applicant shall comply with all conditions and comments contained in the August 31, 2010 review and comment letter from the Sun Valley Fire Department including: 1.) the provision of fire hydrants in the locations specified as acceptable to the Fire Chief; 2.) the provision of an adequate address monument at the project entrance; 3.) sagebrush removal and 50-foot buffer zone consisting of just grasses and light fuels at the rear of the project; 4.) provision of fully automatic fire suppression system; 5.) all access roads and hydrants shall be kept clear during the construction phase; 6.) responsibility of snow removal from hydrant areas is responsibility of the property owner; and 7.) installation of approved spark arrestors on all fire appliance chimneys is required. No changes shall be allowed to the Plat without prior approval of the Fire Chief and the Community Development Director.*
3. *To the satisfaction of the Community Development Director, in order to insure compliance with Title 7 of the City Code, the Developer shall provide, pay for, and install, or cause to be installed to City standards the following (as applicable) so as to insure that the City can provide necessary Municipal services and facilities:*
  - a. *Water distribution systems and appurtenances including fire hydrants, fire alarms and other fire control devices.*
  - b. *Sewer lines, pumps and appurtenant sewage collection and disposal devices, together with devices for the removal of materials and water from sewage not amenable to or capable of treatment or reduction by the sewer district's sewage*

*treatment processes or prohibited by State or Federal laws or regulations.*

- c. Streets, curbs and gutters, street base coarse material, wearing coarse material, bridges, sidewalks, bicycle pathways, street signs, traffic control devices, intersection signals, vehicle turning and deceleration lanes (if applicable).*
  - d. Storm drainage structures, lines and appurtenances, including culverts or other devices to enclose open ditches and to inhibit access to them by children, together with drainage easements sufficient to accommodate expected runoffs as determined according to generally accepted drainage accommodation principles.*
  - e. Electrical distribution facilities, transformers and appurtenances, underground wiring, underground communication systems, wiring and underground cable television system and wiring.*
  - f. Gas distribution systems and appurtenances.*
  - g. Preservation or replacement of trees, shrubs, ground cover and other vegetation, install soil stabilization improvements to prevent erosion or degradation of surface water quality and inhibit vegetative growth in impounded waters or streams.*
  - h. Public easements shall be dedicated for all required utilities and improvements.*
- 4. The drawing submitted for final plat application and the drawings submitted to the City for infrastructure improvements shall be reviewed by the City's engineer and all proposed private street, grading, driveway, utility and drainage improvements shall conform to applicable standards. The drainage improvements shall be designed and constructed to be consistent with and compatible with the existing drainage improvements along Sun Peak Drive and Trail Creek Road as well as any improvements and conditions on the adjacent Sun Valley Golf Course property and adjacent residential subdivision. The applicant shall comply and/or clarify as needed all applicable comments and conditions contained in the review letter dated August 31, 2010 from the City's Engineer, CH2MHill.*
  - 5. The private street improvements and all related project grading, driveway, utility and drainage improvements shall be designed and constructed to City standards to the satisfaction of the City's engineer, the Streets Department and the Community Development Director.*
  - 6. The construction management plan submitted for the twelve townhouse subplot subdivision that addresses construction parking, material storage, storm water runoff, site security, noise, hours of activity, and nuisance control (noise, music, animals, dust, site watering, trash, construction fencing, safety, and street cleaning) shall be complied with to the satisfaction of the Community Development Director and Chief Building Official throughout the entire construction phase.*
  - 7. The applicant shall submit copies of draft party wall agreements for the duplex units to the Community Development Department prior to issuance of any grading or building permits for the project as per Development Code requirements. Final party wall agreements shall be recorded and copies submitted to the Community Development Department prior to final plat approval.*
  - 8. Prior to final plat approval by the City, the applicant shall submit final copies of agreements and documents creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, landscaping, parking and/or open site areas.*

9. *The twelve townhome subplot White Clouds Parcel E Townhome Subdivision (Application No. SUBPP2010-08) shall be specific to Design Review Application No. DR2010-20. The applicant shall satisfy all applicable conditions and requirements of this associated development approval prior to submittal and action by the City on a final plat for the subdivision.*
10. *A final plat shall not be approved by the City Council until all townhouse units have received an approved final inspection and certificate of occupancy from the City Building Inspector or the Council has approved a phasing plan development agreement and/or a financial guarantee of performance for completion of improvements pursuant to Code Section 9-4A-8.*
11. *This preliminary plat approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.*

In satisfaction of Conditions of Approval No. 1, 2, 3 and 5 of the preliminary plat approval, the Community Development Director and the City's Engineer, CH2M Hill, reviewed the submitted final plat drawing and find that it conforms to the approved preliminary plat drawings (**attached as Exhibit "CC-5"**), reviewed and approved by the City Council on October 21, 2010 and stamped received by the City of Sun Valley on August 4, 2010. The November 22, 2013 final plat review and comment letter from CH2MHill for Phase IV is attached as **Exhibit "CC-2"**. The overall twelve unit project's infrastructure improvements have been constructed to the satisfaction of the Community Development Director, CH2MHill and the Building Official.

As approved by the City Council, an Irrevocable Standby Letter of Credit in the amount of \$2,000,000 was provided by the applicant listing the City of Sun Valley as the beneficiary in order to satisfy Condition No. 2 of the Phase I Final Plat. This financial guarantee of performance remains in place to ensure completion of all remaining project improvements on Parcel E consistent with Preliminary Plat Application SUBPP 2010-08 and Design Review Application No. DR 2010-20 for the construction of twelve total townhome units with associated site improvements.

The applicant's financial guarantee of performance for completion of all project improvements on Parcel E complies with all requirements of City Code Section 9-4A-8, Surety Agreements. City Code Section 9-4B-3D-2 requires that a final plat shall not be approved by the City Council until all townhouse units have received an approved final inspection and certificate of occupancy from the City Building Inspector or the Council has approved a financial guarantee of performance for completion of improvements pursuant to Section 9-4A-8, Surety Agreements. With the City Council's 2012 approval of the Irrevocable Standby Letter of Credit, the ownership of the three newly completed Phase IV townhome units can be transferred while assuring all remaining landscaping and site cleanup work will be completed.

As required by Condition No. 4 of the preliminary plat, to the satisfaction of CH2MHill, the applicant has complied and/or clarified as needed all applicable comments and conditions contained in the CH2MHill preliminary plat review comment letter dated August 31, 2010.

Pursuant to Condition No. 6, to the satisfaction of the Community Development Director and Building Official, a construction management plan was satisfactorily submitted to the City for review and was approved. Significant grading and construction has occurred on the site with no significant negative public impact or complaint.

To satisfy Conditions 7 and 8, the applicant submitted a recorded copy of the Declaration of Covenants, Conditions and Restrictions of White Clouds Townhomes for Phase I (Instrument No. 599745). The required party wall agreement language is included within this recorded document. Additionally, the applicant has drafted a *Declaration of Covenants, Conditions and Restrictions of White Clouds Townhomes: Phase IV Subdivision* to be recorded with the final plat once approved by the City Council. This Phase IV *Declaration* ties the three new townhomes to the Declaration recorded for Phase I. Proposed condition of approval No. 3 in the attached City Council Findings will reliably satisfy these two preliminary plat requirements, nos. 7 and 8.

In regard to Condition No. 9 of the preliminary plat approval, the three constructed townhome units of Phase IV and all related public safety and site access improvements have been completed in conformance with the City's design review approvals and building permits. As specified above, the townhome units in Phase IV have received final inspection and a certificate of occupancy from the Building Official, which satisfies Condition No. 10. The proposed Condition No. 2 in the draft City Council Findings for the Final Plat will ensure completion of all remaining site improvements, including final landscaping and ground cover vegetation.

Lastly, in regard to Condition No. 11, the preliminary plat was approved by the City Council on October 21, 2010, grading and building permit applications were soon thereafter reviewed and issued by the City, then substantially acted upon by the applicant. The final plat application for Phase I was submitted to the City on June 27, 2012, the final plat application for Phase II was submitted on April 29, 2013, the final plat application for Phase III was submitted on July 29, 2013, and the final plat application for Phase IV was submitted on November 12, 2013. Thus, Condition No. 11 above is also satisfied.

Therefore, it can be found by the City Council that the submitted final plat conforms with the approved preliminary plat design and all applicable conditions of approval required prior to City action on a final plat have been completely satisfied by the applicant. Draft City Council Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 Final Plat, Application No. SUBFP 2013-09, are attached as **Exhibit "CC-1"**.

**ALTERNATIVE ACTIONS:** The general alternatives available to the City Council for action on the final plat application include:

- (1) Make the required findings and adopt the attached draft Findings of Fact and Conclusions of Law, as may be modified or specifically conditioned by the Council, approving the final plat application; or
- (2) Close the public hearing, discuss the findings, vote to deny the application and direct staff to return on a date certain with a resolution of denial reflecting the comments and findings of the Council; or
- (3) Continue the hearing date certain for further information and review prior to an action on the requested final plat or to direct staff to bring the final plat to the review of the Planning and Zoning Commission for a recommendation.

**RECOMMENDATION:** Before public comment is received, the City Council should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony, and consider the facts and findings necessary to make a decision on the application. The City Council formally approved the preliminary plat application for the White Clouds Development, Parcel E, Multi-Family Townhomes on October 21, 2010.

The Community Development Director recommends that the City Council make and adopt a motion to approve the final plat application by finding the submitted final plat consistent with the approved preliminary plat and by finding that all applicable conditions of approval required prior to City action on a final plat for the subdivision have been satisfied by the applicant.

**LIST OF ATTACHED EXHIBITS:**

- Exhibit "CC-1" Draft City Council Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 Final Plat, Application No. SUBFP 2013-09.
- Exhibit "CC-2" November 22, 2013 White Clouds Townhomes: Phase IV Final Plat review letter and plat check list from CH2M Hill.
- Exhibit "CC-3" Certificates of Occupancy for White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8; 26, 23, and 21 Cloud Nine Drive.
- Exhibit "CC-4" Approved City Council Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the White Clouds Development, Parcel E, Multi-Family Townhomes Preliminary Plat, Application No. SUBPP 2010-08.
- Exhibit "CC-5" White Clouds Development, Parcel E, Multi-Family Townhomes Preliminary Plat drawings consisting of four (4) 11" by 17" sheets reviewed and approved by the City Council on October 21, 2010 and stamped received by the City of Sun Valley on August 4, 2010.
- Exhibit "CC-6" Reduced White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 Final Plat Exhibit, consisting of two (2) 11" by 17" sheets stamped received by the City of Sun Valley on November 22, 2013.

\*\*The entire administrative record for the final plat application is available for review in the Community Development Department at City Hall.

**EXHIBIT "CC-1"**

**(DRAFT) SUN VALLEY CITY COUNCIL**

<b>LAND SUBDIVISION</b>	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
<b>WHITE CLOUDS TOWNHOMES</b>	)	<b>OF LAW, DECISION AND</b>
<b>PHASE IV, SUBLOTS 5, 7, AND 8</b>	)	<b>CONDITIONS OF APPROVAL</b>
<b>PARCEL E AMENDED OF</b>	)	
<b>WHITE CLOUDS CORRECTED SUB</b>	)	
<b>FINAL PLAT</b>	)	
<b>APPLICATION NO. SUBFP 2013-09</b>	)	

This final plat application for three townhome sublots (Phase IV) of a twelve unit townhome subdivision came before the Sun Valley City Council for consideration on December 5, 2013. The City Council reviewed the Community Development Director's Agenda Report and recommendation; conducted a properly noticed public hearing; and heard testimony from the public, the applicant, and the applicant's representatives. Based on the evidence presented, the City Council makes the following Findings of Fact/Conclusions of Law and Decision.

**FINDINGS OF FACT / CONCLUSIONS OF LAW**

1. The applicant for the White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 is Benchmark Associates, P.A. for Sun Valley Resort Property, LLC. The project area consists of an existing 2.58 acre parcel within the Multi-Family Residential (RM-1) Zoning District of the White Clouds Subdivision. The final plat is directly associated with Preliminary Plat Application SUBPP 2010-08 and Design Review Application No. DR 2010-20 for the construction of twelve townhome units with associated site improvements. Four of the twelve townhome units and related infrastructure improvements were constructed as part of Phase I and a final plat was approved by the City (Application No. SUBFP 2012-06). Four additional units were constructed as part of Phase II and a second final plat was approved (Application No. SUBFP 2013-02). Phase III consisted of one additional detached townhome unit and a third final plat was approved by the City (Application No. SUBFP 2013-05). The remaining three townhome units of the twelve unit townhome project are now constructed, as are the related site improvements.
2. The subject parcel was created for multi-family residential development as part of the White Clouds Subdivision through the City's approval of the project's Master Plan, Zoning Map Amendment, Planned Unit Development (PUD), Preliminary Plat and Final Plat. Parcel E is one of five (5) multi-family parcels created by the White Clouds Subdivision.
3. The final plat for White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 (Application No. SUBFP 2013-09) creates three (3) new detached multi-family townhome sublots. The RM-1 Zoning District provides for medium density residential apartment, condominium and/or townhouse dwellings and incidental uses. Multiple-family residential townhouse units are permitted by right within the RM-1 zone. The 2.58 acre parcel has a maximum density permitted by the Preliminary Plat of twelve townhome units. The project's proposed fourth and final phase of three (3) townhome units complies with the maximum density of 12 dwelling units for the parcel and with the maximum densities allowed within the RM-1 Zoning District.
4. The property owner filed a preliminary plat application on August 4, 2010 to subdivide Parcel E into twelve (12) townhome sublots with associated site improvements. The Planning and Zoning

Commission recommended approval of the preliminary plat to the City Council on September 23, 2010 and the City Council approved the preliminary plat application on October 21, 2010. Improvement and utility plans were reviewed and approved by the City and various building permits were issued for the project. Construction commenced and nine townhome units were completed in the first three phases. Now three additional townhome units are constructed as part of Phase IV, the final phase, receiving official Certificates of Occupancy from the Building Official. The significant infrastructure for the entire project has been completed and the driveway access specific to the Phase IV units is in place.

5. As per Municipal Code Section 9-4A-7B, Director's Review, the White Clouds Townhomes: Phase IV Final Plat was reviewed by the Community Development Director for compliance with the approved preliminary plat design and all applicable conditions of approval. As permitted by the Development Code, the Director determined that the final plat did not significantly differ from the approved preliminary plat and, based on the review and comments from the City's Contract Engineer (CH2MHill), did not require that the final plat be submitted to the Planning and Zoning Commission for its evaluation and decision in the same manner as required in the preliminary plat process.
6. The required criteria for City Council review of a proposed final plat are contained in City Code Section 9-4A-7C and are fully discussed below. Additionally, City Code Section 9-4B-3, Townhomes, sets forth provisions to provide for public health, safety and welfare of purchasers and residents of townhome developments. Section 9-4B-3D-2 requires that a final plat shall not be approved by the City Council until all townhouse units have received an approved final inspection and certificate of occupancy from the City Building Inspector or the Council has approved a financial guarantee of performance for completion of improvements pursuant to Section 9-4A-8, Surety Agreements. As approved by the City Council in 2012, an Irrevocable Standby Letter of Credit in the amount of \$2,000,000 was provided by the applicant listing the City of Sun Valley as the beneficiary in order to satisfy Condition No. 2 of the Phase I Final Plat. This financial guarantee of performance remains in place to ensure completion of all remaining project improvements on Parcel E consistent with Preliminary Plat Application SUBPP 2010-08 and Design Review Application No. DR 2010-20 for the construction of twelve total townhome units with associated site improvements. The applicant's financial guarantee of performance for completion of all remaining project townhome units and improvements on Parcel E complies with all requirements of City Code Section 9-4A-8, Surety Agreements. With the City Council's 2012 approval of the Irrevocable Standby Letter of Credit, the ownership of the three newly completed Phase IV townhome units can be transferred.
7. The subdivision includes extensive open common area and a private street/driveway system to access the newly constructed townhomes/sublots from the Sun Peak Drive right-of-way. A ten-foot (10) snow storage, utility and drainage easement exists on the property along the frontage of Sun Peak Drive. The Sun Peak Drive public street right-of-way and path will be plowed clear of snow by the City and Trail Creek Road is currently plowed by Idaho Transportation Department. No avalanche or run-out areas exist on the project site.
8. The SVW&SD issued a will-serve letter for the overall White Clouds Subdivision as part of the Preliminary Plat review and action. A submitted and approved Water and Sewer Plan detailed nearby existing utility infrastructure and on-site improvements. These water and sewer improvements are now constructed and available. The project can be fully served by the constructed water and sewer utilities. All other applicable services and utilities were extended to the site as part of the overall White Clouds infrastructure implementation and are adequate to fully serve the Phase IV townhomes.

9. Considering and in accordance with the deviations and public benefits contained in the PUD approval for the overall White Clouds Development, the project design is consistent with Development Code Sections 9-4A-5, Design, and 9-3H-4, Regulated Structures. The significant slopes, ridges, knolls, summits and hilltops of the White Clouds Land Use Planning Area were preserved and subdivided into open space and recreational zoned parcels. The remaining more developable portions of the area were subdivided into single and multi-family residential uses. Parcel E is a multi-family zoned parcel surrounded to the north and east by significantly sloping topography preserved as open space. The toe of the steep 25% and greater slope area lies directly adjacent to the Parcel E property line, just off site. The few small and scattered 25% steep slope anomalies that appear on Parcel E via a detailed site specific slope analysis are not significant and were not intended to be preserved by the White Clouds Master Plan nor the White Clouds PUD. Additionally, in the RM-1 Zoning District, buildings on natural topography greater than fifteen percent (15%) are required to be designed in a manner to reduce visibility by using stepped building forms, natural color and materials, sloped roofs and landscaping. This townhome project utilizes a combination of detached and attached townhome units with pitched roof designs, placing the larger units at the less visible rear portion of the parcel, significantly dug into existing grade. The project's mix of stand-alone townhomes with attached duplexes, as opposed to potential design options with multi unit massing and condominium development, is appropriate for the site and minimizes project visibility. The project's use of natural stone and wood materials and mature screening landscaping further ensure compliance with hillside regulations. None of the twelve townhome units skyline above adjacent hillsides or knolls. The townhome project complies with all applicable regulations and design criteria contained in the Development Code and is consistent with the intent and purpose of the Hillside Ordinance, the White Clouds Master Plan and the White Clouds PUD.

**Based upon the foregoing Findings of Fact, the City Council makes the following Conclusions of Law:**

1. Subject to appropriate conditions below, the subdivision conforms with all applicable requirements of Title 9, Development Code, and all other applicable ordinances and provisions of the City of Sun Valley City Code because the design of the three (3) townhome subplot subdivision with associated improvements complies with all applicable density, design, lot size, width, depth, shape, orientation and use requirements. The Phase IV Final Plat complies with all applicable regulations in effect for the sublots within the applicable zoning district, including the purpose statements. The site is suitable for the proposed multi-family residential land use and is allowed by right within the RM-1 Zoning District. The applicant's twelve unit design represents development of the site with approximately one-third the development density allowed by Code. The proposed overall subdivision of the property to form twelve total townhome sublots and common area is in accordance with the uses and densities permitted within the RM-1 Zoning District.
2. The Phase IV Final Plat, which further subdivides Parcel E for multi-family housing land use, is in accordance with the City of Sun Valley 2005 Comprehensive Plan Update which designates the area as Medium Density Residential. The subject property is currently designated as Medium Density Residential (up to 14 du/acre max.) by the Future Land Use Map of the 2005 Comprehensive Plan Update. The RM-1 Zoning District implements the Medium Density Residential designation of the Comprehensive Plan.
3. Essential public facilities and services, including but not limited to emergency services, transit, public street maintenance, housing and schools, are available to support the proposed uses and density or intensity without creating additional requirements at public costs for such public facilities

and services.

4. The proposed subdivision will be accessed from the existing Sun Peak Drive public roadway improvements. As required by the Fire Department and proposed by the applicant, the constructed driveway and access roadway improvements meet all minimum standards for such improvements as specified by Title 7 of the City Code. The existing Sun Peak Drive and Trail Creek Road improvements provide direct access to the subdivision without the need for further construction of public streets or any additional right-of-way. Existing water and sewer infrastructure lies in close proximity and has been extended onto the site to adequately serve the new development. Proper Will Serve letters have been obtained for the project from the Sun Valley Water and Sewer District, Idaho Power and Intermountain Gas Company. Snow plowing and clearing on the private driveway system will be provided by the property owners. No offsite improvements are needed to connect the subdivision with existing public services and utilities. Fire and police service are provided by the City. The development will have no significant impact on the financial capability of the City to provide Municipal services.
5. It is determined that the proposed subdivision design complies with the specific design and improvement standards specified in Chapters 3 (Design and Development Regulations) and 4 (Subdivision Regulations) of Title 9 (Development Code) and with Title 7 (Engineering Standards and Design Practices) of the City Code. No significant historical, natural, ecological, architectural, archeological or scenic special sites lie on or adjacent to the project site. No significant streams, lakes or other natural bodies of water lie on site or directly adjacent. A site specific slope analysis was submitted as part of the project application and areas of any significant slope have been identified and quantified for the area on and adjacent to the new sublots. The significant slopes and hillsides lie off-site adjacent to the northeast in an open space zoned parcel, Parcel G. Pursuant to the deviations allowed in regard to steep slopes by the PUD approved for the overall White Clouds project, the subdivision design is appropriate for multi-family development. No view or hillside scarring will occur to the larger prominent surrounding hillsides and no significant natural features or hilltops will be disturbed. No natural tree masses or unique rock or geological formations exist on the site and the area is not within an identified view corridor or skyline.
6. The Community Development Department and the City's contract engineer, CH2M Hill, have completed a comprehensive review of the final plat application and have determined that all required application materials have been satisfactorily submitted as per Development Code requirements. The proposed townhome subdivision is consistent with the land uses envisioned for the property for many years as detailed in the Sun Valley Resort's 2004 Vision Plan and complies with the criteria in the 2005 Comprehensive Plan Update for the Gun Club (now referred to as the White Clouds) Land Use Planning Area. All aspects of the subdivision are consistent with the approved White Clouds Master Plan and the White Clouds PUD. The individual townhome sublots and surrounding site improvements are congruent with the size, nature and character of existing and future development in the area. No significant negative impacts to the area, City or natural environment have been identified due to the twelve-lot townhome subdivision, including but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other natural features. The final plat design minimizes impact on sensitive prominent hillsides and places development on the flatter, less visible areas of the site to minimize visual impacts on surrounding land uses. The townhomes placed higher on the site are significantly dug into grade. The subdivision is not materially detrimental to the public health, safety, and welfare, and any significant impacts have been mitigated satisfactorily as a result of the project design as determined by the City Council. No significant negative impacts to the area or City due to the three (3) townhome subplot subdivision have been identified by staff nor have any comments or questions been received

by the City during the noticed review and comment period for the City Council public hearing on the final plat application.

**DECISION**

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley City Council hereby conditionally approves the final plat for the White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 based upon submitted application review documents, plat drawings, supporting exhibits, and testimony on the record at the public hearing, all considered by the City Council and subject to the following conditions of approval.

**CONDITIONS OF APPROVAL**

1. The final plat for the White Clouds Townhomes: Phase IV, Sublots 5, 7, and 8 shall be recorded by the applicant at the Office of the County Recorder and a copy of the recorded final plat document shall be submitted to the Community Development Department. The lots within the proposed Phase IV subdivision shall not be sold until the plat has been recorded in the Office of the County Recorder.
2. To the satisfaction of and prior agreement with the City Council in 2012 as part of the project's Phase I final plat approval requirements, the applicant provided the City with a financial guarantee of performance for completion of all remaining project improvements on Parcel E consistent with Preliminary Plat Application SUBPP 2010-08 and Design Review Application No. DR 2010-20 for the construction of twelve townhome units with associated site improvements. The financial guarantee of performance consists of an Irrevocable Standby Letter of Credit (Wells Fargo- Number IS0013970) in the amount of \$2,000,000 listing the City of Sun Valley as the beneficiary. This Letter of Credit shall remain in place as the applicant's financial guarantee of performance for completion of all site improvements, including landscaping in the Spring of 2014, on Parcel E in compliance with the requirements of Development Code Section 9-4A-8, Surety Agreements.
3. Prior to or concurrent with recordation of the Phase IV Final Plat, the applicant shall record a final copy of the *Declaration of Covenants, Conditions and Restrictions of White Clouds Townhomes: Phase IV Subdivision*, which shall adequately provide for the control and maintenance of all commonly held facilities, landscaping, parking and/or open site areas for the newly completed townhome. A copy of the recorded Phase IV *Declaration* shall be submitted to the Community Development Director.

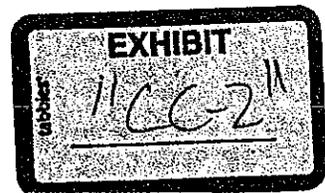
Dated this 5th day of December, 2013.

\_\_\_\_\_  
Dewayne Briscoe, Mayor  
City of Sun Valley

\_\_\_\_\_  
Date Findings of Fact signed

ATTEST:

\_\_\_\_\_  
Hannah Stauts, City Clerk  
City of Sun Valley



# Final Plat Review: White Clouds Townhomes: Phase IV

TO: Mark Hofman

COPIES: Bill Whitesell  
Cinda Lewis, Benchmark Associates

FROM: Betsy Roberts  
Jennifer Bass

DATE: November 22, 2013

We received the Final Plat sheets and closure reports for White Clouds Townhomes: Phase IV. These documents meet the intent of a final plat submittal and we find no fatal flaws. Once the Mylar with the Certifications is received, the City Engineer will sign the signature sheet and will forward it to Benchmark Associates.

Attachment: White Clouds Townhomes Ph IV Final Plat Table, Dated November 22, 2013

**CITY OF SUN VALLEY  
FINAL PLAT CHECK LIST**

For: Benchmark Associates

1	Subdivision Name:	White Clouds Townhomes: Phase IV
2	Reviewer:	Jennifer Bass
3	Date:	November 22, 2013
4	Sheet Title and Preamble:	White Clouds Townhomes: Phase IV. Located Within: Section 6, Township 4 North, Range 18 East, B.M., City of Sun Valley, Blaine County, Idaho. A Townhouse Subdivision of Tract C within the plat of "White Clouds Townhomes: Phase III", Inst. No. 612967, Creating Sublots 5, 7 & 8 within Block 1. November 2013
5	Basis of Bearing:	OK
6	North Arrow:	OK
7	Scale and Legend:	OK
8	Plat Closure:	OK
9	Total Area:	OK, Block 1 and individual subplot areas shown.
10	Monuments:	OK
11	Land Corners:	OK
12	Initial Point:	OK
13	Street Names & Width:	OK, Private Driveway (Common Area) within Townhomes boundary, public roadway names and widths shown.
14	Easements:	OK: 10 foot wide Utility, Drainage and Irrigation Easement per Original Plat, 15 foot wide Public Trail Easement for public use, 20 foot wide landscape buffer per Plat Note 6, 5' Idaho Power Co. Easement Inst. #574659, 10' Snow Storage Easement per Original Plat, Existing 7.5 foot public trail easement.
15	Lot & Block Numbers:	OK
16	Lot Dimensions:	OK
17	Curve & Line Tables:	OK
18	Certifications:	Shall be submitted with Mylar sheet
19	Certificate of Owner:	Shall be submitted with Mylar sheet
20	Certificate of Surveyor:	Shall be submitted with Mylar sheet
21	Sanitary Restriction:	OK
22	Agency Approvals:	Shall be submitted with Mylar sheet
23	Public Dedication:	OK, See Note 6
24	Common Areas:	OK

Notes: The certifications shall be submitted with the Mylar sheet.

EXHIBIT

# Temporary Certificate of Occupancy

Issued by  
The City of Sun Valley Department of Building Safety

*This Certificate is issued pursuant to the requirements of Section R111 of the 2009 International Residential Code certifying that at the time of issuance this structure was in compliance with the requirements of the code and the various ordinances of the City regulating building construction or use. For the following:*

Legal Address: Sub Lot 7 Phase IV

Building Permit No: 2012-082

Owners: Sun Valley Resort Properties LLC

Occupancy: R-2

Sprinkler System Required: Yes

November 26, 2013

Address: 23 Cloud Nine Drive

Address: P.O. Box 10, Sun Valley, ID 83353

Construction Type: V-B

Occupant Load: Maximum of 9 people

Builder: Intermountain Construction Inc.

Mark Hofman for Eric Adams, Building Official



This Certificate is valid until February 28, 2014

# Temporary

# Certificate of Occupancy

Issued by

The City of Sun Valley Department of Building Safety

*This Certificate is issued pursuant to the requirements of Section R111 of the 2009 International Residential Code certifying that at the time of issuance this structure was in compliance with the requirements of the code and the various ordinances of the City regulating building construction or use. For the following:*

Legal Address: Sub Lot 8 Phase IV

Building Permit No: 2012-082

Owners: Sun Valley Resort Properties LLC

Occupancy: R-2

Sprinkler System Required: Yes

November 26, 2013

Address: 21 Cloud Nine Drive

Address: P.O. Box 10, Sun Valley, ID 83353

Construction Type: V-B

Occupant Load: Maximum of 9 people

Builder: Intermountain Construction Inc.

Mark Hofman for Eric Adams, Building Official



This Certificate is valid until February 28, 2014

# Temporary

# Certificate of Occupancy

Issued by

The City of Sun Valley Department of Building Safety

*This Certificate is issued pursuant to the requirements of Section R111 of the 2009 International Residential Code certifying that at the time of issuance this structure was in compliance with the requirements of the code and the various ordinances of the City regulating building construction or use. For the following:*

Legal Address: Sub Lot 5 Phase IV

Building Permit No: 2012-055

Owners: Sun Valley Resort Properties LLC

Occupancy: R-3

Sprinkler System Required: No

November 26, 2013

Address: 26 Cloud Nine Drive

Address: P.O. Box 10, Sun Valley, ID 83353

Construction Type: V-B

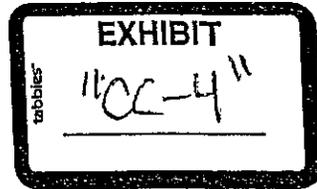
Occupant Load: Maximum of 9 people

Builder: Intermountain Construction Inc.

Mark Hofman for Eric Adams, Building Official



This Certificate is valid until February 28, 2014



SUN VALLEY CITY COUNCIL

AND SUBDIVISION )
WHITE CLOUDS DEVELOPMENT )
PARCEL E, MULTI-FAMILY TOWNHOMES)
PRELIMINARY PLAT )
APPLICATION NO. SUB 2010-08 )

FINDINGS OF FACT, CONCLUSIONS
OF LAW, DECISION AND
CONDITIONS OF APPROVAL

This preliminary plat application came before the Sun Valley City Council for consideration on October 21, 2010. The City Council conducted a properly noticed public hearing; reviewed the application materials submitted; heard testimony from the public, the applicant, and the applicant's representatives; reviewed the approval recommendation by the Planning and Zoning Commission and reviewed the City staff reports. Based on the evidence presented, the City Council makes the following Findings of Fact/Conclusions of Law and Decision:

FINDINGS OF FACT / CONCLUSIONS OF LAW

- 1. The applicant for the White Clouds Parcel E Townhomes Subdivision is Jim Ruscitto, AIA for Sun Valley Resort Properties, LLC. The project area consists of an existing 2.48 acre undeveloped parcel within the Multi-Family Residential (RM-1) Zoning District of the White Clouds Subdivision. The preliminary plat is associated with Design Review Application No. DR2010-20 for the construction of twelve townhome units with associated site improvements.
2. The subject parcel was created for future multi-family residential development as part of the White Clouds Subdivision through the City's approval of the project's Master Plan, Zoning Map Amendment, Planned Unit Development (PUD), Preliminary Plat and Final Plat. Parcel E is one of five (5) undeveloped multi-family parcels created by the White Clouds Subdivision.
3. The preliminary plat for White Clouds Parcel E Townhome Subdivision (Application No. SUBPP2010-08) creates twelve (12) multi-family townhome sublots on a total of 2.48 acres. The twelve townhome units consist of four stand-alone, detached units and eight attached duplex units. The RM-1 Zoning District provides for medium density residential apartment, condominium and/or townhouse dwellings and incidental uses. Multiple-family residential townhouse units are permitted by right within the RM-1 zone. The 2.48 acre parcel has a maximum density permitted by Development Code of fourteen (14) dwelling units per gross acre (34 units). The project's proposed 4.84 dwelling unit per acre density complies with the maximum density of 14 dwelling units per acre within the RM-1 Zoning District.
4. The Planning and Zoning Commission performed a properly noticed site visit to the project site on September 9, 2010 to view the development layout, examine existing site conditions and evaluate the project design for impacts and compliance with City standards. At the conclusion of the public hearing on September 23, 2010 the Commission recommended approval of the preliminary plat application to the City Council.
5. The subdivision includes extensive open common area and a private street/driveway system to access each of the twelve new townhome sublots from the Sun Peak Drive right-of-way. A ten-foot (10) snow storage, utility and drainage easement exists on the property along the frontage of Sun Peak Drive. The Sun Peak Drive public street right-of-way and path will be plowed clear of snow by the City and Trail Creek Road is currently plowed by Idaho Transportation Department. No avalanche or run-out areas exist on the project site.

6. The SVW&SD has issued a will-serve letter for the overall White Clouds Subdivision. A Preliminary Water and Sewer Plan submitted as part of the project drawings (Sheet C-2) depicts nearby existing utility infrastructure and on-site improvements. It has been determined that the project can easily be served by extending water and sewer utilities directly to the twelve new townhomes. All other applicable services and utilities were extended to the site as part of the overall White Clouds infrastructure implementation and are adequate to fully serve the twelve new townhome units and associated site development.
7. Considering and in accordance with the deviations and public benefits contained in the PUD approval for the overall White Clouds Development, the project design is consistent with Development Code Sections 9-4A-5, Design, and 9-3H-4, Regulated Structures. The significant slopes, ridges, knolls, summits and hilltops of the White Clouds Land Use Planning Area were preserved and subdivided into open space and recreational zoned parcels. The remaining more developable portions of the area were subdivided into single and multi-family residential uses. Parcel E is a multi-family zoned parcel surrounded to the north and east by significantly sloping topography preserved as open space. The toe of the steep 25% and greater slope area lies directly adjacent to the Parcel E property line, just off site. The few small and scattered 25% steep slope anomalies that appear on Parcel E via a detailed site specific slope analysis are not significant and were not intended to be preserved by the White Clouds Master Plan nor the White Clouds PUD. Additionally, in the RM-1 Zoning District, buildings on natural topography greater than fifteen percent (15%) are required to be designed in a manner to reduce visibility by using stepped building forms, natural color and materials, sloped roofs and landscaping. This townhome project utilizes a combination of detached and attached townhome units with pitched roof designs, placing the larger units at the less visible rear portion of the parcel, significantly dug into existing grade. The project's mix of stand-alone townhomes with attached duplexes, as opposed to potential design options with multi unit massing and condominium development, is appropriate for the site and minimizes project visibility. The project's use of natural stone and wood materials and mature screening landscaping further ensure compliance with hillside regulations. None of the twelve townhome units skyline above adjacent hillsides or knolls. The townhome project complies with all applicable regulations and design criteria contained in the Development Code and is consistent with the intent and purpose of the Hillside Ordinance, the White Clouds Master Plan and the White Clouds PUD.

**Based upon the foregoing Findings of Fact, the City Council makes the following Conclusions of Law:**

1. Subject to appropriate conditions below, the subdivision conforms with all applicable requirements of Title 9, Development Code, and all other applicable ordinances and provisions of the City of Sun Valley City Code because the design of the twelve townhome subplot subdivision with associated improvements complies with all applicable density, design, lot size, width, depth, shape, orientation and use requirements. The preliminary plat complies with all applicable regulations in effect for the proposed sublots within the applicable zoning district, including the purpose statements. The site is suitable for the proposed multi-family residential land use and is allowed by right within the RM-1 Zoning District. The applicant's twelve unit design represents development of the site with approximately one-third the development density allowed by Code. The proposed subdivision of the property to form twelve townhome sublots and common area is in accordance with the uses and densities permitted within the RM-1 Zoning District.

2. The preliminary plat, which subdivides the property for multi-family housing land use, is in accordance with the City of Sun Valley 2005 Comprehensive Plan Update which designates the area as Medium Density Residential. The subject property is currently designated as Medium Density Residential (up to 14 du/acre max.) by the Future Land Use Map of the 2005 Comprehensive Plan Update. The RM-1 Zoning District implements the Medium Density Residential designation of the Comprehensive Plan.
3. Essential public facilities and services, including but not limited to emergency services, transit, public street maintenance, housing and schools, are available to support the proposed uses and density or intensity without creating additional requirements at public costs for such public facilities and services.
4. The proposed subdivision will be accessed from the existing Sun Peak Drive public roadway improvements. As conditioned by the Fire Department herein and proposed by the applicant, the driveway and access roadway improvements will meet all minimum standards for such improvements as specified by Title 7 of the City Code. The existing Sun Peak Drive and Trail Creek Road improvements provide direct access to the subdivision without the need for further construction of public streets or any additional right-of-way. Existing water and sewer infrastructure lies in close proximity and will be extended onto the site to adequately serve the new development. A Utility Exhibit submitted as part of the development application for the preliminary plat depicts existing utility infrastructure and features and it has been determined that the project can easily be served by extending laterals to the sublots. Proper Will Serve letters have been obtained for the project from the Sun Valley Water and Sewer District, Idaho Power and Intermountain Gas Company. Snow plowing and clearing on the private driveway system will be provided by the property owners. No offsite improvements are needed to connect the proposed subdivision with existing public services and utilities. Fire and police service will be provided by the City. The development will have no significant impact on the financial capability of the City to provide Municipal services.
5. It is determined that the proposed subdivision design complies with the specific design and improvement standards specified in Chapters 3 (Design and Development Regulations) and 4 (Subdivision Regulations) of Title 9 (Development Code) and with Title 7 (Engineering Standards and Design Practices) of the City Code. No significant historical, natural, ecological, architectural, archeological or scenic special sites lie on or adjacent to the project site. No significant streams, lakes or other natural bodies of water lie on site or directly adjacent. A site specific slope analysis was submitted as part of the project application and areas of any significant slope have been identified and quantified for the area on and adjacent to the proposed sublots. The significant slopes and hillsides lie off-site adjacent to the northeast in an open space zoned parcel. Pursuant to the deviations allowed in regard to steep slopes by the PUD approved for the overall White Clouds project, the subdivision design is appropriate for multi-family development. No view or hillside scaring will occur to the larger prominent surrounding hillsides and no significant natural features or hilltops will be disturbed. No natural tree masses or unique rock or geological formations exist on the site and the area is not within an identified view corridor or skyline.
6. The City and its representatives have completed a comprehensive review of the development application and have determined that all required application materials have been satisfactorily submitted as per Development Code requirements. The proposed townhome subdivision is consistent with the land uses envisioned for the property for many years as detailed in the Sun Valley Resort's 2004 Vision Plan and complies with the criteria in the 2005 Comprehensive Plan Update for the Gun Club (commonly referred to as the White Clouds) Land Use Planning Area.

All aspects of the subdivision are consistent with the approved White Clouds Master Plan and the White Clouds PUD. The individual townhome sublots and surrounding site improvements are congruent with the size, nature and character of existing and future development in the area. No significant negative impacts to the area, City or natural environment have been identified due to the twelve-lot townhome subdivision, including but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other natural features. The preliminary plat design minimizes impact on sensitive prominent hillsides and places development on the flatter, less visible areas of the site to minimize visual impacts on surrounding land uses. The townhomes placed higher on the site will be significantly dug into grade. The subdivision is not materially detrimental to the public health, safety, and welfare, and any significant impacts have been mitigated satisfactorily as a result of the project design as determined by the City Council and the Planning and Zoning Commission.

## DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley City Council hereby conditionally approves the proposed White Clouds Parcel E Townhome Subdivision Preliminary Plat, based upon the submitted application documents, plat drawings, supporting exhibits, and testimony on the record at the public hearing, all considered by the Council and subject to the following conditions of approval:

1. The Preliminary Plat and all aspects of the subdivision design shall conform to the project drawings reviewed by the City Council and dated received by the City of Sun Valley on August 4, 2010. Construction of improvements, facilities, private streets, driveways and public utility improvements shall be completed to the satisfaction of the City.
2. The applicant shall comply with all conditions and comments contained in the August 31, 2010 review and comment letter from the Sun Valley Fire Department including: 1.) the provision of fire hydrants in the locations specified as acceptable to the Fire Chief; 2.) the provision of an adequate address monument at the project entrance; 3.) sagebrush removal and 50-foot buffer zone consisting of just grasses and light fuels at the rear of the project; 4.) provision of fully automatic fire suppression system; 5.) all access roads and hydrants shall be kept clear during the construction phase; 6.) responsibility of snow removal from hydrant areas is responsibility of the property owner; and 7.) installation of approved spark arrestors on all fire appliance chimneys is required. No changes shall be allowed to the Plat without prior approval of the Fire Chief and the Community Development Director.
3. To the satisfaction of the Community Development Director, in order to insure compliance with Title 7 of the City Code, the Developer shall provide, pay for, and install, or cause to be installed to City standards the following (as applicable) so as to insure that the City can provide necessary Municipal services and facilities:
  - a. Water distribution systems and appurtenances including fire hydrants, fire alarms and other fire control devices.
  - b. Sewer lines, pumps and appurtenant sewage collection and disposal devices, together with devices for the removal of materials and water from sewage not amenable to or capable of treatment or reduction by the sewer district's sewage treatment processes or prohibited by State or Federal laws or regulations.
  - c. Streets, curbs and gutters, street base coarse material, wearing coarse material, bridges, sidewalks, bicycle pathways, street signs, traffic control devices, intersection signals, vehicle turning and deceleration lanes (if applicable).

- d. Storm drainage structures, lines and appurtenances, including culverts or other devices to enclose open ditches and to inhibit access to them by children, together with drainage easements sufficient to accommodate expected runoffs as determined according to generally accepted drainage accommodation principles.
  - e. Electrical distribution facilities, transformers and appurtenances, underground wiring, underground communication systems, wiring and underground cable television system and wiring.
  - f. Gas distribution systems and appurtenances.
  - g. Preservation or replacement of trees, shrubs, ground cover and other vegetation, install soil stabilization improvements to prevent erosion or degradation of surface water quality and inhibit vegetative growth in impounded waters or streams.
  - h. Public easements shall be dedicated for all required utilities and improvements.
4. The drawing submitted for final plat application and the drawings submitted to the City for infrastructure improvements shall be reviewed by the City's engineer and all proposed private street, grading, driveway, utility and drainage improvements shall conform to applicable standards. The drainage improvements shall be designed and constructed to be consistent with and compatible with the existing drainage improvements along Sun Peak Drive and Trail Creek Road as well as any improvements and conditions on the adjacent Sun Valley Golf Course property and adjacent residential subdivision. The applicant shall comply and/or clarify as needed all applicable comments and conditions contained in the review letter dated August 31, 2010 from the City's Engineer, CH2MHill.
  5. The private street improvements and all related project grading, driveway, utility and drainage improvements shall be designed and constructed to City standards to the satisfaction of the City's engineer, the Streets Department and the Community Development Director.
  6. The construction management plan submitted for the twelve townhouse subplot subdivision that addresses construction parking, material storage, storm water runoff, site security, noise, hours of activity, and nuisance control (noise, music, animals, dust, site watering, trash, construction fencing, safety, and street cleaning) shall be complied with to the satisfaction of the Community Development Director and Chief Building Official throughout the entire construction phase.
  7. The applicant shall submit copies of draft party wall agreements for the duplex units to the Community Development Department prior to issuance of any grading or building permits for the project as per Development Code requirements. Final party wall agreements shall be recorded and copies submitted to the Community Development Department prior to final plat approval.
  8. Prior to final plat approval by the City, the applicant shall submit final copies of agreements and documents creating an association of owners of the proposed townhouse sublots, which shall adequately provide for the control and maintenance of all commonly held facilities, garages, landscaping, parking and/or open site areas,
  9. The twelve townhome subplot White Clouds Parcel E Townhome Subdivision (Application No. SUBPP2010-08) shall be specific to Design Review Application No. DR2010-20. The applicant shall satisfy all applicable conditions and requirements of this associated development approval prior to submittal and action by the City on a final plat for the subdivision.
  10. A final plat shall not be approved by the City Council until all townhouse units have received an approved final inspection and certificate of occupancy from the City Building Inspector or the Council has approved a phasing plan development agreement and/or a financial guarantee of

performance for completion of improvements pursuant to Code Section 9-4A-8.

- 11. This preliminary plat approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.

Dated this 21st day of October, 2010.

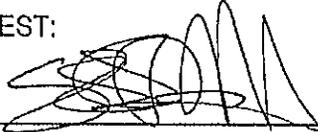


Wayne Willich, Mayor  
City of Sun Valley

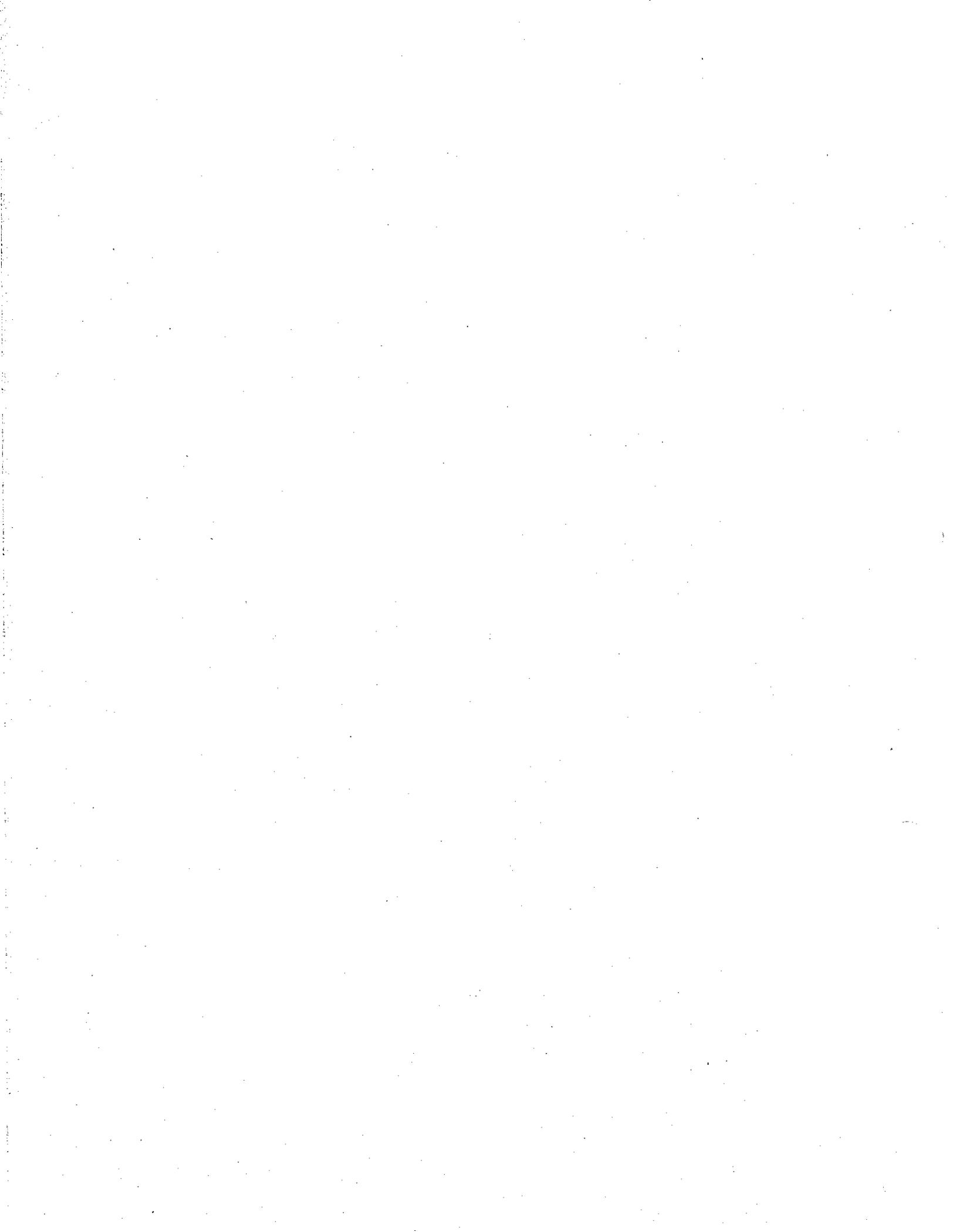
Oct. 22nd/2010

Date Findings of Fact signed

ATTEST:



Kelly Ek, City Clerk Sharon Hammer  
City of Sun Valley





CITY OF SUN VALLEY  
REPORT TO THE CITY COUNCIL

---

**To:** Honorable Mayor and City Council  
**From:**  Mark Hofman, Community Development Director  
**Meeting Date:** December 5, 2013  
**Agenda Item:** Sun Valley Saddle Subdivision Lot Line Shift  
Plat Amendment Application No. SUBPA 2013-07

---

**SUBJECT:** Public hearing for a plat amendment application proposing to relocate a common side property line between two existing tax lots to reflect the current conditions and improvements (fencing and landscaping) on the properties. No new lots will be formed. **Applicant:** Bruce Smith, PLS Alpine Enterprises Inc. for Portage Bay Partners, LLC and Robyn Rogers Trust. **Application Filing Date:** October 11, 2013. **Location:** 106 and 108 Saddle Road; Tax Lots 3523 and 3524.

**BACKGROUND:** The project area consists of one developed single family residential lot (Tax Lot 3523) and one undeveloped lot (Tax Lot 3524) lying on the north side of Saddle Road. Both lots are zoned Single-Family Residential (RS-1). The adjoining lots front and gain access directly from Saddle Road. Adjacent residential lots to the north, south, east and west are developed with existing single family structures and related site improvements. Existing Tax Lot 3523 is developed with an existing two-story, single family dwelling and associated site improvements. The amendment application proposes to add a westerly portion of Tax Lot 3524 to adjacent Tax Lot 3523 to reflect the existing fence line. The fence currently sits on Tax Lot 3524. No recorded building envelopes exist for either of the two subject lots. The lot line shift is fully depicted on the attached Plat Amendment Exhibit (**Exhibit "PZ-E" of attached Exhibit "CC-3"**). A Vicinity Map showing Tax Lots 3523 and 3524 and surrounding development is also included as **Exhibit "PZ-D" of attached Exhibit "CC-3"**.

**ANALYSIS:** The Plat Amendment application consists of an easterly relocation of the side property line common between the two subject lots. The lot line shift will result in a larger Lot 1 and a smaller Lot 2 of a new Sun Valley Saddle Subdivision. Existing Tax Lot 3523 is 32,733 square feet (0.75 acres) and existing Tax Lot 3524 is 23,913 square feet (0.55 acres) in lot size. The amendment adds 1,191 square feet to Tax Lot 3523. New Lot 1 of the Sun Valley Saddle Subdivision will have a lot area of 33,919 square feet (0.78 acres) and new Lot 2 will have a lot area of 22,719 square feet (0.52 acres), where a 20,000 square foot minimum is required in the RS-1 Zoning District. Both lots will remain in conformance with minimum lot size requirements. The lot line adjustment will reconfigure the shared property line to reflect existing fencing and landscaping improvements on the properties. Each resulting Lot will remain consistent with existing developed residential lots across the Saddle Road right-of-way and also along nearby Saddle Lane.

A noticed site visit and public hearing was performed for this plat amendment application by the Planning and Zoning Commission on November 14, 2013. The Commission adopted a motion to recommend approval of the plat amendment to the City Council. The project analysis, additional background information, and discussion are contained in the attached November 14, 2013 Planning and Zoning Commission Agenda Report (**Exhibit "CC-3"**). The Planning & Zoning Commission's signed approval recommendation, findings of fact, conclusions of law and conditions for the Amendment are attached as **Exhibit "CC-2"**.

If approved by the Council, the plat document detailing the relocated property line shall be recorded with the Office of the County Recorder within one year to be valid and a copy of the recorded document shall be provided to the Community Development Department. Staff summarizes the general action alternatives available to the City Council below and can further discuss options and potential findings and conditions of approval at the Council hearing if needed. Draft City Council Findings of Fact, Conclusions of Law and Conditions of Approval for Plat Amendment Application No. SUBPA 2013-07 are attached as **Exhibit "CC-1"**.

**Public Notice and Comment-** The public hearing with the City Council for this plat amendment application was publicly noticed on November 20, 2013 by: 1.) publication as a display ad in the Mtn. Express; 2.) mailing of notice to all property owners within a 300 foot radius; 3.) posting of public notice at five (5) prominent locations within the City, including Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posting of the site; 5.) transmitting to relevant agencies/media via emailing and faxing, as well as to all parties who have notified the City of interest to receive agendas and such public notices; and, 6.) posting on the City's webpage under public notices and under the City Council Agenda.

As of the writing and release of this Agenda Report, no public comments were received by City staff as a result of the public notice for the public hearing on this development application.

**Alternative Actions-** The general alternatives available to the City Council for action on the plat amendment application include:

- (1) Make the required findings and adopt the attached draft Findings of Fact and Conclusions of Law, as may be modified or specifically conditioned by the Council, approving the plat amendment request; or
- (2) Close the public hearing, discuss the findings, vote to deny the application and direct staff to return on a date certain with a resolution of denial reflecting the comments and findings of the Council; or
- (3) Continue the hearing date certain for further information and review prior to an action on the requested plat amendment.

**RECOMMENDATION:** Before public comment is received, the City Council should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony, and consider the facts and findings necessary to make a decision on the application. The Planning & Zoning Commission formally recommended approval of the plat amendment application to the City Council on November 14, 2013.

**The Community Development Director recommends the City Council adopt a motion to approve the plat amendment application as recommended by the Planning and Zoning Commission.**

**LIST OF ATTACHED EXHIBITS:**

- Exhibit "CC-1"      Draft City Council Findings of Fact, Conclusions of Law and Conditions for Plat Amendment Application No. SUBPA 2013-07.
- Exhibit "CC-2"      Planning & Zoning Commission Approval Recommendation, Findings of Fact, Conclusions of Law and Conditions for Plat Amendment Application No. SUBPA 2013-07 signed on November 21, 2013.
- Exhibit "CC-3"      November 14, 2013 Planning & Zoning Commission Agenda Report with attached Exhibits "PZ-A" through "PZ-E".

\*\*The entire administrative record for the plat amendment application is available for review in the Community Development Department at City Hall.

EXHIBIT "CC-1"

(DRAFT) SUN VALLEY CITY COUNCIL

SV SADDLE SUB PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
TAX LOTS 3523 AND 3524	)	OF LAW, DECISION
106 AND 108 SADDLE ROAD	)	AND CONDITIONS
SUN VALLEY SADDLE SUBDIVISION	)	
APPLICATION NO. SUBPA 2013-07	)	

This matter came before the Sun Valley City Council for consideration on December 5, 2013 as a duly noticed public hearing to relocate a common side property line between two existing tax lots to reflect the current conditions and improvements (fencing and landscaping) on the properties. No new lots will be formed. The City Council conducted a properly noticed public hearing; reviewed the applicable application materials and the City staff reports; heard testimony from the public, the applicant, and the applicant's representatives; and, considered the approval recommendation of the Planning and Zoning Commission. Based on the evidence presented, the City Council makes the following Findings of Fact/Conclusions of Law and Decision, subject to specific Conditions of Approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Bruce Smith, PLS Alpine Enterprises Inc. for Portage Bay Partners, LLC and Robyn Rogers Trust. The project area consists of one developed single family residential lot (Tax Lot 3523) and one undeveloped lot (Tax Lot 3524) lying on the north side of Saddle Road. Both lots are zoned Single-Family Residential (RS-1). The adjoining lots front and gain access directly from Saddle Road. Adjacent residential lots to the north, south, east and west are developed with existing single family structures and related site improvements. Existing Tax Lot 3523 is developed with an existing two-story, single family dwelling and associated site improvements. The amendment application proposes to add a westerly portion of Tax Lot 3524 to adjacent Tax Lot 3523 to reflect the existing fence line. The fence currently sits on Tax Lot 3524. No recorded building envelopes exist for either of the two subject lots.
2. The Plat Amendment application consists of an easterly relocation of the side property line common between the two subject lots. The lot line shift will result in a larger Lot 1 and a smaller Lot 2 of a new Sun Valley Saddle Subdivision. Existing Tax Lot 3523 is 32,733 square feet (0.75 acres) and existing Tax Lot 3524 is 23,913 square feet (0.55 acres) in lot size. The amendment adds 1,191 square feet to Tax Lot 3523. New Lot 1 of the Sun Valley Saddle Subdivision will have a lot area of 33,919 square feet (0.78 acres) and new Lot 2 will have a lot area of 22,719 square feet (0.52 acres), where a 20,000 square foot minimum is required in the RS-1 Zoning District. Both lots will remain in conformance with minimum lot size requirements. The lot line adjustment will reconfigure the shared property line to reflect existing fencing and landscaping improvements on the properties. Each resulting Lot will remain consistent with existing developed residential lots across the Saddle Road right-of-way and also along nearby Saddle Lane.
3. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required Application Information. On November 20, 2013 proper notice for the public hearing was

completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.

4. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
5. The property line relocation application will not lower the dimensions of existing Tax Lots 3523 and 3524 below a minimum dimensional standard prescribed by Title 9, Development Code. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 1 and one on revised Lot 2. No new building envelopes will be created on each resulting Lot and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
6. The plat adjustment is appropriate for the design and physical location of future development. The amendment is appropriate for the single-family development because the new property line location will reflect existing site conditions and allow for development of a suitable single family dwelling on resulting Lot 2. Each Lot is determined to be buildable with a suitable single-family dwelling similar in character with the surrounding development.
7. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
8. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the development and improvements on the site. The property line shift is minor and, once recorded, the plat modification will appear as though designed as part of the original development.
9. The side property line shift does not involve or alter any area used for access to the overall neighborhood nor any associated or adjacent public or private access or parking areas. The new Lot 1 and Lot 2 Sun Valley Saddle Subdivision configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.
10. The completed review of the application and supporting materials by the Community Development Department and the City's contract Engineer, CH2MHill found no unresolved issues, code conflicts or fatal flaws in the plat amendment nor any needed Fire Department comments or conditions.
11. The Planning and Zoning Commission performed a properly noticed public hearing on November 14, 2013 to receive public testimony, evaluate the project design for impacts and compliance with City standards and consider the facts and findings necessary to make a recommending decision on

the application. The Planning & Zoning Commission formally recommended approval of the plat amendment application to the City Council on November 14, 2013.

12. The City Council performed a properly noticed public hearing on December 5, 2013 to receive public testimony, evaluate the project design for impacts and compliance with City standards, consider the Commission's recommendation and consider the facts and findings necessary to make a decision on the application. No significant negative impacts to the area or City due to the plat amendment have been identified by staff, the Commission or the City Council. No public comment opposing the amendment was received by the City during the Commission or Council's noticed review and comment period.

### DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley City Council hereby conditionally approves the Plat Amendment to relocate the common side property line between existing Tax Lots 3523 and 3524, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

1. The plat amendment and all aspects of the project design shall conform to the project's preliminary plat amendment drawing stamped received by the City of Sun Valley on October 25, 2013, reviewed by the Planning and Zoning Commission on November 14, 2013 and approved by the City Council on December 5, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common side property line between existing Tax Lots 3523 and 3524, the applicant shall record the plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.
3. The plat amendment application (No. SUBPA 2013-07) shall be subject to satisfaction of all comments and conditions contained in the CH2MHill review and comment letter dated November 1, 2013.

Dated this 5th day of December, 2013.

---

Dewayne Briscoe, Mayor  
City of Sun Valley

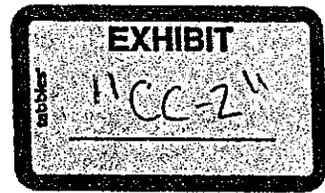
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Date Findings of Fact signed

ATTEST:

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Hannah Stauts, City Clerk  
City of Sun Valley



**SUN VALLEY  
PLANNING AND ZONING COMMISSION**

PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
TAX LOTS 3523 AND 3524	)	OF LAW, DECISION
106 AND 108 SADDLE ROAD	)	AND CONDITIONS
SUN VALLEY SADDLE SUBDIVISION	)	
APPLICATION NO. SUBPA 2013-07	)	

This matter came before the Sun Valley Planning and Zoning Commission for consideration on November 14, 2013 as a duly noticed public hearing to relocate a common side property line between two existing tax lots to reflect the current conditions and improvements (fencing and landscaping) on the properties. No new lots will be formed. The Commission conducted a properly noticed public hearing, reviewed the Agenda Report and heard the comments of City staff, the applicant's representatives and the public. Additionally, the Commission reviewed the approval recommendation document with suggested Findings of Fact, Conclusions of Law, and Conditions of Approval recommended by the Community Development Director. Based on the evidence presented, the Commission hereby recommends approval of the proposed plat amendment to the City Council with the following Findings of Fact and Conclusions of Law and subject to specific conditions of approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Bruce Smith, PLS Alpine Enterprises Inc. for Portage Bay Partners, LLC and Robyn Rogers Trust. The project area consists of one developed single family residential lot (Tax Lot 3523) and one undeveloped lot (Tax Lot 3524) lying on the north side of Saddle Road. Both lots are zoned Single-Family Residential (RS-1). The adjoining lots front and gain access directly from Saddle Road. Adjacent residential lots to the north, south, east and west are developed with existing single family structures and related site improvements. Existing Tax Lot 3523 is developed with an existing two-story, single family dwelling and associated site improvements. The amendment application proposes to add a westerly portion of Tax Lot 3524 to adjacent Tax Lot 3523 to reflect the existing fence line. The fence currently sits on Tax Lot 3524. No recorded building envelopes exist for either of the two subject lots.
2. The Plat Amendment application consists of an easterly relocation of the side property line common between the two subject lots. The lot line shift will result in a larger Lot 1 and a smaller Lot 2 of a new Sun Valley Saddle Subdivision. Existing Tax Lot 3523 is 32,733 square feet (0.75 acres) and existing Tax Lot 3524 is 23,913 square feet (0.55 acres) in lot size. The amendment adds 1,191 square feet to Tax Lot 3523. New Lot 1 of the Sun Valley Saddle Subdivision will have a lot area of 33,919 square feet (0.78 acres) and new Lot 2 will have a lot area of 22,719 square feet (0.52 acres), where a 20,000 square foot minimum is required in the RS-1 Zoning District. Both lots will remain in conformance with minimum lot size requirements. The lot line adjustment will reconfigure the shared property line to reflect existing fencing and landscaping improvements on the properties. Each resulting Lot will remain consistent with existing developed residential lots across the Saddle Road right-of-way and also along nearby Saddle Lane.

3. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required Application Information. On October 30, 2013 proper notice for the public hearing was completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.
4. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
5. The property line relocation application will not lower the dimensions of existing Tax Lots 3523 and 3524 below a minimum dimensional standard prescribed by Title 9, Development Code. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 1 and one on revised Lot 2. No new building envelopes will be created on each resulting Lot and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
6. The plat adjustment is appropriate for the design and physical location of future development. The amendment is appropriate for the single-family development because the new property line location will reflect existing site conditions and allow for development of a suitable single family dwelling on resulting Lot 2. Each Lot is determined to be buildable with a suitable single-family dwelling similar in character with the surrounding development.
7. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
8. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the development and improvements on the site. The property line shift is minor and, once recorded, the plat modification will appear as though designed as part of the original development.
9. The side property line shift does not involve or alter any area used for access to the overall neighborhood nor any associated or adjacent public or private access or parking areas. The new Lot 1 and Lot 2 Sun Valley Saddle Subdivision configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.

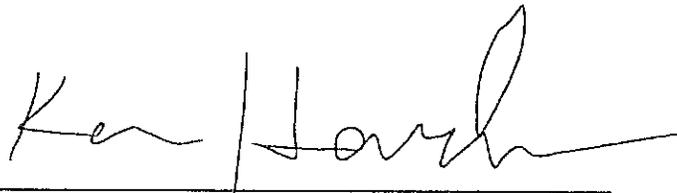
## DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley Planning and Zoning Commission hereby recommends approval of the plat amendment to the City Council to relocate the common side property line between existing Tax Lots 3523 and 3524, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

1. The action by the Planning and Zoning Commission on the plat amendment is a recommendation only and requires final action by the City Council at a noticed public hearing. The plat amendment and all aspects of the project design shall conform to the project drawings stamped received by the City of Sun Valley on October 25, 2013 and reviewed by the Planning and Zoning Commission on November 14, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common side property line between existing Tax Lots 3523 and 3524, the applicant shall record the plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.

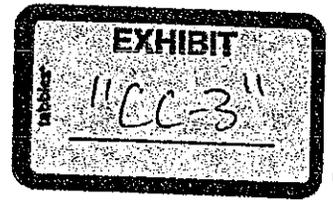
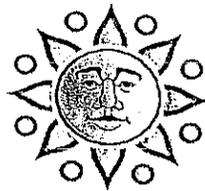
Dated this 14th day of November, 2013.



Ken Herich, Chairman  
Planning and Zoning Commission  
City of Sun Valley

November 21, 2013

\_\_\_\_\_  
Date Findings of Fact Signed



CITY OF SUN VALLEY  
 PLANNING AND ZONING COMMISSION  
 AGENDA REPORT

To: Planning and Zoning Commission  
 From: *MH* Mark Hofman, Community Development Director  
 Meeting Date: November 14, 2013  
 Agenda Item: Sun Valley Saddle Subdivision Lot Line Shift  
 Plat Amendment Application No. SUBPA 2013-07

**SUBJECT:** Public hearing for a plat amendment application proposing to relocate a common side property line between two existing tax lots to reflect the current conditions and improvements (fencing and landscaping) on the properties. No new lots will be formed. Applicant: Bruce Smith, PLS Alpine Enterprises Inc. for Portage Bay Partners, LLC and Robyn Rogers Trust. Application Filing Date: October 11, 2013. Location: 106 and 108 Saddle Road; Tax Lots 3523 and 3524.

**BACKGROUND:** The project area consists of one developed single family residential lot (Tax Lot 3523) and one undeveloped lot (Tax Lot 3524) lying on the north side of Saddle Road. Both lots are zoned Single-Family Residential (RS-1). A Vicinity Map showing Tax Lots 3523 and 3524 and surrounding development is attached as **Exhibit "PZ-D"**. The adjoining lots front and gain access directly from Saddle Road. Adjacent residential lots to the north, south, east and west are developed with existing single family structures and related site improvements. Existing Tax Lot 3523 is developed with an existing two-story, single family dwelling and associated site improvements. The amendment application proposes to add a westerly portion of Tax Lot 3524 to adjacent Tax Lot 3523 to reflect the existing fence line. The fence currently sits on Tax Lot 3524. No recorded building envelopes exist for either of the two subject lots. The lot line shift is fully depicted on the attached Plat Amendment Exhibit (**Exhibit "PZ-E"**).

**ANALYSIS:** The Plat Amendment application consists of an easterly relocation of the side property line common between the two subject lots. The lot line shift will result in a larger Lot 1 and a smaller Lot 2 of a new Sun Valley Saddle Subdivision. Existing Tax Lot 3523 is 32,733 square feet (0.75 acres) and existing Tax Lot 3524 is 23,913 square feet (0.55 acres) in lot size. The amendment adds 1,191 square feet to Tax Lot 3523. New Lot 1 of the Sun Valley Saddle Subdivision will have a lot area of 33,919 square feet (0.78 acres) and new Lot 2 will have a lot area of 22,719 square feet (0.52 acres), where a 20,000 square foot minimum is required in the RS-1 Zoning District. Both lots will remain in conformance with minimum lot size requirements. The lot line adjustment will reconfigure the shared property line to reflect existing fencing and landscaping improvements on the properties (see **attached Exhibit "PZ-C"**). Each resulting Lot will remain consistent with existing developed residential lots across the Saddle Road right-of-way and also along nearby Saddle Lane.

The completed review of the application and supporting materials by the Community Development Department and the City's contract Engineer, CH2MHill (**Exhibit "PZ-B"**) finds no unresolved issues, code conflicts or fatal flaws in the plat amendment nor any needed Fire Department comments or conditions. The public hearing was properly noticed in accordance to Development Code regulations and no comments or questions from the public have been received by the City as of the release of this Report.

**Alternative Actions-** Alternative actions available to the Commission include: (1) make the required findings and adopt the attached draft Findings of Fact and Conclusions of Law recommending approval of the plat amendment to the City Council; (2) Continue the hearing for further information and review; or (3) Close the public hearing, discuss the findings, vote to recommend denial of the plat amendment application and direct staff to return on a date certain with a resolution of denial reflecting the comments and findings of the Commission.

**RECOMMENDATION:** Before public comment is received, the Commission should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony, and consider the facts and findings necessary to make a recommendation on the plat amendment to the City Council. The Community Development Director recommends approval of the plat amendment application subject to the Conditions of Approval contained in the attached draft Findings of Fact (**Exhibit "PZ-A"**).

**LIST OF ATTACHED EXHIBITS:**

- |                |   |
|----------------|---|
| Exhibit "PZ-A" | Draft Findings of Fact, Conclusions of Law and Decision for Plat Amendment Application No. SUBPA 2013-07.   |
| Exhibit "PZ-B" | CH2MHill review and comment letter dated November 1, 2013 from Betsy Roberts and Jennifer Bass.   |
| Exhibit "PZ-C" | Cover letter from the applicant for the plat amendment application, stamped received by the City of Sun Valley on October 11, 2013 and consisting of one (1) 8.5" by 11" sheet.   |
| Exhibit "PZ-D" | Vicinity Map showing Tax Lots 3523 and 3524, Sun Valley, Idaho, stamped received by the City of Sun Valley on October 11, 2013 and consisting of one (1) color 8.5" by 11" sheet. |
| Exhibit "PZ-E" | Reduced 11" by 17" Plat Amendment Exhibit forming Lots 1 and 2 of the Sun Valley Saddle Subdivision, dated received by the City of Sun Valley on October 25, 2013.                |

\*\* The entire administrative record for this Plat Amendment application is available for review in the Community Development Department at City Hall.

EXHIBIT "PZ-A"

(DRAFT) SUN VALLEY  
PLANNING AND ZONING COMMISSION

PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
TAX LOTS 3523 AND 3524	)	OF LAW, DECISION
106 AND 108 SADDLE ROAD	)	AND CONDITIONS
SUN VALLEY SADDLE SUBDIVISION	)	
APPLICATION NO. SUBPA 2013-07	)	

This matter came before the Sun Valley Planning and Zoning Commission for consideration on November 14, 2013 as a duly noticed public hearing to relocate a common side property line between two existing tax lots to reflect the current conditions and improvements (fencing and landscaping) on the properties. No new lots will be formed. The Commission conducted a properly noticed public hearing, reviewed the Agenda Report and heard the comments of City staff, the applicant's representatives and the public. Additionally, the Commission reviewed the approval recommendation document with suggested Findings of Fact, Conclusions of Law, and Conditions of Approval recommended by the Community Development Director. Based on the evidence presented, the Commission hereby recommends approval of the proposed plat amendment to the City Council with the following Findings of Fact and Conclusions of Law and subject to specific conditions of approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Bruce Smith, PLS Alpine Enterprises Inc. for Portage Bay Partners, LLC and Robyn Rogers Trust. The project area consists of one developed single family residential lot (Tax Lot 3523) and one undeveloped lot (Tax Lot 3524) lying on the north side of Saddle Road. Both lots are zoned Single-Family Residential (RS-1). The adjoining lots front and gain access directly from Saddle Road. Adjacent residential lots to the north, south, east and west are developed with existing single family structures and related site improvements. Existing Tax Lot 3523 is developed with an existing two-story, single family dwelling and associated site improvements. The amendment application proposes to add a westerly portion of Tax Lot 3524 to adjacent Tax Lot 3523 to reflect the existing fence line. The fence currently sits on Tax Lot 3524. No recorded building envelopes exist for either of the two subject lots.
2. The Plat Amendment application consists of an easterly relocation of the side property line common between the two subject lots. The lot line shift will result in a larger Lot 1 and a smaller Lot 2 of a new Sun Valley Saddle Subdivision. Existing Tax Lot 3523 is 32,733 square feet (0.75 acres) and existing Tax Lot 3524 is 23,913 square feet (0.55 acres) in lot size. The amendment adds 1,191 square feet to Tax Lot 3523. New Lot 1 of the Sun Valley Saddle Subdivision will have a lot area of 33,919 square feet (0.78 acres) and new Lot 2 will have a lot area of 22,719 square feet (0.52 acres), where a 20,000 square foot minimum is required in the RS-1 Zoning District. Both lots will remain in conformance with minimum lot size requirements. The lot line adjustment will reconfigure the shared property line to reflect existing fencing and landscaping improvements on the properties. Each resulting Lot will remain consistent with existing developed residential lots across the Saddle Road right-of-

way and also along nearby Saddle Lane.

3. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required Application Information. On October 30, 2013 proper notice for the public hearing was completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.
4. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
5. The property line relocation application will not lower the dimensions of existing Tax Lots 3523 and 3524 below a minimum dimensional standard prescribed by Title 9, Development Code. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 1 and one on revised Lot 2. No new building envelopes will be created on each resulting Lot and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
6. The plat adjustment is appropriate for the design and physical location of future development. The amendment is appropriate for the single-family development because the new property line location will reflect existing site conditions and allow for development of a suitable single family dwelling on resulting Lot 2. Each Lot is determined to be buildable with a suitable single-family dwelling similar in character with the surrounding development.
7. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
8. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the development and improvements on the site. The property line shift is minor and, once recorded, the plat modification will appear as though designed as part of the original development.
9. The side property line shift does not involve or alter any area used for access to the overall neighborhood nor any associated or adjacent public or private access or parking areas. The new Lot 1 and Lot 2 Sun Valley Saddle Subdivision configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.

## DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley Planning and Zoning Commission hereby recommends approval of the plat amendment to the City Council to relocate the common side property line between existing Tax Lots 3523 and 3524, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

1. The action by the Planning and Zoning Commission on the plat amendment is a recommendation only and requires final action by the City Council at a noticed public hearing. The plat amendment and all aspects of the project design shall conform to the project drawings stamped received by the City of Sun Valley on October 25, 2013 and reviewed by the Planning and Zoning Commission on November 14, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common side property line between existing Tax Lots 3523 and 3524, the applicant shall record the plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.

Dated this 14th day of November, 2013.

---

Ken Herich, Chairman  
Planning and Zoning Commission  
City of Sun Valley

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Date Findings of Fact Signed



## Preliminary Plat: Sun Valley Saddle Subdivision

TO: Mark Hofman

COPIES: Bill Whitesell  
Bruce Smith, Alpine Enterprises Inc.

FROM: Betsy Roberts  
Jennifer Bass

DATE: November 1, 2013

This memo updates the previous Preliminary Plat Memo dated October 21, 2013. We have reviewed the Preliminary Plat sheet, closure reports, and application information for Sun Valley Saddle Subdivision. This document meets the intent of a preliminary plat submittal and we find no fatal flaws.

We appreciate the effort that has been made by Alpine Enterprises Inc to update the items listed on the previous preliminary plat memo. We understand that these tax lots have not been previously filed as a subdivision and this application is a unique submittal. We have the following general observations for this project at this time however these are not all inclusive:

1. Final Plat shall indicate initial point, sanitary restrictions, and a certification sheet (with a spot for both land owners' signatures).
2. Before the final plat is recommended for approval, we would like to go over some questions about the closure report. This has no bearing on the preliminary plat submittal recommendation for approval.

Attachment: Sun Valley Saddle Subdivision Preliminary Plat Table, Dated November 1, 2013

CITY OF SUN VALLEY  
PRELIMINARY PLAT CHECK LIST TABLE

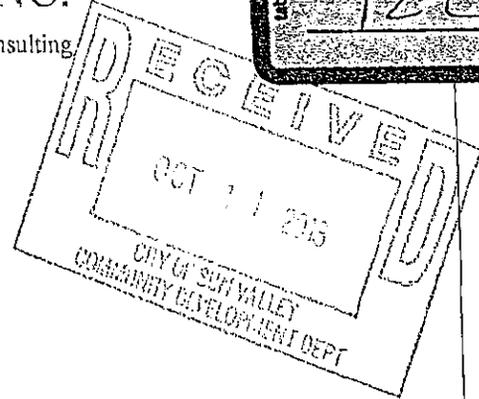
For: Alpine Enterprises Inc.

1	Subdivision Name:	Sun Valley Saddle Subdivision
2	Reviewer:	Jennifer Bass
3	Date:	November 1, 2013
4	Sheet Title and Preamble:	A Preliminary Plat Showing: Sun Valley Saddle Subdivision, within S7, T4N, R18E, B.M., City of Sun Valley, Blaine County, Idaho. Prepared for Portage Bay Partners LLC & Robyn Rogers Revocable Trust
5	Basis of Bearing:	Referenced in Note 1.
6	North Arrow:	OK
7	Scale and Legend:	OK
8	Plat Closure:	Received
9	Total Area:	Individual lot area shown.
10	Monuments:	OK
11	Land Corners:	OK
12	Initial Point:	Shall be shown on Final Plat
13	Street Names & Width:	N/A
14	Easements:	15' Public Utility Easement along southern boundary of subdivision. Existing public utilities appear to be located within the pathway and road right-of-way south of the subdivision.
15	Lot & Block Numbers:	OK, no block numbers shown.
16	Lot Dimensions:	OK
17	Curve & Line Tables:	N/A
18	Certifications:	Shall be included with Final Plat
19	Certificate of Owner:	Shall be included on Final Plat
20	Certificate of Surveyor:	Shall be included on Final Plat
21	Sanitary Restriction/Health Certificate:	Shall be included on Final Plat
22	Agency Approvals:	Shall be included on Final Plat
23	Public Dedication:	N/A
24	Common Areas:	N/A

Notes: Final Plat shall indicate initial point, sanitary restrictions, and a certification sheet (with a spot for both land owners' signatures). See Memo for additional comments.

# ALPINE ENTERPRISES INC.

Surveying, Mapping, GPS, GIS and Natural Hazards Consulting



DATE: September 26, 2013

TO: City of Sun Valley  
Planning and Zoning Dept.  
Sun Valley, ID 83353

RE: Cover Letter for Sun Valley Saddle Subdivision

Dear City;

Please consider this to be a cover letter to go with the Application Package.

The Owners are:

Current Tax Lot 3524, Portage Bay Partners LLC, PO Box 523, Medina, WA 98039

Current Tax Lot 3523, Robyn Rogers Trust, 310 W. 6<sup>th</sup> St., Tyler, TX 75701

I will act as the Authorized Representative, and have attached Authorization Letters from the Owners.

The owners of Tax Lot 3523 built a new fence around some existing spruce trees. A survey showed that the fence was not on the property line. The Rogers Trust asked Portage Bay if they could buy the strip of land to include the trees they planted and follow the new fence line. Portage Bay has agreed and we are re-platting the original Tax Lots as Lots 1 and 2 of Sun Valley Saddle Subdivision per City Code.

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

Respectfully submitted,

A handwritten signature in cursive script that reads "Bruce Smith".

Bruce Smith, PLS

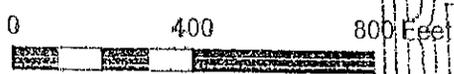
File: CoverLetter.docx

EXHIBIT  
"PZ-D"



-  Subject
-  Other Parcels

A Vicinity Map Showing  
Tax Lots 3523 & 3524, Sun Valley, ID



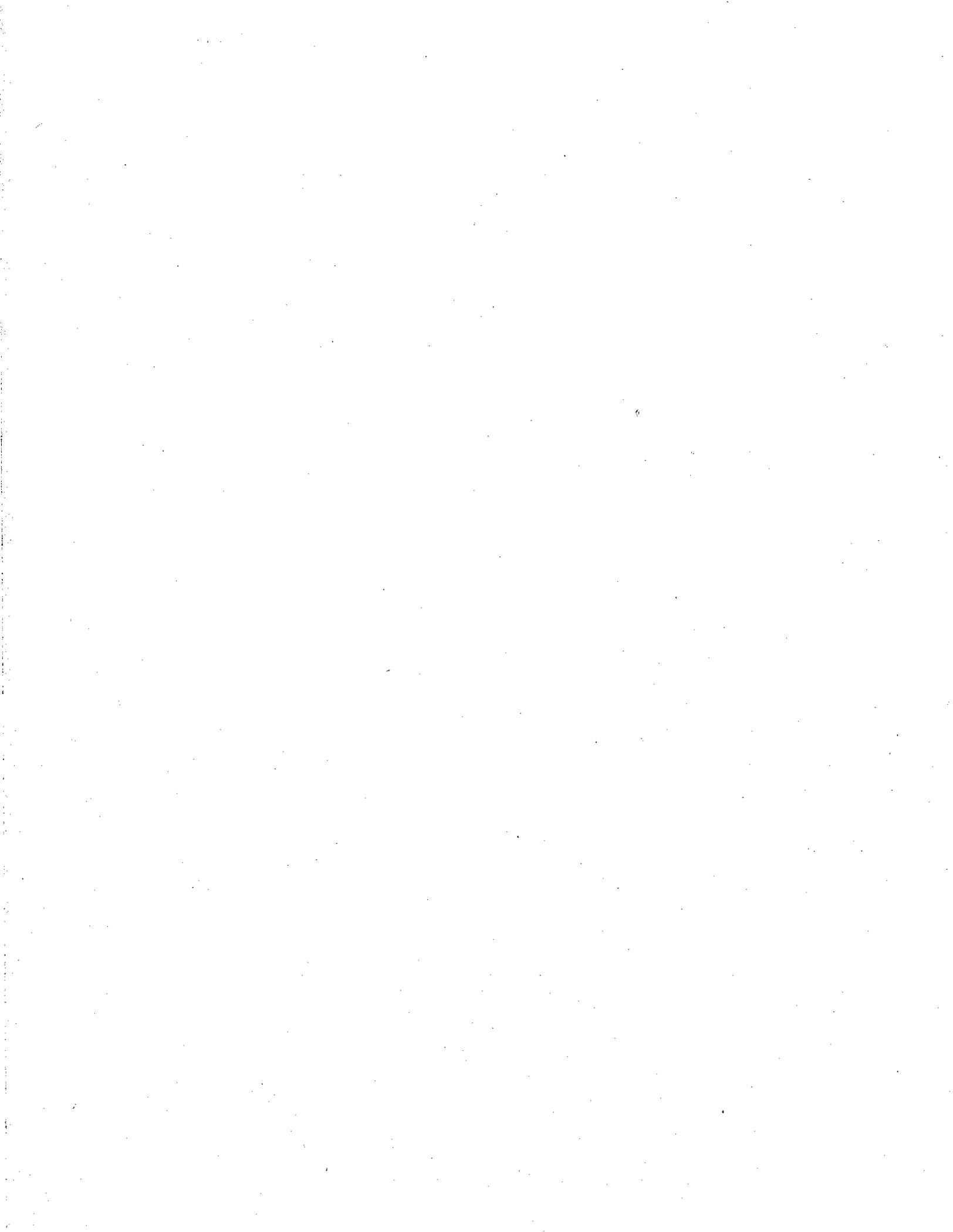
Alpine Enterprises Inc.  
PO Box 2037  
280 Rivers St. East  
Ketchum, ID 83340  
208-727-1988

RECEIVED  
SEP 11 2013

September 2013

SUB PA 2013-07

COY. PLANNING  
COUNTY CLERK'S OFFICE



  
CITY OF SUN VALLEY  
REPORT TO THE CITY COUNCIL

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**To:** Honorable Mayor and City Council  
**From:** *mkh* Mark Hofman, Community Development Director  
**Meeting Date:** December 5, 2013  
**Agenda Item:** Briscoe Lot Line Shift  
Plat Amendment Application No. SUBPA 2013-06

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**SUBJECT:** Public hearing for a plat amendment application proposing to relocate an existing rear yard property line of an existing single-family residential lot to add a small strip of land forming 17,162 square foot Lot 11A within the Single-Family Residential (RS-1) Zoning District. No new lots will be formed as part of this plat amendment request. **Applicant:** Benchmark Associates for DeWayne Briscoe. **Application Filing Date:** October 9, 2013. **Location:** 404 Fairway Loop; Lot 11 of Fairway Subdivision and Tax Lot 5381 (Sun Valley Golf Course).

**BACKGROUND:** The project area consists of one developed single family residential lot (Lot 11) and Tax Lot 5381, developed as the Sun Valley Golf Course. Existing Lot 11, owned by the applicant, lies adjacent to and south of Fairway Loop and is approximately 16,896 square feet in lot size. Tax Lot 5381 lies adjacent to the rear property line of Lot 11 and is owned by Sun Valley Company. Adjacent residential lots to the north, east and west are developed with existing single family structures and related site improvements. The amendment application proposes to add a small portion (266 square feet) of Tax Lot 5381 to adjacent Lot 11 and create a new slightly larger residential lot (Lot 11A). The added area consists of an approximately 2-foot by 133-foot strip of land adjacent to the existing recorded rear property line of Lot 11. No recorded building envelopes exist for either of the two subject properties.

**ANALYSIS:** The Plat Amendment application consists of a southerly relocation of the rear property line common between the two subject properties. Tax Lot 5381 is relatively large in size and the slight reduction (266 square feet) is negligible and unnoticeable. Resulting new Lot 11A will be 17,162 square feet in lot area where a 20,000 square foot minimum is required in the RS-1 Zoning District. Therefore, Lot 11A will remain nonconforming in lot area and will retain the existing ten (10) foot minimum setbacks from exterior property lines. All easements associated with the Fairway Subdivision Plat would remain unchanged and a new ten (10) foot wide sewer easement will be granted upon recordation of the plat amendment (see Note 3 on the attached plat exhibit). An existing sewer line runs across the side yard area of the Lot from a rear golf course location out to the Fairway Loop right-of-way. The lot line shift is fully depicted on the attached Plat Amendment (**Exhibit "PZ-C" of attached Exhibit "CC-3"**).

A noticed public hearing was performed for this plat amendment application by the Planning and Zoning Commission on November 14, 2013. The Commission adopted a motion to recommend

approval of the plat amendment to the City Council. The project analysis, additional background information, and discussion are contained in the attached November 14, 2013 Planning and Zoning Commission Agenda Report (**Exhibit "CC-3"**). The Planning & Zoning Commission's signed approval recommendation, findings of fact, conclusions of law and conditions for the Amendment are attached as **Exhibit "CC-2"**.

**Tax Lot 5381 Zoning-** Tax Lot 5381 is currently zoned Outdoor Recreational (OR-1) Zoning District. The Commission discussed this zoning aspect at the public hearing and determined that the need for the plat amendment could be seen as a correction of past survey work, is diminimus, and the 2-foot strip should remain technically zoned OR-1 resulting in a legal split-zoned lot.

If approved by the Council, the plat-document detailing the relocated property line shall be recorded with the Office of the County Recorder within one year to be valid and a copy of the recorded document shall be provided to the Community Development Department. Staff summarizes the general action alternatives available to the City Council below and can further discuss options and potential findings and conditions of approval at the Council hearing if needed. Draft City Council Findings of Fact, Conclusions of Law and Conditions of Approval for Plat Amendment Application No. SUBPA 2013-06 are attached as **Exhibit "CC-1"**.

**Public Notice and Comment-** The public hearing with the City Council for this plat amendment application was publicly noticed on November 20, 2013 by: 1.) publication as a display ad in the Mtn. Express; 2.) mailing of notice to all property owners within a 300 feet radius; 3.) posting of public notice at five (5) prominent locations within the City, including Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posting of the site; 5.) transmitting to relevant agencies/media via emailing and faxing, as well as to all parties who have notified the City of interest to receive agendas and such public notices; and, 6.) posting on the City's webpage under public notices and under the City Council Agenda.

As of the writing and release of this Agenda Report, no public comments were received by City staff as a result of the public notice for the public hearing on this development application.

**Alternative Actions-** The general alternatives available to the City Council for action on the plat amendment application include:

- (1) Make the required findings and adopt the attached draft Findings of Fact and Conclusions of Law, as may be modified or specifically conditioned by the Council, approving the plat amendment request; or
- (2) Close the public hearing, discuss the findings, vote to deny the application and direct staff to return on a date certain with a resolution of denial reflecting the comments and findings of the Council; or
- (3) Continue the hearing date certain for further information and review prior to an action on the requested plat amendment.

**RECOMMENDATION:** Before public comment is received, the City Council should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony, and consider the facts and findings necessary to make a decision on the application. The Planning & Zoning Commission formally recommended approval of the plat amendment application to the City Council on November 14, 2013.

**The Community Development Director recommends the City Council adopt a motion to approve the plat amendment application as recommended by the Planning and Zoning Commission.**

**LIST OF ATTACHED EXHIBITS:**

- |                |   |
|----------------|---|
| Exhibit "CC-1" | Draft City Council Findings of Fact, Conclusions of Law and Conditions for Plat Amendment Application No. SUBPA 2013-06.  |
| Exhibit "CC-2" | Planning & Zoning Commission Approval Recommendation, Findings of Fact, Conclusions of Law and Conditions for Plat Amendment Application No. SUBPA 2013-04 signed on November 25, 2013. |
| Exhibit "CC-3" | November 14, 2013 Planning & Zoning Commission Agenda Report with attached Exhibits "PZ-A" through "PZ-C".  |

\*\*The entire administrative record for the plat amendment application is available for review in the Community Development Department at City Hall.

EXHIBIT "CC-1"

(DRAFT) SUN VALLEY CITY COUNCIL

PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
LOT 11 FAIRWAY SUBDIVISION	)	OF LAW, DECISION
AND TAX LOT 5381	)	AND CONDITIONS
404 FAIRWAY LOOP	)	
APPLICATION NO. SUBPA 2013-06	)	

This matter came before the Sun Valley City Council for consideration on December 5, 2013 as a duly noticed public hearing for a shift of an existing rear property line between existing Lot 11 of the Fairway Subdivision and adjacent Tax Lot 5381 (the Sun Valley Golf Course). The subject lot is owned by the applicant and the adjacent Tax Lot is owned by Sun Valley Company. The City Council conducted a properly noticed public hearing; reviewed the applicable application materials and the City staff reports; heard testimony from the public, the applicant, and the applicant's representatives; and, considered the approval recommendation of the Planning and Zoning Commission. Based on the evidence presented, the City Council makes the following Findings of Fact/Conclusions of Law and Decision, subject to specific Conditions of Approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Benchmark Associates for DeWayne Briscoe. The subject property consists of existing Lot 11 of the Fairway Subdivision Plat and Tax Lot 5381. This Plat Amendment application was not submitted in conjunction with any proposed development or other applications. The existing Lot 11 is zoned Single-Family Residential (RS-1) Zoning District and Tax Lot 5381 is zoned Outdoor Recreational (OR-1).
2. The application consists of a plat amendment map showing the southerly relocation of the rear property line common between the two properties. The lot line shift will result in a slightly larger Lot 11 and an insignificantly smaller Tax Lot 5381. Existing Lot 11 is 16,896 square feet in lot size. New Lot 11A will have a lot area of 17,162 square feet, where a 20,000 square foot minimum is required in the RS-1 Zoning District. The added 266 square feet to Lot 11 consists of an approximately 2-foot by 133-foot strip running adjacent to the existing rear property line. Resulting Lot 11A will remain with a nonconforming lot area and thus will retain the existing minimum 10-foot setback areas from exterior property lines.
3. No building envelopes were recorded for the subject Lot via the Fairway Subdivision Plat approval (Recorded as Instrument No. 125090) and the Plat Amendment does not create a new building envelope because the site is fully developed with a single family dwelling and associated improvements. All easements associated with the Fairway Subdivision Plat would remain unchanged and a new ten (10) foot wide sewer easement will be granted upon recordation of the plat amendment (see Note 3 on the attached plat exhibit). An existing sewer line runs across the side yard area of the Lot from a rear golf course location out to the Fairway Loop right-of-way.
4. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required

Application Information. On November 20, 2013 proper notice for the public hearing was completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the project site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.

5. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
6. The property line relocation application will not lower the dimensions of existing Lot 11 so as to intensify an existing nonconformity. The amendment proposes to enlarge Lot 11 by shifting the shared side property line south onto a portion of adjacent Tax Lot 5381. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 11A. No new building envelope will be created on the resulting Lot 11A and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
7. The plat adjustment is appropriate for the design and physical location of existing development. Resulting Lot 11A is consistent with existing developed lots across the Fairway Loop right-of-way and along nearby Fairway Road. Many nearby lots have existing nonconforming sizes below the required 20,000 square foot minimum for the RS-1 Zoning District. A slope analysis was determined to not be required as part of the application materials because the site is essentially flat in topography. The OR-1 zoned land to be added to Lot 11 is diminimus and no zoning map amendment is required. The lot line shift is to correct a past survey error.
8. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
9. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the Fairway Subdivision. The property line shift is minor and, once recorded, the plat modification and existing development will appear as though designed as part of the original subdivision.
10. The side property line shift does not involve or alter any area used for access to the overall Fairway Subdivision nor any associated or adjacent public or private access or parking areas. The new Lot 11A configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.
11. The completed review of the application and supporting materials by the Community Development Department and the City's contract Engineer, CH2MHill found no unresolved issues, code conflicts or fatal flaws in the plat amendment nor any needed Fire Department comments or conditions.

12. The Planning and Zoning Commission performed a properly noticed public hearing on November 14, 2013 to receive public testimony, evaluate the project design for impacts and compliance with City standards and consider the facts and findings necessary to make a recommending decision on the application. The Planning & Zoning Commission formally recommended approval of the plat amendment application to the City Council on November 14, 2013.
13. The City Council performed a properly noticed public hearing on December 5, 2013 to receive public testimony, evaluate the project design for impacts and compliance with City standards, consider the Commission's recommendation and consider the facts and findings necessary to make a decision on the application. No significant negative impacts to the area or City due to the plat amendment have been identified by staff, the Commission or the City Council. No public comment opposing the amendment was received by the City during the Commission or Council's noticed review and comment period.

### DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley City Council hereby conditionally approves the Plat Amendment to relocate the common rear property line between existing Lot 11 of the Fairway Subdivision and existing Tax Lot 5381, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

1. The plat amendment and all aspects of the project design shall conform to the project's preliminary plat amendment drawing stamped received by the City of Sun Valley on October 28, 2013, reviewed by the Planning and Zoning Commission on November 14, 2013 and approved by the City Council on December 5, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common rear property line between Lot 11 of the Fairway Subdivision and Tax Lot 5381, the applicant shall record the amended plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.
3. The plat amendment application (No. SUBPA 2013-04) shall be subject to satisfaction of all comments and conditions contained in the updated CH2MHill review and comment letter dated November 1, 2013.
4. A plat note shall be added to the approved plat amendment drawing prior to City signature and recordation that clearly denotes the area to be added along the rear property line to Lot 11 is zoned Outdoor Recreational (OR-1) Zoning District.

ated this 5th day of December, 2013.

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Robert Youngman, City Council President  
City of Sun Valley

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Date Findings of Fact signed

ATTEST:

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Hannah Stauts, City Clerk  
City of Sun Valley

**SUN VALLEY  
PLANNING AND ZONING COMMISSION**



PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
LOT 11 FAIRWAY SUBDIVISION	)	OF LAW, DECISION
AND TAX LOT 5381	)	AND CONDITIONS
404 FAIRWAY LOOP	)	
APPLICATION NO. SUBPA 2013-06	)	

This matter came before the Sun Valley Planning and Zoning Commission for consideration on November 14, 2013 as a duly noticed public hearing for a shift of an existing rear property line between existing Lot 11 of the Fairway Subdivision and adjacent Tax Lot 5381 (the Sun Valley Golf Course). The subject lot is owned by the applicant and the adjacent Tax Lot is owned by Sun Valley Company. The Commission conducted a properly noticed public hearing, reviewed the Agenda Report and heard the comments of City staff, the applicant's representatives and the public. Additionally, the Commission reviewed the approval recommendation document with suggested Findings of Fact, Conclusions of Law, and Conditions of Approval recommended by the Community Development Director. Based on the evidence presented, the Commission hereby recommends approval of the proposed plat amendment to the City Council with the following Findings of Fact and Conclusions of Law and subject to specific conditions of approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Benchmark Associates for DeWayne Briscoe. The subject property consists of existing Lot 11 of the Fairway Subdivision Plat and Tax Lot 5381. This Plat Amendment application was not submitted in conjunction with any proposed development or other applications. The existing Lot 11 is zoned Single-Family Residential (RS-1) Zoning District and Tax Lot 5381 is zoned Outdoor Recreational (OR-1).
2. The application consists of a plat amendment map showing the southerly relocation of the rear property line common between the two properties. The lot line shift will result in a slightly larger Lot 11 and an insignificantly smaller Tax Lot 5381. Existing Lot 11 is 16,896 square feet in lot size. New Lot 11A will have a lot area of 17,162 square feet, where a 20,000 square foot minimum is required in the RS-1 Zoning District. The added 266 square feet to Lot 11 consists of an approximately 2-foot by 133-foot strip running adjacent to the existing rear property line. Resulting Lot 11A will remain with a nonconforming lot area and thus will retain the existing minimum 10-foot setback areas from exterior property lines.
3. No building envelopes were recorded for the subject Lot via the Fairway Subdivision Plat approval (Recorded as Instrument No. 125090) and the Plat Amendment does not create a new building envelope because the site is fully developed with a single family dwelling and associated improvements. All easements associated with the Fairway Subdivision Plat would remain unchanged and a new ten (10) foot wide sewer easement will be granted upon recordation of the plat amendment (see Note 3 on the attached plat exhibit). An existing sewer line runs across the side yard area of the Lot from a rear golf course location out to the Fairway Loop right-of-way.

4. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required Application Information. On October 30, 2013 proper notice for the public hearing was completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the project site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.
5. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
6. The property line relocation application will not lower the dimensions of existing Lot 11 so as to intensify an existing nonconformity. The amendment proposes to enlarge Lot 11 by shifting the shared side property line south onto a portion of adjacent Tax Lot 5381. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 11A. No new building envelope will be created on the resulting Lot 11A and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
7. The plat adjustment is appropriate for the design and physical location of existing development. Resulting Lot 11A is consistent with existing developed lots across the Fairway Loop right-of-way and along nearby Fairway Road. Many nearby lots have existing nonconforming sizes below the required 20,000 square foot minimum for the RS-1 Zoning District. A slope analysis was determined to not be required as part of the application materials because the site is essentially flat in topography. The OR-1 zoned land to be added to Lot 11 is diminimus and no zoning map amendment is required. The lot line shift is to correct a past survey error.
8. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
9. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the Fairway Subdivision. The property line shift is minor and, once recorded, the plat modification and existing development will appear as though designed as part of the original subdivision.
10. The side property line shift does not involve or alter any area used for access to the overall Fairway Subdivision nor any associated or adjacent public or private access or parking areas. The new Lot 11A configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.

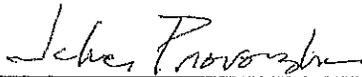
## DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley Planning and Zoning Commission hereby recommends approval of the plat amendment to the City Council to relocate the common rear property line between existing Lot 11 of the Fairway Subdivision and existing Tax Lot 5381, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

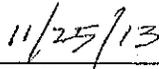
1. The action by the Planning and Zoning Commission on the plat amendment is a recommendation only and requires final action by the City Council at a noticed public hearing. The plat amendment and all aspects of the project design shall conform to the project drawings stamped received by the City of Sun Valley on October 28, 2013 and reviewed by the Planning and Zoning Commission on November 14, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common rear property line between Lot 11 of the Fairway Subdivision and Tax Lot 5381, the applicant shall record the amended plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.

Dated this 14th day of November, 2013.



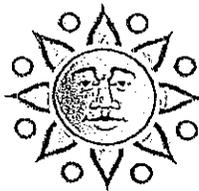
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Jake Provonsha, Vice-Chairman  
Planning and Zoning Commission  
City of Sun Valley



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Date Findings of Fact Signed



CITY OF SUN VALLEY  
PLANNING AND ZONING COMMISSION  
AGENDA REPORT

To: Planning and Zoning Commission  
From:  Mark Hofman, Community Development Director  
Meeting Date: November 14, 2013  
Agenda Item: Briscoe Lot Line Shift  
Plat Amendment Application No. SUBPA 2013-06

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**SUBJECT:** Public hearing for a plat amendment application proposing to relocate an existing rear yard property line of an existing single-family residential lot to add a small strip of land forming new 17,162 square foot Lot 11A within the Single-Family Residential (RS-1) Zoning District. No new lots will be formed as part of this plat amendment request. Applicant: Benchmark Associates for DeWayne Briscoe. Application Filing Date: October 9, 2013. Location: 404 Fairway Loop; Lot 11 of Fairway Subdivision and Tax Lot 5381 (Sun Valley Golf Course).

**BACKGROUND:** The project area consists of one developed single family residential lot (Lot 11) and Tax Lot 5381, developed as the Sun Valley Golf Course. Existing Lot 11, owned by the applicant, lies adjacent to and south of Fairway Loop and is approximately 16,896 square feet in lot size. Tax Lot 5381 lies adjacent to the rear property line of Lot 11 and is owned by Sun Valley Company. Adjacent residential lots to the north, east and west are developed with existing single family structures and related site improvements. The amendment application proposes to add a small portion (266 square feet) of Tax Lot 5381 to adjacent Lot 11 and create a new slightly larger residential lot (Lot 11A). The added area consists of an approximately 2-foot by 133-foot strip of land adjacent to the existing recorded rear property line of Lot 11. No recorded building envelopes exist for either of the two subject properties. The lot line shift is fully depicted on the attached Plat Amendment Exhibit (Exhibit "PZ-C").

**ANALYSIS:** The Plat Amendment application consists of a southerly relocation of the rear property line common between the two subject properties. Tax Lot 5381 is relatively large in size and the slight reduction (266 square feet) is negligible and unnoticeable. Resulting new Lot 11A will be 17,162 square feet in lot area where a 20,000 square foot minimum is required in the RS-1 Zoning District. Therefore, Lot 11A will remain nonconforming in lot area and will retain the existing ten (10) foot minimum setbacks from exterior property lines. All easements associated with the Fairway Subdivision Plat would remain unchanged and a new ten (10) foot wide sewer easement will be granted upon recordation of the plat amendment (see Note 3 on the attached plat exhibit). An existing sewer line runs across the side yard area of the Lot from a rear golf course location out to the Fairway Loop right-of-way.

**Tax Lot 5381 Zoning-** Tax Lot 5381 is currently zoned Outdoor Recreational (OR-1) Zoning District. The Commission should discuss this zoning aspect at the public hearing and determine what action, if anything, is appropriate. The need for the plat amendment could be seen as a correction of past survey work and the new Lot 11A should be entirely zoned as RS-1. Alternatives include leaving the 2-foot strip technically zoned OR-1 resulting in a legal split-zoned lot, or requiring a zoning map amendment for the 266 square foot area as a condition of approval. The applicant will be available at the public hearing to discuss this zoning aspect, as will staff.

**Project Review-** The completed review of the application and supporting materials by the Community Development Department and the City's contract Engineer, CH2MHill (**Exhibit "PZ-B"**) finds no unresolved issues, code conflicts or fatal flaws in the plat amendment nor any needed Fire Department comments or conditions. The public hearing was properly noticed in accordance to Development Code regulations and no comments or questions from the public have been received by the City as of the release of this Report.

**Alternative Actions-** Alternative actions available to the Commission include: (1) make the required findings and adopt the attached draft Findings of Fact and Conclusions of Law recommending approval of the plat amendment to the City Council; (2) Continue the hearing for further information and review; or (3) Close the public hearing, discuss the findings, vote to recommend denial of the plat amendment application and direct staff to return on a date certain with a resolution of denial reflecting the comments and findings of the Commission.

**RECOMMENDATION:** Before public comment is received, the Commission should disclose all information and contacts received outside the hearing on this item upon which the decision will be based, receive public testimony, and consider the facts and findings necessary to make a recommendation on the plat amendment to the City Council. The Community Development Director recommends approval of the plat amendment application subject to the Conditions of Approval contained in the attached draft Findings of Fact (**Exhibit "PZ-A"**).

**LIST OF ATTACHED EXHIBITS:**

- |                |   |
|----------------|---|
| Exhibit "PZ-A" | Draft Findings of Fact, Conclusions of Law and Decision for Plat Amendment Application No. SUBPA 2013-06.   |
| Exhibit "PZ-B" | CH2MHill review and comment letter dated November 1, 2013 from Betsy Roberts and Jennifer Bass.   |
| Exhibit "PZ-C" | Reduced 11" by 17" Plat Amendment Exhibit forming Lot 11A of the Fairway Subdivision, dated received by the City of Sun Valley on October 28, 2013. |

\*\* The entire administrative record for this Plat Amendment application is available for review in the Community Development Department at City Hall.

EXHIBIT "PZ-A"

(DRAFT) SUN VALLEY  
PLANNING AND ZONING COMMISSION

PLAT AMENDMENT	)	FINDINGS OF FACT/CONCLUSIONS
LOT 11 FAIRWAY SUBDIVISION	)	OF LAW, DECISION
AND TAX LOT 5381	)	AND CONDITIONS
404 FAIRWAY LOOP	)	
APPLICATION NO. SUBPA 2013-06	)	

This matter came before the Sun Valley Planning and Zoning Commission for consideration on November 14, 2013 as a duly noticed public hearing for a shift of an existing rear property line between existing Lot 11 of the Fairway Subdivision and adjacent Tax Lot 5381 (the Sun Valley Golf Course). The subject lot is owned by the applicant and the adjacent Tax Lot is owned by Sun Valley Company. The Commission conducted a properly noticed public hearing, reviewed the Agenda Report and heard the comments of City staff, the applicant's representatives and the public. Additionally, the Commission reviewed the approval recommendation document with suggested Findings of Fact, Conclusions of Law, and Conditions of Approval recommended by the Community Development Director. Based on the evidence presented, the Commission hereby recommends approval of the proposed plat amendment to the City Council with the following Findings of Fact and Conclusions of Law and subject to specific conditions of approval.

**FINDINGS OF FACT/CONCLUSIONS OF LAW**

1. The applicant is Benchmark Associates for DeWayne Briscoe. The subject property consists of existing Lot 11 of the Fairway Subdivision Plat and Tax Lot 5381. This Plat Amendment application was not submitted in conjunction with any proposed development or other applications. The existing Lot 11 is zoned Single-Family Residential (RS-1) Zoning District and Tax Lot 5381 is zoned Outdoor Recreational (OR-1).
2. The application consists of a plat amendment map showing the southerly relocation of the rear property line common between the two properties. The lot line shift will result in a slightly larger Lot 11 and an insignificantly smaller Tax Lot 5381. Existing Lot 11 is 16,896 square feet in lot size. New Lot 11A will have a lot area of 17,162 square feet, where a 20,000 square foot minimum is required in the RS-1 Zoning District. The added 266 square feet to Lot 11 consists of an approximately 2-foot by 133-foot strip running adjacent to the existing rear property line. Resulting Lot 11A will remain with a nonconforming lot area and thus will retain the existing minimum 10-foot setback areas from exterior property lines.
3. No building envelopes were recorded for the subject Lot via the Fairway Subdivision Plat approval (Recorded as Instrument No. 125090) and the Plat Amendment does not create a new building envelope because the site is fully developed with a single family dwelling and associated improvements. All easements associated with the Fairway Subdivision Plat would remain unchanged and a new ten (10) foot wide sewer easement will be granted upon recordation of the plat amendment (see Note 3 on the attached plat exhibit). An existing sewer line runs across the side yard area of the Lot from a rear golf course location out to the Fairway Loop right-of-way.

4. The applicant has provided the information required for application, review, and action on a plat amendment as set forth in City of Sun Valley Municipal Code Section 9-5A-4, Required Application Information. On October 30, 2013 proper notice for the public hearing was completed by: 1.) publishing of a public notice of a public hearing in the local newspaper of record; 2.) mailed to adjacent properties within a minimum 300-foot radius; 3.) posted at Sun Valley City Hall, the Sun Valley Post Office, Elkhorn Springs Store Post Office, St. Thomas Episcopal Church and the Elkhorn Fire Station; 4.) posted on the project site; 5.) electronically transmitted to all those requesting receipt of such notices; and, 6.) posted on the City's website under public notices.
5. The required findings for review of a proposed plat amendment are contained in Municipal Code Section 9-4B-1F.
6. The property line relocation application will not lower the dimensions of existing Lot 11 so as to intensify an existing nonconformity. The amendment proposes to enlarge Lot 11 by shifting the shared side property line south onto a portion of adjacent Tax Lot 5381. The plat amendment will not increase or decrease the number of properties/lots and the property line shift will not change or move any public streets or publicly dedicated areas in any manner. The overall density of the project remains unchanged at one single family dwelling allowed on revised Lot 11A. No new building envelope will be created on the resulting Lot 11A and each aspect of the proposed adjustment to the property line complies with all applicable provisions of the Development Code.
7. The plat adjustment is appropriate for the design and physical location of existing development. Resulting Lot 11A is consistent with existing developed lots across the Fairway Loop right-of-way and along nearby Fairway Road. Many nearby lots have existing nonconforming sizes below the required 20,000 square foot minimum for the RS-1 Zoning District. A slope analysis was determined to not be required as part of the application materials because the site is essentially flat in topography.
8. The property line shift plat amendment is consistent with the Sun Valley Comprehensive Plan designation for Low and Medium Density Residential and does not significantly change the existing allowed land uses nor cause any conflict with the goals and policies of the Comprehensive Plan. There are no designated scenic, agricultural, recreational, or traditional sites identified for the lot by the Comprehensive Plan.
9. The plat amendment will not affect the character of the neighborhood in a materially adverse manner because the new property line location is consistent with the existing layout of the Fairway Subdivision. The property line shift is minor and, once recorded, the plat modification and existing development will appear as though designed as part of the original subdivision.
10. The side property line shift does not involve or alter any area used for access to the overall Fairway Subdivision nor any associated or adjacent public or private access or parking areas. The new Lot 11A configuration is consistent with all applicable easements and rights of way and with the original design of the access, traffic, circulation, and parking areas of the development.

## DECISION

Therefore, based upon the foregoing Findings of Fact/Conclusions of Law, the Sun Valley Planning and Zoning Commission hereby recommends approval of the plat amendment to the City Council to relocate the common rear property line between existing Lot 11 of the Fairway Subdivision and existing Tax Lot 5381, according to the plat amendment map, supporting plans, and documents submitted as part of the development application, subject to the following specific conditions of approval.

### CONDITIONS OF APPROVAL

1. The action by the Planning and Zoning Commission on the plat amendment is a recommendation only and requires final action by the City Council at a noticed public hearing. The plat amendment and all aspects of the project design shall conform to the project drawings stamped received by the City of Sun Valley on October 28, 2013 and reviewed by the Planning and Zoning Commission on November 14, 2013.
2. Upon approval of the plat amendment by the City Council to relocate the common rear property line between Lot 11 of the Fairway Subdivision and Tax Lot 5381, the applicant shall record the amended plat with the Office of the County Recorder and provide a copy of the recorded document to the Community Development Director. This plat amendment approval shall expire three hundred sixty five (365) days from the date of approval unless extended pursuant to Code Section 9-5A-9.

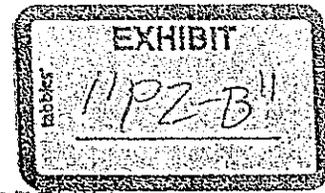
Dated this 14th day of November, 2013.

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Ken Herich, Chairman  
Planning and Zoning Commission  
City of Sun Valley

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Date Findings of Fact Signed



MEMORANDUM

CH2MHILL

## Preliminary Plat: Fairway Subdivision Lot 11A

TO: Mark Hofman

COPIES: Bill Whitesell  
Cinda Lewis, Benchmark Associates

FROM: Betsy Roberts  
Jennifer Bass

DATE: November 1, 2013

This memo updates the previous Preliminary Plat Memo dated October 14, 2013. We have reviewed the Preliminary Plat sheet for Fairway Subdivision Lot 11A. This document meets the intent of a preliminary plat submittal and we find no fatal flaws.

We have the following general observations for this project at this time; these are not all inclusive:

1. Final Plat shall indicate basis of bearing, initial point, any snow storage and utility easements per original plat, closure report, sanitary restrictions, and a certification sheet (with a spot for both land owners' signatures).

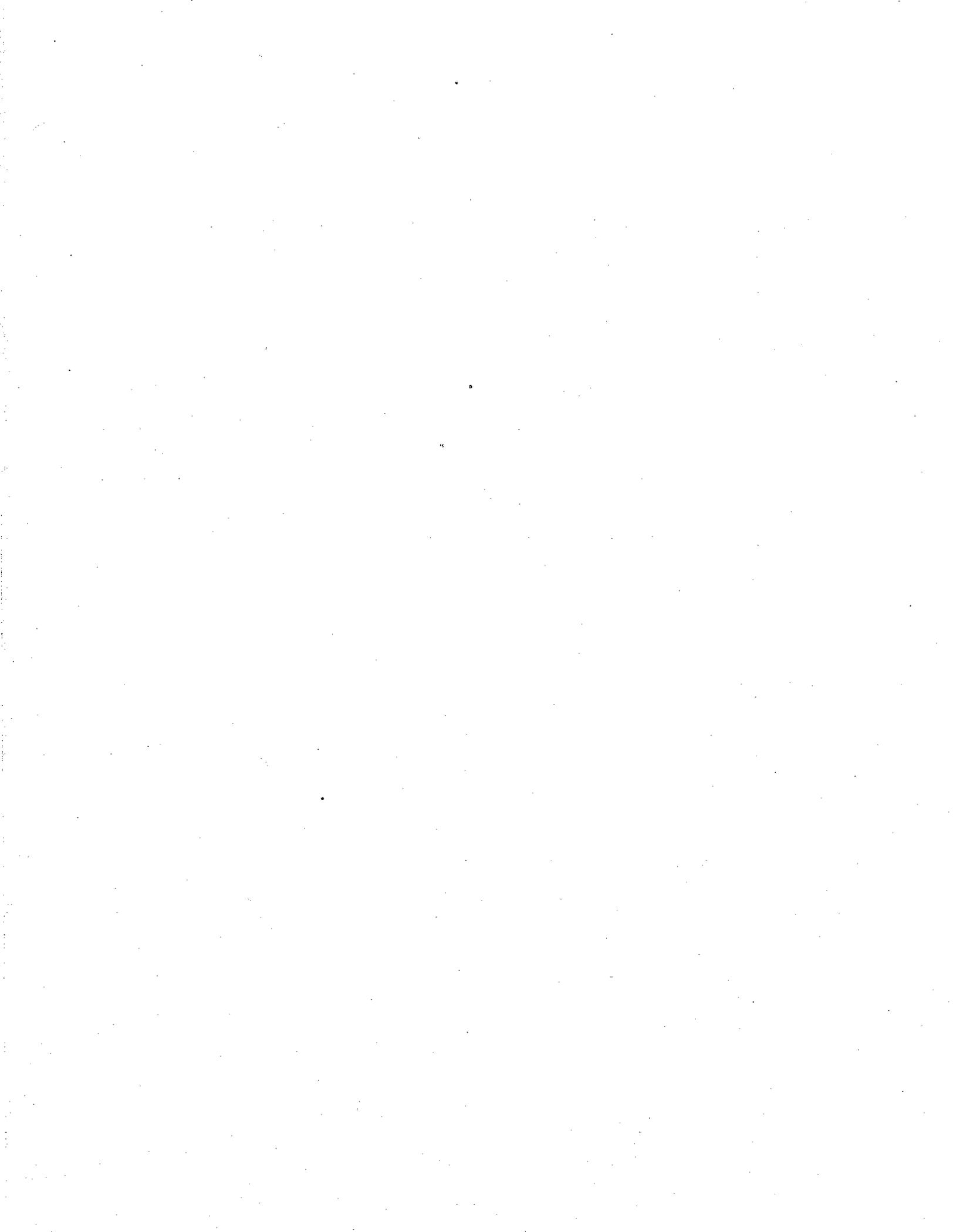
Attachment: Fairway Subdivision Lot 11A Preliminary Plat Table, Dated November 1, 2013

CITY OF SUN VALLEY  
PRELIMINARY PLAT CHECK LIST TABLE

For: Benchmark Associates

1	Subdivision Name:	Fairway Subdivision: Lot 11A
	Reviewer:	Jennifer Bass
3	Date:	November 1, 2013
4	Sheet Title and Preamble:	Fairway Subdivision: Lot 11A. Located within Section 8, Township 4 North, Range 18 East, B.M., City of Sun Valley, Blaine County, Idaho; wherein the boundary common to Lot 11, Fairway Subdivision (Inst. No. 125090) and Tax Lot 5381 is amended. October 2013. Preliminary Plat
5	Basis of Bearing:	Referenced in Note 1. Show on final plat
6	North Arrow:	OK
7	Scale and Legend:	OK
8	Plat Closure:	None. Shall be submitted with Final Plat.
9	Total Area:	Individual lot area shown
10	Monuments:	None shown.
11	Land Corners:	OK
12	Initial Point:	None shown
13	Street Names & Width:	OK
14	Easements:	10' wide sewer easement is granted to benefit the Sun Valley Water & Sewer District as shown, 10' minimum setback per non-conforming lot. Note 1 refers to original plat for conditions and restrictions.
15	Lot & Block Numbers:	OK, no block numbers shown (no block numbers found on original plat of Fairway Subdivision).
16	Lot Dimensions:	OK
17	Curve & Line Tables:	OK
18	Certifications:	None shown, shall be included with final plat
19	Certificate of Owner:	None shown, will need both owners signatures on the certification sheet.
20	Certificate of Surveyor:	None shown
21	Sanitary Restriction:	None shown, shall be included on final plat.
22	Agency Approvals:	None shown
23	Public Dedication:	N/A
24	Common Areas:	N/A

Notes: Final Plat shall indicate basis of bearing, initial point, any snow storage and utility easements per original plat, closure report, sanitary restrictions, and a certification - 2 1 1 - in a spot for both land owners' signatures).



**CITY OF SUN VALLEY, IDAHO**

**ORDINANCE 456**

**AN ORDINANCE PROVIDING FOR A ONE PERCENT (1%)  
NON-PROPERTY LOCAL OPTION TAX  
TO BENEFIT AIR SERVICES**

**APPROVED BY THE VOTERS OF  
SUN VALLEY, IDAHO ON  
NOVEMBER 5<sup>TH</sup>, 2012**

**ENACTED BY THE CITY COUNCIL OF  
THE CITY OF SUN VALLEY, IDAHO  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2013**

ORDINANCE NUMBER 456

AN ORDINANCE OF THE CITY OF SUN VALLEY, BLAINE COUNTY, IDAHO; PROVIDING FOR CERTAIN FINDINGS THAT THE CITY OF SUN VALLEY HAS SIGNIFICANT ECONOMIC DEPENDENCE ON VISITORS AND TRAVELERS AND IS A RESORT CITY WITH A POPULATION NOT IN EXCESS OF TEN THOUSAND PERSONS ACCORDING TO THE MOST RECENT CENSUS; THAT THE CITY OF SUN VALLEY DERIVES A MAJOR PORTION OF ITS ECONOMIC WELL BEING FROM BUSINESSES CATERING TO RECREATIONAL NEEDS AND MEETING THE NEEDS OF PEOPLE TRAVELING TO THAT CITY FOR AN EXTENDED PERIOD OF TIME; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NONPROPERTY TAXES, TO WIT: A ONE PERCENT (1%) TAX ON THE SALES PRICE FOR FOOD AND NONALCOHOLIC BEVERAGES; A ONE PERCENT (1%) TAX ON THE SALES PRICE OF SALES OTHER THAN CERTAIN TANGIBLE PERSONAL PROPERTY, SKI LIFT TICKETS, SEASON SKI PASSES, AND BUILDING AND CONSTRUCTION MATERIALS; A ONE PERCENT (1%) TAX ON THE SALES PRICE FOR CERTAIN TANGIBLE PERSONAL PROPERTY; A ONE PERCENT (1%) TAX ON THE SALES PRICE OF SKI LIFT TICKETS AND SEASON SKI PASSES; AN EXCEPTION FOR TRANSACTIONS IN BUILDING AND CONSTRUCTION MATERIALS AS DEFINED; A ONE PERCENT (1%) HOTEL-MOTEL ROOM OCCUPANCY TAX; AND A ONE PERCENT (1%) LIQUOR BY-THE-DRINK TAX; PROVIDING FOR A FIVE (5) YEAR TERM; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM THE NONPROPERTY TAXES SHALL BE USED; AUTHORIZING THE CITY CLERK TO ADMINISTER, REGULATE AND COLLECT SAID NONPROPERTY TAXES; PROVIDING FOR PERMITS AND ISSUANCE THEREOF; PROVIDING METHODS FOR THE PAYMENT OF TAXES, AUDITS, DEFICIENCY DETERMINATIONS, REDETERMINATION OF DEFICIENCY, APPEALS, INTEREST ON DEFICIENCIES, COLLECTIONS, ENFORCEMENT AND REFUNDS; PROVIDING LIMITATIONS AND INTEREST; PROVIDING FOR RESPONSIBILITY FOR PAYMENT OF TAXES; PROVIDING A PERIOD OF LIMITATIONS ON ASSESSMENTS AND COLLECTION; ESTABLISHING SUCCESSOR'S LIABILITY; PROVIDING FOR GENERAL ADMINISTRATION BY THE CITY CLERK; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR THE CODIFICATION OF THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED by the Mayor and the City Council of the City of Sun Valley, Idaho:

**SECTION 1. FINDINGS.**

The City Council of the City of Sun Valley, State of Idaho, hereby finds that the City of Sun Valley is a resort city with a population not in excess of ten thousand persons according to the most recent census within the State of Idaho, and is a city organized under the general laws of the State of Idaho. The City Council of the City of Sun Valley further finds that as a resort city, the City of Sun Valley derives a major portion of its economic well being from businesses catering to recreational needs and meeting the needs of people traveling to the City of Sun Valley by air as a destination city for an extended period of time; and that the City of Sun Valley has a significant economic dependence upon visitors and travelers arriving by air and passing through or staying in the City of Sun Valley and those visitors and travelers require air service to the Friedman Memorial Airport near the City of Sun Valley.

**SECTION 2. DEFINITIONS.**

When used in this Ordinance, the terms defined in the following subparagraphs shall have the meanings respectively ascribed to them.

- a. The terms "in this City" or "in the City" mean within the exterior limits of the City of Sun Valley, Blaine County, Idaho.

- b. Except as specifically noted herein, the terms used in this Ordinance shall have the same definitions as such terms have been defined in the Idaho Sales Tax Act, found at Chapter 36, Title 63, Idaho Code, as that legislation may from time to time be amended; and the Idaho Sales and Use Tax Regulations as adopted by the Department of Revenue and Taxation, State Tax Commission, as those Regulations may from time to time be amended; and the retail sale of Liquor By-The-Drink Act as that legislation and Regulation may from time to time be amended. Whenever in the definitions contained in the Idaho Sales Tax Act or the Idaho Sales and Use Tax Regulations, reference is made to the "State of Idaho," "Tax Collector," "Idaho Sales Tax Act" or "Act" or "Tax Commission" such reference shall be deemed to be to the City of Sun Valley, City Clerk, this Ordinance, City of Sun Valley, respectively unless the context of the reference clearly demonstrates that such interpretation is unreasonable.
- c. Certain definitions instructive to this Ordinance currently include but are not limited to the following:
- (1) Building and Construction Materials: "Building and Construction Materials" are defined to include all tangible personal property which is used in constructing, altering, repairing or improving real property.
  - (2) Hotel-Motel: The term "hotel-motel" means and includes any business including hotels, motels, condominiums, tourist homes, and any other business which in the regular course of business rents or leases for occupancy temporary lodging and sleeping accommodations to individuals with or without meals, for a period of thirty (30) days or less.
  - (3) Liquor by-the-drink: The term "liquor by-the-drink" includes without limitation:
    - (a) "Alcohol," meaning the product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, or synthetic ethyl alcohol.
    - (b) "Spirits," meaning any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, gin, and whiskey.
    - (c) "Wine," meaning any alcohol beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).
    - (d) "Beer," meaning any alcohol beverage obtained from the fermentation of sugar, barley, hops, malt, yeast, and similar ingredients.
    - (e) Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes.
  - (4) Sale of Liquor by-the-drink: The term "sale of liquor by-the-drink" means and includes the sale at retail of liquor by-the-drink for consumption on the premises,

as defined in I.C. § 23-902, or at any event or activity within the City and includes any transfer of money, title, exchange, barter, or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

- (5) Room Occupancy Charge: The term “room occupancy charge” means and includes the total amount charged for, or allocated to, the rental, use or temporary occupancy of a room, hotel, motel, condominium or other sleeping accommodation or living unit, valued in money, whether paid in money or otherwise, without any deduction.
- (6) Person: The term “person” means and includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.
- (7) Purchase: The term “purchase” means and includes any transfer, rental, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase. A transfer for a consideration of any publication or of tangible personal property which has been produced, fabricated, or printed to the special order of the customer is also a purchase.
- (8) Retail Sale - Sale at Retail: The terms “retail sale or sale at retail” mean a sale of tangible personal property for any purpose other than resale of that property in the regular course of business, or lease or rental of that property in the regular course of business where such rental or lease is taxable under Section 63-3612(h), Idaho Code.
- (a) All persons engaged in constructing, altering, repairing, or improving real estate, which includes construction of prefabricated buildings as defined in Section 63-3606A, are consumers of the material used by them; all sales to or use by such persons of tangible personal property are exempt from retail sales taxes.
- (b) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State, is a retail sale in this State by the person making the delivery. He shall include the retail selling price of the property in historical sales subject to tax under this Ordinance.
- (c) For the purposes of this Ordinance as enacted, the sale or purchase of personal property incidental to the sale of real property or used mobile homes is deemed a sale of real property.
- (9) Retailer: The term “retailer” means and includes:

- (a) Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.
- (b) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.
- (c) Every person making more than two (2) retail sales of tangible personal property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in the business of selling such tangible personal property at retail or who sells a self propelled motor vehicle.
- (d) When the City Clerk determines that it is necessary for the efficient administration of this Ordinance to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, supervisor, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, or employers, the City Clerk may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this Ordinance.
- (e) Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

(10) Sale:

- (a) The term "Sale" means any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter.
- (b) "Sale" shall also include the following transactions when a consideration is transferred, exchanged or bartered in connection with or related to an activity conducted in the City of Sun Valley:
  - i) Producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in the producing, fabricating, processing, printing, or imprinting.

- ii) Furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof.
  - iii) A transfer of possession of property where the seller retains the title as security of the payment of the sales price.
  - iv) A transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.
  - v) Admission to a place or for an event in the City of Sun Valley.
  - vi) The use of or the privilege of using tangible personal property or facilities for recreation.
  - vii) Providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.
  - viii) The lease or rental of tangible personal property.
  - ix) The intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services.
  - x) Any Sale at retail within the City of Sun Valley, including the Sale of liquor by-the-drink.
  - xi) Any Sale, regardless where generated, for admission to a place or for an event taking place within the City of Sun Valley.
  - xii) Any Sale, regardless where generated, for the use of or the privilege of using tangible personal property or facilities for recreation within the City of Sun Valley;
  - xiii) Providing hotel, motel, and other sleeping accommodations rented or leased for a period of thirty (30) days or less.
- (c) As used in subsections (b) (ii) and (b) (vii) of this Section, goods “directly consumed by customers” shall not be interpreted to mean any linens, bedding, cloth napkins or similar nondisposable property.

(11) Sales Price:

- (a) The term "sales price" means and includes the total amount for which tangible personal property including services agreed to be rendered as a part of the sale, is sold, rented, or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:
    - i) The cost of the property sold. However, in accordance with such rules and regulations as the State Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.
    - ii) The cost of materials used, labor or service cost, losses, or any other expense.
    - iii) The cost of transportation of the property prior to its sale.
  - (b) The term "sales price" does not include those items defined in I.C. § 63-3613 (b) 1-10.
  - (c) The sales price of a "new manufactured home" or a "modular building" as defined in this act shall be limited to and include only fifty-five percent (55%) of the sales price as otherwise defined herein.
  - (d) Tangible personal property when sold at retail for more than eleven cents (\$.11) but less than one dollar and one cent (\$1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen percent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owner or operator of the vending machines.
- (12) Sales Tax Act: shall mean the Idaho Sales Tax Act, Idaho Code 63-3601, *et. seq.*, including subsequent amendments thereto, which is hereby adopted by reference.
  - (13) Seller: The term "seller" means every person making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal.
  - (14) Tangible Personal Property: The term "tangible personal property" means personal property which may be seen, weighted, measured, felt, or touched, or which is in any other manner perceptible to the senses.

(15) Taxpayer: Any person subject to or liable for any taxes imposed by this Ordinance.

(16) Tax: Any nonproperty sales tax imposed by this Ordinance.

**SECTION 3. IMPOSITION AND RATE OF CERTAIN LOCAL-OPTION NONPROPERTY SALES TAXES.**

Except as to building and construction materials, the City of Sun Valley hereby imposes and shall collect certain local-option nonproperty taxes to wit:

a. A municipal sales tax on the sales price of all sales subject to taxation under this Ordinance and Idaho Code 63-3601, *et. seq.*, Idaho Sales Tax Act, including subsequent amendments thereto as follows:

(1) **an additional one percent (1%) tax** on the sales price of all sales transactions described as furnishing, preparing, or serving food, meals, or drinks and nondepreciable goods and services directly consumed by customers included in the charge thereof.

(2) **an additional one percent (1%) tax** on the sales price of all sales transactions described as:

(a) Admission to a place or for an event in the City of Sun Valley.

(b) The use of or the privilege of using tangible personal property or facilities for recreation, including golf membership and fees, but not ski lift facilities.

(c) Providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods directly consumed by customers and included services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of thirty (30) days.

(d) The lease or rental of tangible personal property.

(e) The intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services.

(f) Any Sale, regardless where generated, for admission to a place or for an event taking place within the City of Sun Valley.

(g) Any Sale, regardless where generated, for the use of or the privilege of using tangible personal property or facilities for recreation within the City of Sun Valley;

- (3) **an additional one percent (1%) tax** on the sales price of all tangible personal property including:
  - (a) Producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in producing, fabricating, processing, printing, or imprinting.
  - (b) A transfer of possession of property where the seller retains the title as security of the payment of the sales prices.
  - (c) A transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.
- (4) **an additional one percent (1%) tax** on the sales price of sales of ski lift tickets and season ski lift passes.
- (5) **an additional one percent (1%)** room occupancy charge on receipts from all short-term rental (30 days or less) charges for hotel-motel rooms, condominium units, tourist homes, or other sleeping accommodations;
- (6) **an additional one percent (1%)** liquor by-the-drink sales tax on all sales at retail of liquor by-the-drink including liquor, beer, wine, and all other alcoholic beverages, for consumption on the premises, or at any event or activity in the City of Sun Valley.

**SECTION 4. CALCULATION AND COLLECTION OF TAX.**

- a. The municipal sales tax shall apply to, be computed on, and collected for all credit, installment, conditional or similar sales at the time of the sale, or, in the case of rentals, at the time the rental is charged.
- b. The tax hereby imposed shall be collected by the retailer from the consumer.
- c. The retailer shall calculate the tax upon the entire amount of the purchases of the consumer made at a particular time and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system prescribed herein which is in excess of the amount of tax for which he is liable to the City of Sun Valley during the period as compensation for the work of collecting the tax.
- d. When the sales price involves a fraction of a dollar, the municipal sales tax shall be collected on that fractional portion of the price by adding thereto the tax based upon a bracket system. The bracket system for the collection of the municipal sales tax shall be as set forth in **Exhibit A**, attached hereto and incorporated herein.
- e. All monies collected and/or retained under the provisions of this Ordinance shall be held in trust for the City of Sun Valley and for payment thereof by the City Clerk in the manner and at the times in this Ordinance provided.

**SECTION 5. DURATION OF TAXES.**

The municipal nonproperty taxes authorized and collected under this ordinance are hereby imposed for a duration of five (5) years from the effective date of this ordinance.

**SECTION 6. PURPOSES FOR WHICH THE REVENUES DERIVED FROM THE NONPROPERTY SALES TAXES SHALL BE USED.**

The purposes for which the revenues derived from the additional one percent (1%) of each of said taxes shall be used, pursuant to a joint powers agreement, are as follows:

- a) maintaining and increasing commercial air service to Friedman Memorial Airport through the use of Minimum Revenue Guarantees or other inducements to providers; b) promoting and marketing the existing service and any future service to increase passengers; c) for all ancillary costs which are associated with the ongoing effort to maintain and increase commercial air service, including reasonable program management costs and busing due to flight diversion(s); and d) direct costs to collect and enforce the tax, including administrative and legal fees.

**SECTION 7. AUTHORIZATION TO ADMINISTER, REGULATE AND COLLECT SALES TAX.**

- a. Every person desiring to engage in or conduct a business of retail sales, with the exception of building and construction materials, and/or renting a hotel-motel room as defined, and/or selling liquor by-the-drink, and/or the business of Sales as defined in this Ordinance within the City of Sun Valley, irrespective of where the Sale occurs, shall file with the City Clerk an application for Municipal Sales Tax permit ("Permit") for each place of business. A separate Permit is required for each place of business within the City of Sun Valley. Every application for a Permit shall be made upon a form prescribed by the City Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the City Clerk may reasonably require. The application shall be signed by the owner, if he is a natural person; or in the case of an association or partnership, by a member or partner; or in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application. The initial Permit shall be issued upon completion of the application and payment of a ten dollar (\$10.00) application fee for each Permit sought. By resolution duly adopted by the City Council, the amount of the application fee may be changed from time to time as may be reasonably required.
- b. Upon filing an application meeting the requirements set out above, the City Clerk shall issue to each applicant a Permit for each place of business. A Permit shall not be assignable, and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a Permit may be subject to additional requirements as set forth in this Ordinance.
- c. On the face of the Permit shall be fixed the municipal sales tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the nonproperty tax imposed under this Ordinance.

- d. A Permit held by a person who, for a period of twelve (12) consecutive months, reports no sales shall expire automatically upon the City Clerk providing written notice of the expiration to the last known address of the person to whom the permit was issued.
- e. The City Clerk may provide by rule of the temporary suspension of permits held by persons engaged in seasonal business or who may otherwise temporarily not be actively engaged in the business of making sales subject to tax under this chapter.

**SECTION 8. METHOD FOR PAYMENT OF TAXES.**

- a. The taxes imposed by this Ordinance shall be computed and paid for each calendar month. The taxes are due and payable to the City Clerk on or before the twentieth (20th) day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of all sales subject to taxation under this Ordinance. Each person required to hold a Permit and number shall file a Municipal Nonproperty Sales Tax Return ("Return") and copy of their Idaho State Sales Tax return for the month at the same time said taxes are paid to the City Clerk, unless said person has been permitted in writing by the Idaho State Sales Tax Commission to file quarterly sales tax returns. Persons who have been permitted to file other than monthly returns shall notify the City Clerk in writing and the City Clerk thereupon may require reporting of state tax returns over some other period. In the event the City nonproperty sales tax amount and the amount shown on the state sales tax return differ, written explanation for any difference shall be submitted with the monthly payment. Such explanation shall be reviewed by the City Clerk to determine whether it is or is not reasonable.
- b. The first payment of taxes under this Ordinance shall be due and payable on the twentieth (20th) day of January, 2014.
- c. A Return shall be filed each and every month by every person engaging in retail sales, subject to taxation under this Ordinance regardless of whether or not any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.
- d. A late payment fee of five percent (5%) of the amount owed shall be assessed for each delinquent return. In addition, an interest payment at the rate of twelve percent (12%) per annum from the due date from whom such deficiency amount is due shall be paid.
- e. No officer, agent or employee of the City shall divulge or make known to any persons, in any manner except pursuant to the order of a court of competent jurisdiction, any information whatsoever submitted or obtained directly or indirectly pursuant to this Ordinance, or permit any Return or information supplied with regard thereto, or any copy thereof or any note, paper or book submitted to be seen or examined by any person except as provided by law; provided that in any action or proceeding brought for the collection, remission, cancellation, or refund of the whole or any part of a tax imposed under this Ordinance, or for enforcing the penalties prescribed for making false or fraudulent Returns, any and all information contained in or provided with said Return may be made accessible to the elected and appointed officials, officers and representatives of the City charged with enforcing or defending same. All such Returns, information, statements and correspondence relating thereto may be produced into

evidence in any action, civil or criminal, directly pertaining to such Returns or the tax imposed on the basis of such Returns.

- f. The City Council, under such rules and provisions as it may prescribe, may permit the commissioner of the Internal Revenue Service of the United States or his authorized representative or the proper officer of any state imposing a tax to inspect the Returns or information provided or obtained in connection therewith, or may furnish to such officer, or his authorized agent, copies or an abstract thereof.
- g. Nothing in this Ordinance shall prohibit a taxpayer or his authorized representative, upon proper identification, from inspecting and copying his own Returns and information supplied therewith.

**SECTION 9. AUDITS — DEFICIENCY DETERMINATIONS.**

- a. The City Clerk may demand any relevant information be delivered within ten (10) days of demand, or may order an audit of any taxpayer under this Ordinance for the purpose of ascertaining the correctness or completeness of any Return or payment.
- b. If any error or omission is discovered in such audits or in any other way, the City Clerk may compute and determine the amount of tax due upon the basis of facts obtained from such information within its possession and assess a deficiency. One or more deficiency determinations may be made for the amount due for one or more than one period. In making such a determination, the City Clerk may offset any overpayment against amounts due. Further, said determination shall be made for the period or periods in respect to which the person fails to make a return and shall be based upon any information which is in the City Clerk's possession.
- c. The City Clerk shall give written notice of its determination and the amount of the deficiency together with the costs of any required examinations, investigations and/or audits, including interest (in the amount provided by law), from the date due, to the person from whom such deficiency amount is due. Service of such notice may be given personally or mailed to the person at the address furnished to the City Clerk in the Permit application. Interest upon any deficiency (in the amount provided by law), together with all costs of determination and collection of such deficiency, shall become due and payable upon notice and demand from the City Clerk and shall be collected as part of the tax from the date prescribed for payment of the tax.

**SECTION 10. REDETERMINATION OF DEFICIENCY.**

- a. Any person against whom a deficiency determination is made under this Ordinance, or any person directly interested, may petition in writing for a redetermination within thirty (30) days after service upon the person of notice thereof. If the petition for redetermination is not filed within the thirty (30) day period, the determination shall be deemed final at the expiration of the period.
- b. If a petition for redetermination is filed within the thirty (30) day period, the City Clerk shall reconsider the determination and, if the person so requests in the petition, grant the person an oral hearing and give said person ten (10) days' notice of the time and place of

the hearing by mail, addressed to the person at the address furnished to the City Clerk in the Permit application.

**SECTION 11. APPEALS, INTEREST ON DEFICIENCY.**

- a. When a redetermination is made, the City Clerk shall give notice to the taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which notice of redetermination is mailed or served, the taxpayer may file an appeal with the City Council or may file a complaint with the District Court for review of the City Clerk's redetermination. There shall be no right to appeal to the City Council nor to file a complaint with the District Court on the redetermination of taxes due made by the City Clerk unless a petition for redetermination was timely filed. No assessment of a deficiency in respect to the tax imposed by this Ordinance or a proceeding for its collection shall be made, begun or prosecuted until such notice of redetermination has been mailed to the taxpayer and expiration of such thirty (30) day period after notice of redetermination, or if an appeal/complaint is filed until a decision on the appeal/complaint becomes final. If the taxpayer does not file an appeal with the City Council or file a complaint in District Court within the time prescribed in this Section 12, the deficiency shall be assessed and shall become due and payable upon notice and demand from the City Clerk.
- b. Interest upon any deficiency (in the amount provided by law) shall be assessed at the same time as the deficiency and shall become due and payable upon notice and demand from the City Clerk and shall be collected as part of the tax from the date prescribed for payment of the tax.

**SECTION 12. COLLECTIONS AND ENFORCEMENT.**

- a. As soon as practical after the monthly Return and payment is filed, the City Clerk shall examine the same and determine the correct amount of the tax. For the purpose of ascertaining the correctness of any payment determining the amount of tax due when none has been made, determining liability of any person for any tax payable under this Ordinance, or the liability at law or in equity of any person in respect to any tax provided by this Ordinance or collecting any such liability, the City Clerk, or duly authorized deputy, is authorized (1) to examine the books, papers, records, or other data which may be relevant or material to the inquiry; (2) to summon the person liable for the tax or any officer, agent, or employee of such person, or any person having possession, custody, or care of books of accounting containing entries relating to the business of the person liable for the tax, to appear before the City Clerk, or deputy, at a time and place named in its summons and to there produce such books, papers, records, or other data and/or give such testimony under oath as may be relevant or material to such inquiry.

**SECTION 13. REFUNDS, LIMITATIONS, AND INTEREST.**

- a. If the City Clerk determines that any amount due under this Ordinance has been paid more than once, or has been erroneously or illegally collected or computed, the City Clerk shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount due or payable to the City Clerk for taxes from that person, and

any balance refunded to the person by whom it was paid or to his successors, administrators, or executors.

- b. No such credit or refund shall be allowed or made after one (1) year from the time the payment was made unless before the expiration of such period a claim therefore is filed by the taxpayer.
- c. Interest (in the amount provided by law) shall be allowed on that amount of such credits or refunds, from the date which such was paid.
- d. Any appeal from the City Clerk's decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the State of Idaho with regard to claims against municipalities.

**SECTION 14. RESPONSIBILITY FOR PAYMENT OF TAXES.**

Every person with a duty to account for or pay over any tax imposed by this Ordinance on behalf of a corporation, partnership or limited liability company as an officer, member or employee of such corporation, partnership or limited liability company shall be personally liable for payment of such tax, plus penalties and interest if he fails to carry out his duty.

**SECTION 15. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.**

- a. The amount of taxes imposed under this Ordinance shall be assessed within three (3) years of the time the return upon which the tax asserted to be due was or should have been filed, whichever is later, unless the unpaid taxes shall have been the result of any improper or illegal exemption, in which case there shall be no limitation of time upon collection of such taxes; provided, however, if a deficiency determination or assessment has been made within the prescribed time, such tax may be collected within a period of six (6) years after assessment. The running of limitations provided by this Section 16 shall be suspended for the period during which the City Clerk is prohibited from making the assessment or from collecting or proceeding in court due to a petition for redetermination or an appeal therefrom, and for thirty (30) days thereafter.
- b. In the cases of taxes due during the lifetime of a decedent, the tax shall be assessed in any proceedings for collection begun within six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent unless the assessment is stayed by a petition for redetermination or any appeal therefrom.
- c. In the case of a false or fraudulent Return with intent to evade tax, or of a failure to file a return, the tax may be assessed, or a proceeding in the court for collection of such tax may be begun without assessment, at any time within three (3) years after the date of the discovery of the facts constituting the fraud.

**SECTION 16. SUCCESSORS LIABILITY.**

- a. If a person liable for any amount of tax under this Ordinance sells its business or stock of goods, the buyer shall make an inquiry to the City Clerk and withhold from the purchase

price any amount of tax that may be due under this Ordinance until such time as said person produces a receipt stating that no amount is due.

- b. If the buyer of such business or stock of goods fails to withhold from the purchase price as above required, he shall be personally liable for the payment of the amount required to be withheld by him.

**SECTION 17. GENERAL ADMINISTRATION BY THE CITY CLERK.**

- a. The City Clerk shall enforce the provisions of this Ordinance and may prescribe, adopt, and enforce rules and regulations relating to its administration and enforcement. The City Clerk may employ qualified auditors for examination of taxpayers' books and records, and shall also employ such accountant, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this Ordinance, and may delegate authority to its representatives to conduct hearings, or perform other duties imposed by this Ordinance. The total cost of any examination, investigation, and/or audit shall be and become a part of any tax obligation due and owing to the City.
- b. Every taxpayer shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk may require. Every such taxpayer who files tax payments required under this Ordinance shall keep all such records for not less than four (4) years after making such payment unless the City Clerk in writing authorizes their destruction.
- c. The City Clerk, or any person authorized in writing by the Clerk, may examine the books, papers, records, and equipment of any taxpayer and may investigate the character of the business of the person in order to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid. Any taxpayer whose records are kept outside of the City must bring the records to the City for examination by the City Clerk upon request of the latter, or by agreement with the City Clerk permit an auditor designated by the City Clerk to visit the place where the records are kept, and their audit such records.

**SECTION 18. PENALTIES.**

- a. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by up to one (1) year in the county jail, and/or a Three Hundred Dollars (\$300.00) fine, or both. Furthermore, each month in which a person fails to report, or intentionally fails to accurately compute, or intentionally fails to accurately disclose, or intentionally fails to pay over the total amount of sales or rentals or the amount of tax to be paid, as imposed under this Ordinance, shall be considered a separate offense.
- b. Any person who violates any provision of this Ordinance shall have his Permit and tax number revoked. The City Clerk shall send written notice of revocation of said Permit and tax number to the Permit holder by mailing the same certified mail to the address stated in the Permit application. The Permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City Council challenging said revocation. If no appeal is timely made, said revocation shall be deemed final. Whenever a person subject to this Ordinance has had a Permit and tax number revoked, the City Clerk shall not reissue said Permit, nor issue a new Permit to said person, until said person

places with the City Clerk a bond or other sufficient security in the amount equal to three (3) times the actual, determined, or estimated average monthly amount of tax payable by such person pursuant to this Ordinance.

- c. The City Clerk, whenever it is deemed necessary to insure compliance with this Ordinance, may require any person subject to this Ordinance to place with it such security as it may determine. The amount of said security shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this Ordinance. The amount of the security may be increased or decreased by the City Clerk at any time, subject to the limitations as set forth above.
- d. Any person who violates any provision of this Ordinance shall have all municipal beer license(s), and wine license(s), and retail liquor-by-the-drink license(s) revoked.
- e. Any amount of tax due under this Ordinance for which a person fails to report or accurately compute or remit, as well as all penalties and interest due, shall become a lien upon the property of said taxpayer on the date that the same becomes due, and the City may seek to enforce said lien and collect all taxes and interest due together with the reasonable costs of collection, including attorney's fees, in a court of competent jurisdiction.
- f. For the purposes of proper administration of this Ordinance, and to prevent evasion of said municipal sales taxes, the burden of proving that a Sale is not a Sale under this Ordinance is upon the person who makes the sale in question.

**SECTION 19    PENALTY CHARGE.**

Any person who is required to collect, truthfully account for, and pay over any tax imposed by this Ordinance and who willfully fails to collect such a tax, truthfully account for or pay over such a tax, or willfully attempts in any manner to evade or defeat such a tax or payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the amount of the tax evaded, or not collected, or not accounted for and paid over. The City Clerk shall determine and assess such penalties, together with any and all costs required to be paid by the City to determine such tax, payment, and penalties, and the same shall become due and payable upon notice and demand from the City Clerk. The City Clerk shall send written notice of such penalty charge to the permit holder by mailing same certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City Council challenging said penalty charge determination. If no appeal is timely made, said penalty charge determination shall be deemed final.

**SECTION 20.    EXEMPTIONS.**

Only those transactions which are exempted from the taxes imposed by the State of Idaho pursuant to the Idaho Sales Tax Act, as that Act may be amended, are also exempt from the provisions of this Ordinance.

**SECTION 21. IDAHO SALES TAX ACT.**

This Ordinance hereby adopts and incorporates by reference all sections of the Idaho Sales Tax Act which are not otherwise inconsistent with this Ordinance.

**SECTION 22. SEVERABILITY.**

It is hereby declared to be the legislative intent of the Sun Valley City Council that the provisions, and parts thereof, of this Ordinance shall be severable. Should any section, subsection, paragraph, clause, or phrase of this Ordinance, or any particular application thereof, be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, such decision shall not affect the remaining portions of said section, subsection, paragraph, clause, or phrase of this Ordinance.

**SECTION 23. EFFECTIVE DATE.**

Upon voter approval, passage by the City Council, and publication according to law, this Ordinance shall be effective on January 1, 2014.

**SECTION 24. COLLECTION CONDITIONED UPON A SIMILAR ORDINANCE IN KETCHUM, IDAHO.**

In the event that the City of Ketchum, Idaho fails to enact a similar ordinance for imposition and collection of Local Option Tax revenues for the purpose of Minimum Revenue Guarantees for air service to Friedman Memorial Airport, the City of Sun Valley shall either (1) delay collection of the tax set forth herein until a similar ordinance is enacted in Ketchum; or (2) repeal this Ordinance.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\*\*\*\*\*

\_\_\_\_\_  
Dewayne Briscoe, Mayor

ATTEST: \_\_\_\_\_  
Hannah Stauts, City Clerk

EXHIBIT A

CITY OF SUN VALLEY  
SALES TAX SCHEDULE  
BRACKET SYSTEM  
(Dollars)

-----Tax Percentage Rate-----	
Sale Amount	1%
0.01-0.16	.00
0.17-0.49	.00
0.05- 0.83	.01
0.84- 1.16	.01
1.17-1.49	.01
1.50-1.83	.02
1.84 - 2.16	.02
2.17 - 2.49	.02
2.50 - 2.83	.03
2.84 - 3.16	.03
3.17 - 3.49	.03
3.50 - 3.83	.04
3.84 - 4.16	.04
4.17 - 4.49	.04
4.50 - 4.83	.05
4.84 - 5.16	.05
5.17 - 5.49	.05
5.50 - 5.83	.06
5.84 - 6.16	.06
6.17 - 6.49	.06
6.50 - 6.83	.07
6.84 - 7.16	.07
7.17 - 7.49	.07
7.50 - 7.83	.08
7.84 - 8.16	.08
8.17 - 8.49	.08
8.50 - 8.83	.09
8.84 - 9.16	.09
9.17 - 9.49	.09
9.50 - 9.83	.10
9.84 -10.16	.10



## SUMMARY FOR PUBLICATION OF CITY OF SUN VALLEY ORDINANCE NO. 456

Pursuant to Idaho Code Section 50-901A, the City of Sun Valley, Idaho summarizes City of Sun Valley Ordinance No. 456, enacted on \_\_\_\_\_, 2013, as follows:

1. The name of the City is the City of Sun Valley, Idaho
2. Formal Identification of Ordinance: City of Sun Valley Ordinance No. 456.
3. Descriptive Title: An Ordinance Providing for a One Percent (1%) Non-Property Local Option Tax to Benefit Air Services
4. Summary of ordinance: This ordinance provides for a one percent (1%) non-property local option tax to benefit air services to the Sun Valley area.
5. Summary of Principal Provisions of Ordinance No. 456:
  - a. Except to building and construction materials the City of Sun Valley imposes and collects an additional one percent (1%) tax on the sales price of all transactions: furnishing, preparing, or serving food or drink, nondepreciable goods and services directly consumed by customers; admission to a place or event in the City, the use of property or facilities for recreation, including golf facilities but excluding ski lift facilities; providing sleeping accommodations for a period of thirty (30) days or less; lease or rental of tangible personal property; intrastate transportation for hire by air of freight or passengers, except (1) as part of a regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when providing air ambulance services; any sale regardless where generated for admission to a place or event in Sun Valley; any sale, regardless where generated for use or privilege of using tangible personal property or facilities for recreation in Sun Valley; Producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish, either directly or indirectly the tangible personal property used in producing, fabricating, processing, printing, or imprinting; A transfer of possession of property where the seller retains the title as security of the payment of the sales prices; A transfer of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication; on the sales price of sales of ski lift tickets and season ski lift passes; on any room occupancy charge on receipts from all short-term rental (30 days or less) charges for hotel-motel rooms, condominium units, tourist homes, or other sleeping accommodations; and on liquor by-the-drink sales tax on all sales at retail of liquor by-the-drink including liquor, beer, wine, and all other alcoholic beverages, for consumption on the premises, or at any event or activity in the City of Sun Valley.

- b. Calculation and collection provisions.
  - c. Duration of five (5) years.
  - d. The purpose of the revenues from said tax are to maintain and increase service to Friedman Memorial Airport.
  - e. Provisions for collections, audits, deficiencies, appeals, collections, enforcement, refunds, limitations, and interest.
  - f. Penalties provided for: A violation of the ordinance is a misdemeanor punishable by up to one (1) year in jail and/or a three hundred dollar (\$300.00) fine, or both. Each failure to disclose or pay over the tax is a separate offense. A violator shall have his or her permit and tax numbers revoked.
  - g. Effective Date: January 1, 2014
6. The full text of City of Sun Valley Ordinance No. 456 is available at Sun Valley City Hall, 81 Elkhorn Road, Sun Valley, Idaho 83353.

City Attorney Statement Pursuant to Idaho Code Section 50-901A(3)

I, Adam B. King, duly appointed City Attorney for the City of Carey, Idaho, certify that the above summary is true and complete and provides adequate notice to the public.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Adam B. King  
City Attorney for Sun Valley, Idaho



# CITY OF SUN VALLEY

## RESOLUTION 2013-26

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### A RESOLUTION OF THE CITY OF SUN VALLEY SETTING THE CITY COUNCIL MEETING DATES FOR 2014

WHEREAS, Ordinance 377, amending Section 1-5-2 of the Sun Valley Municipal Code, adopted by City Council on June 12, 2006 requires a schedule of Regular City Council Meetings to be published and adopted.

NOW, THEREFORE, BE IT RESOLVED THAT CITY COUNCIL REGULAR MEETINGS ARE SCHEDULED IN 2014 AS FOLLOWS:

January 10<sup>th</sup> at 4:00 p.m.

February 6<sup>th</sup> at 4:00 p.m.

March 6<sup>th</sup> at 4:00 p.m.

April 3<sup>rd</sup> at 4:00 p.m.

May 1<sup>st</sup> at 4:00 p.m.

June 5<sup>th</sup> at 4:00 p.m.

July 3<sup>rd</sup> at 4:00 p.m.

August 7<sup>th</sup> at 4:00 p.m.

September 4<sup>th</sup> at 4:00 p.m.

October 2<sup>nd</sup> at 4:00 p.m.

November 6<sup>th</sup> at 4:00 p.m.

December 4<sup>th</sup> at 4:00 p.m.

Regular City Council meeting dates are subject to change due to availability of a quorum or other circumstances. Any change from the above adopted dates will be noticed in accordance with Idaho Code 67-2343. All meetings are scheduled to be held at City Hall, Council Chambers, 81 Elkhorn Road, Sun Valley, Idaho.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF DECEMBER, 2013.

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Dewayne Briscoe, Mayor

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Hannah Stauts, City Clerk

# CITY OF SUN VALLEY

## RESOLUTION 2013-27

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### A RESOLUTION OF THE CITY OF SUN VALLEY SETTING THE FINANCE COMMITTEE MEETING DATES FOR 2014

WHEREAS, Ordinance 377, amending Section 1-5-2 of the Sun Valley Municipal Code, adopted by the City Council on June 12, 2006 requires a schedule of Regular City Council Meetings to be published and adopted; and

WHEREAS, Resolution 2013-10, Section 2.2 requires the Finance Committee to “report to the City Council at its regular monthly meeting to recommend to Council that payables and payroll, for the previous month, are ready to be filed”.

NOW, THEREFORE, BE IT RESOLVED THAT FINANCE COMMITTEE MEETINGS ARE SCHEDULED IN 2014 AS FOLLOWS:

January 6<sup>th</sup> at 1:00 p.m.

February 3<sup>rd</sup> at 1:00 p.m.

March 3<sup>rd</sup> at 1:00 p.m.

March 31<sup>st</sup> at 1:00 p.m.

April 28<sup>th</sup> at 1:00 p.m.

June 2<sup>nd</sup> at 1:00 p.m.

June 30<sup>th</sup> at 1:00 p.m.

August 4<sup>th</sup> at 1:00 p.m.

September 2<sup>nd</sup> at 1:00 p.m.

September 29<sup>th</sup> at 1:00 p.m.

November 3<sup>rd</sup> at 1:00 p.m.

December 1<sup>st</sup> at 1:00 p.m.

Finance Committee meeting dates are subject to change due to availability of a quorum or other circumstances. Any change from the above adopted dates will be noticed in accordance with Idaho Code 67-2343. All meetings are scheduled to be held at City Hall, Council Chambers, 81 Elkhorn Road, Sun Valley, Idaho.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF  
DECEMBER, 2013.

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Hannah Stauts, City Clerk

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Dewayne Briscoe, Mayor



  
CITY OF                      SUN VALLEY  
REPORT TO THE CITY COUNCIL

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**To:** Honorable Mayor and City Council  
**From:** *MHK* Mark Hofman, Community Development Director  
**Meeting Date:** December 5, 2013  
**Agenda Item:** City of Sun Valley/Blaine County Memorandum of Understanding

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**SUBJECT:** Review and action on the draft City of Sun Valley/Blaine County Memorandum of Understanding ("MOU") and attached MOU Map Exhibit.

**BACKGROUND:** The Sun Valley City Council and the Blaine County Board of County Commissioners met in a publicly noticed joint workshop on February 27, 2012 to review and discuss the comments and recommendations for the Sun Valley/Blaine County Area of City Impact from the Sun Valley Planning and Zoning Commission and the Blaine County Planning and Zoning Commission. At their February 27, 2012 joint workshop, the Sun Valley City Council and the Blaine County Board of County Commissioners agreed to explore and enter into a memorandum of understanding between the City and Blaine County for specific areas outside the corporate boundaries of the City and not contained within the Area of City Impact.

**UPDATE:** The draft MOU was completed and forwarded to the City Council for initial review on Thursday, October 18, 2012 as part of the regular City Council meeting. The City Council received the draft materials and continued the agenda item date certain to the Thursday, November 1, 2012 meeting for review, discussion and potential action. The draft MOU was also forwarded to Blaine County on October 18, 2012.

The Blaine County Board of County Commissioners held a meeting on Monday, October 29, 2012 for review, consideration and potential action on the MOU. Review comments from the County's meeting were submitted to City staff just prior to the City Council's November 1 meeting. The City Council requested additional time for review and consideration of the County's comments and directed the item to be continued to the December 6, 2012 meeting.

On December 6, 2012 the City Council reviewed and discussed the revisionary comments and voted to appoint a Subcommittee, consisting of Councilmember Nils Ribi, to work with City and County staff to revise the Memorandum of Understanding for final review and approval. The Subcommittee and staff met on January 2, 2013 and agreed on essential revisions reflective of the City's and County's review. The City has been working on several high priority projects since that time and the draft Memorandum of Understanding is now being brought forward for final review and approval.

**EXHIBIT "CC-1" FOR CITY COUNCIL 12/5/13**

**(DRAFT) MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF SUN VALLEY AND BLAINE COUNTY, IDAHO**

This Memorandum of Understanding ("Agreement") is made and entered between the City of Sun Valley ("City"), a municipal corporation of the State of Idaho, and Blaine County ("County"), Idaho, for a policy statement, an agreement, and an accompanying map regarding two specified areas outside the City of Sun Valley and not included in the 2012 City of Sun Valley/Blaine County Area of City Impact Boundary Map.

**1. RECITALS**

A. As part of a regular review and update of the 1994 Area of City Impact Map and Area of City Impact Agreement ("ACI"), the Mayor and City Council of the City met at the County Courthouse with the full Blaine County Board of County Commissioners on February 27, 2012 in a joint work session. The two bodies reviewed the background of the proposed update, including separate recommendations from the City's and County's Planning and Zoning Commissions, and discussed the individual areas identified for potential inclusion in the ACI. A consensus was reached as to which areas on the draft ACI Map should remain, be revised or removed. It was further agreed by the two bodies that a memorandum of understanding ("MOU") with a separate map exhibit should accompany the ACI Agreement and Map Ordinances. This MOU and Map Exhibit would refer to two specific areas outside the City of Sun Valley not included in the City of Sun Valley/Blaine County Area of City Impact Boundary Map.

B. The City and County agreed at the February 27, 2012 joint workshop that specific intent reflecting the City Council and County Commission's comments, as they pertain to these two identified non-ACI areas outside the City limits, should form the basis of the MOU.

C. The County adopted an updated ACI Agreement as Blaine County Ordinance No. 2012-08 and an updated ACI Map as Blaine County Ordinance No. 2012-09 after a noticed public hearing on September 25, 2012. The City formally adopted a mirroring ACI Map as City Ordinance No. 452 and a mirroring ACI Agreement as City Ordinance No. 453 on November 1, 2012.

D. Throughout the ACI renegotiating process, the City's expressed interest was to include identified public lands adjacent to the City in the new ACI boundary to encourage preservation, in as much as this is the City's goal for these lands. Areas within the ACI would remain in the County's jurisdiction but the City would have heightened notification and comment ability. These areas generally consist of sensitive hillsides, open valleys and flatlands, riparian habitat, vistas and view corridors. The County's concern was that inclusion of all such public lands in the revised ACI would enable these sensitive areas to be annexed, which could encourage development. The MOU represents a compromise that achieves the City's and County's common goal that these areas largely remain undeveloped.

E. The negotiated ACI Map reflects lands agreed by the City and County to have some development potential. The lands identified by the MOU Map Exhibit also remain under County Jurisdiction and are not subject to the provisions of the ACI Agreement, but are instead

the subject of this MOU. It is intended, within the framework of applicable federal, state, and local laws, that this MOU and accompanying Map reflect both the City's and the County's general intent and desire that these lands should neither be annexed into the City, nor developed under County jurisdiction.

## 2. POLICY STATEMENT

It is critical that future growth is managed in collaboration between the City and County in a way that makes sense and keeps our communities great and vibrant places to live. Shared policy and guidelines are required for a collaborative relationship that is equitable to all parties. In the absence of a statewide growth management program, a joint vision policy represented by this MOU makes clear that preservation of open areas and habitat lands surrounding the City is of the utmost importance and any land use, development or land disturbance should be carried out in a manner that is in accordance with the policies, goals, statements and guidelines of the City and County Comprehensive Plans.

Urban-oriented or even low-scale rural development would diminish the aesthetic and habitat value of identified sensitive areas surrounding the City and greatly interfere with essential open area land uses that are expected to continue. The City and region are heavily dependent on the quality of these existing open areas and habitats for economic sustainability and quality of life. As a tool to accompany the renegotiated ACI Map and Agreement, this MOU assists the City and County in defining geographical areas where future urbanization will not likely occur, is not encouraged to occur and will not require urban service expansion. Working from the state law requirements that we should "ensure that the important environmental features of the state and localities are protected" and that we should "encourage urban and urban-type development to occur within incorporated cities" (LLUPA 67-6502), the City and County agree to the following policy statements:

- In the lands covered by this MOU, the preservation of open areas, hillsides, natural habitat, etc is a strong community value and a key to the success of the City's resort economy and quality of life. Important natural resources and critical lands should be protected.
- Preservation of important hillsides, open valleys, riparian areas, wildlife habitat, vistas, view corridors and open areas is of the utmost importance and any land use, development or land disturbance in the MOU area should be reviewed and implemented in a collaborative manner that is in accordance with the policies, goals, statements and guidelines of both the City's and County's Comprehensive Plans to the greatest extent practicable.
- Greater consistency and accountability is desired amongst regional County and City plans.
- It is essential to include affected landowners in any decisions affecting MOU lands and provide predictability related to future growth expectations and location.
- It is agreed that urban development and even low-scale rural development belongs in the City and not in the identified MOU area(s).
- Annexations should not occur outside the ACI.
- State law is not adequate in its intent and direction to cities and counties regarding growth management. The City and County have addressed this inadequacy by entering into this MOU to cement a good working relationship in land use stewardship.
- New growth requires investments in a variety of infrastructure, including sewer, water, roads, telecommunications, police, fire, ambulance, parks, and schools. Costs include

not only capital costs to build infrastructure, but ongoing operating and maintenance costs as well. As available sources are scarce to help cover these costs for Idaho communities, it is a priority for cities and counties to minimize infrastructure costs related to growth as much as possible.

### 3. AGREEMENT

Through this Memorandum of Understanding, and respecting the City's and County's joint policy statement above regarding these critical areas adjacent to the City, it is mutually agreed and understood by the City and County that the two bodies will maximize their communication opportunities through public and interagency notice and promote a cooperative review and decision making process in land use agreements and actions concerning identified MOU areas. Future transfers of critical public lands adjacent to the City shall necessitate renegotiation of the ACI Agreement Map Ordinances, as well as this Memorandum of Understanding.

### 4. SUN VALLEY/BLAINE COUNTY MEMORANDUM OF UNDERSTANDING AREA MAP

The 2012 Sun Valley/Blaine County Memorandum of Understanding Area Map is attached and incorporated herein as **Exhibit "A"**. Areas on the MOU Map are not within the City nor within the renegotiated ACI. The MOU area(s) remain in County jurisdiction and are not reasonably expected to be annexed by the City.

### 5. MUTUAL INDEMNIFICATION

The City, its officers, agents, and employees, shall not be deemed to have assumed any liability for the acts of County or any officers, agents or employees thereof, and County hereby covenants and agrees to hold and save the City and all of its officers, agents, and employees harmless from all claims whatsoever that might arise against the City, its officers, agents, or employees, by reasons of any acts or failures to act on the part of County, its officers, agents or employees in the performance of the duties required by the policy or terms of this Agreement.

The County, its officers, agents, and employees, shall not be deemed to have assumed any liability for the acts of City or any officers, agents or employees thereof, and City hereby covenants and agrees to hold and save the County and all of its officers, agents, and employees harmless from all claims whatsoever that might arise against the County, its officers, agents, or employees, by reasons of any acts or failures to act on the part of City, its officers, agents or employees in the performance of the duties required by the policy or terms of this Agreement.

### 6. TERMS AND TERMINATION

Being a joint policy statement, this MOU Agreement is subject to termination with or without cause by the City or County with a thirty (30) day written notification by either party. Modifications within the scope of this MOU shall be made by mutual consent of the City and County, by the issuance of a written modification, signed and dated by both parties, prior to any changes. This MOU shall be reviewed and revised as may be deemed necessary in association with any future renegotiation by the City and County of an ACI update or modification.

7. APPROVALS

The parties hereto have executed this instrument.

\_\_\_\_\_  
Dewayne Briscoe  
Mayor, City of Sun Valley

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Hannah Stauts  
City Clerk, City of Sun Valley

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lawrence Schoen  
Chairman, Blaine County Board of County Commissioners

\_\_\_\_\_  
Date

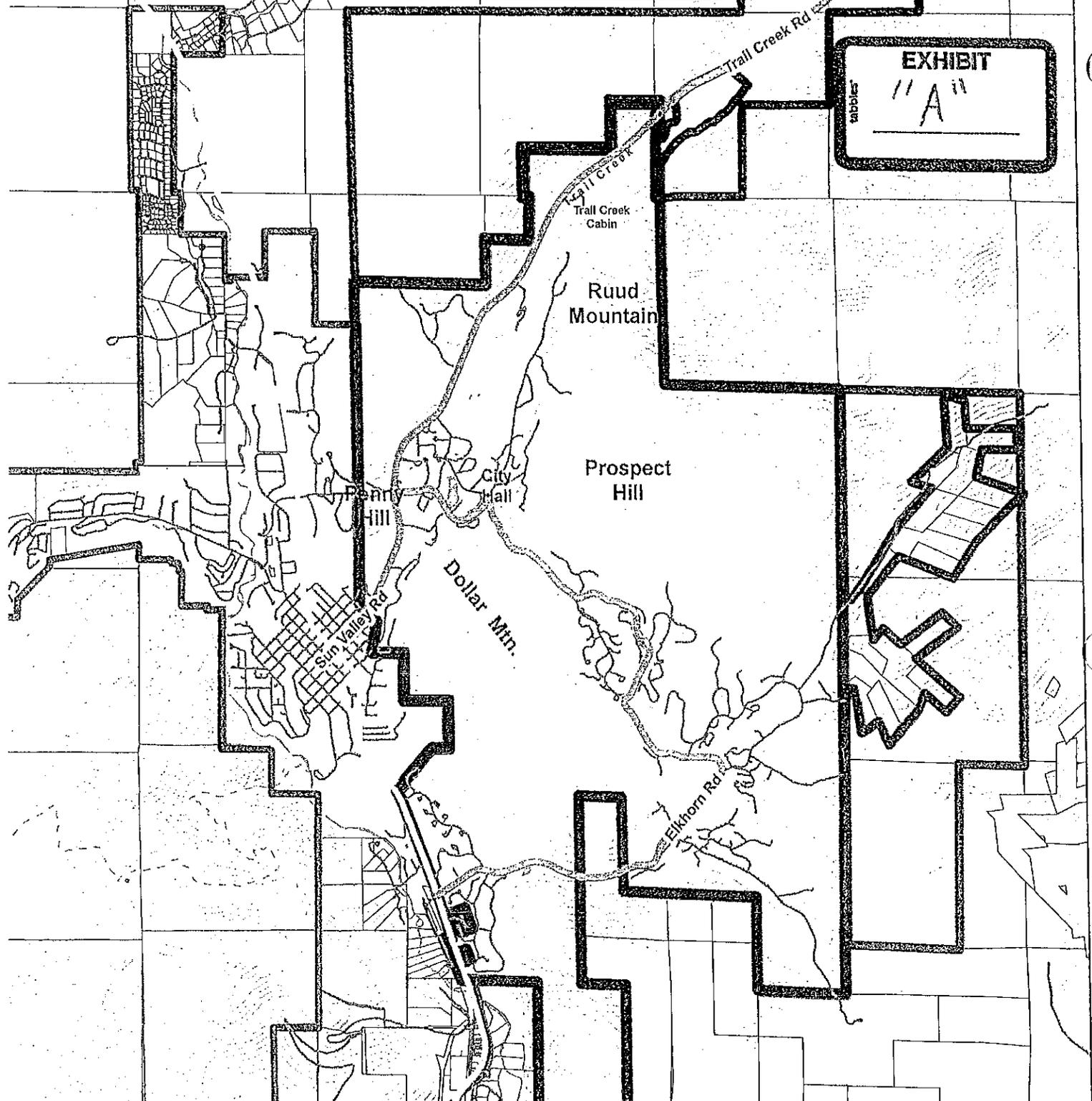
Attest:

\_\_\_\_\_  
JoLynn Drage  
Blaine County Clerk

\_\_\_\_\_  
Date

# Sun Valley/Blaine County Memorandum of Understanding Area Map

**EXHIBIT**  
"A"

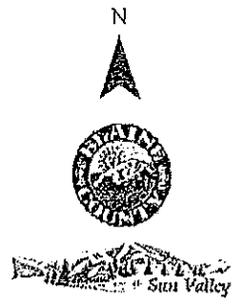


2012

- MOU Boundary
- Sun Valley City Boundary
- Ketchum Area of City Impact

0      4,000      8,000  
Feet

1 inch = 4,000 feet





**THERE ARE NO MATERIALS FOR THIS AGENDA ITEM.**

**FIRE CHIEF RAY FRANCO AND ARCHITECT NICK LATHAM WILL PRESENT THE SCHEMATIC DRAWINGS FOR THE PROPOSED FIRE DEPARTMENT REMODEL.**