



Cynda Herrick, AICP, CFM  
VALLEY COUNTY  
IDAHO

Planning & Zoning Administrator  
Flood Plain Coordinator

PO Box 1350  
219 North Main Street  
Cascade, Idaho 83611-1350

Phone: 208.382.7115  
FAX: 208.82.7119  
Email: [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us)

**STAFF REPORT**  
Conditional Use Permit Application No. 20-11  
Matlena Farms Event Venue

**HEARING DATE:** July 9, 2020  
**TO:** Planning and Zoning Commission  
**STAFF:** Cynda Herrick, AICP, CFM  
**APPLICANT/OWNER:** Martin Family Declaration of Trust  
c/o Terri Martin  
38 Via Barcaza  
Trabuco Canyon, CA 92679  
**LOCATION/SIZE:** Ashton Ridge Ranch Subdivision Lot 6 in the NE ¼ Section 12,  
T.17N, R.3E, Boise Meridian, Valley County, Idaho. The site is  
addressed at 239 Ashton LN and is 10.4 acres.  
**REQUEST:** Public Event Center  
**EXISTING LAND USE:** Single-family Residence

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**BACKGROUND:**

Terri Martin is requesting approval to establish an event venue. Weddings and other events would be held at the site. Events would be held on the lawn area, in event tents, and the existing home, barn, and outbuildings. There will be a maximum of one event per week.

Events would conclude by 11:00 p.m. Portable restrooms would be used. Electricity, propane, septic system and a well exist at the site.

Access is via an existing driveway off Ashton Lane, a public road.

Ashton Ridge Ranch Subdivision was recorded on October 24, 2006 at Book 11, Page 8. CCR's are enclosed for review

**FINDINGS:**

1. Application was made to Planning and Zoning on June 2, 2020.
2. Legal notice was posted in the *Star News* on June 18, and 25, 2020. Potentially affected agencies were notified on June 9, 2020. Neighbors within 300 feet of the property line were notified by fact sheet sent June 9, 2020. The site was posted on June 25, 2020.

### 3. Agency comment received:

Central District Health said the septic system on the property is sized for a 2-bedroom home and cannot be used by event attendees unless the dwelling is no longer occupied. The applicant will need to submit an Accessory Use Application with more information. (June 15, 2020)

### 4. Neighbor comments received:

#### Opposed

- Recorded CCRs of Ashton Ridge Ranch expressly state in Section 6.1 that commercial and business use of a lot is not allowed.
- Rural Residential area with residents who value peace and quiet and pastoral nature of the area. Agricultural area.
- Noise would be intrusive and inconsistent with current conditions.
- Increased fire danger.
- Concerned with lack of enforcement of proposed 11 p.m. closing time.
- No houses or structures to act as sound or visual barriers.
- Concern about what type of events would be held in addition to weddings.
- Increased traffic and concern about danger of parties driving from events.
- Repeated gatherings of up to 150 people on a weekly basis would change the tranquility enjoyed by the surrounding neighbors.
- The increased traffic, noise, congestion, and decreased property values would outweigh any potential economic effect on the community.
- The additional traffic, noise, outhouses, vehicle lights, and general commercialization that a 'weekly' event venue proposes would be detrimental to the area.
- The events at the adjacent Jug Mountain Ranch shut down at 10:00 p.m.
- Event venues should occur on parcels in excess of 500 acres with no neighbors within a mile.
- Lack of local oversight to confirm that renters are complying with requirements
- The existing light on the barn is very bright and doesn't comply with the lighting ordinance.
- If approved, there are recommendations given, including quiet hours, on-site representative, 120 guest maximum, number of event maximums, lighting, noise, shuttling of guests, outdoor tents, no camping, no short-term rental of home, and future review by the P&Z Commission

1.Sal Gallucci, JJS Southwest LLC, June 26, 2020

2.Mark Mason, June 29, 2020

3.Melissa and Marty Rood's, 12 Woodpecker Place, June 29, 2020

4.Amy Pemberton, June 30, 2020

5.Walt Gammill, 11 Silver Fox Trail, June 30, 2020

6.Ann Link, 428 Wilhelm Creek Court, June 30, 2020

7.Richard and Pamela McChrystal, June 30, 2020

8.Karrie and Andrew Falkowski, June 30, 2020

9.John Link, June 30, 2020

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10. Mark Morgan, 306 Otter Pond Court, June 30, 2020
11. Jim Evans, Wilhelm Creek Court, June 30, 2020
12. Amy and Paul Pemberton, 254 Cold Creek Court, June 30, 2020
13. David Nagelmann, 1709 Pine Circle, July 1, 2020
14. Wayne Solomon, 15 Flicker Road, July 1, 2020
15. Dale and Wendy Harris, July 1, 2020
16. Llona Ney Clausen, July 1, 2020
17. Kathleen Poston, Jug Mountain Ranch, July 1, 2020
18. Robert and Kitty Looper, Finn Church, July 1, 2020
19. Geoff and Kim Crane, Grouse Knoll PL, July 1, 2020
20. Dr Michael and Dara Pfister

5. Physical characteristics of the site: Relatively Flat, home, barn, and pasture/hay meadow land. Slopes on the west side of the parcel toward a creek/wet area.
6. The surrounding land use and zoning includes:
  - North: Jug Mountain PUD (homes and golf course)
  - South: Single-family Subdivisions
  - East: Single-family Subdivision and Agricultural (grazing)
  - West: Single-family Subdivisions and Jug Mountain PUD
7. Valley County Code (Title 9) in Table 9-3-1. This proposal is categorized under:
  - 5. Commercial Uses: Service Business and Recreation Business

Review of Title 9, Chapter 5 Conditional Uses should be done.

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## **9-5F-1: COMMERCIAL USES; SITE OR DEVELOPMENT STANDARDS:**

Commercial uses requiring a conditional use permit shall meet the following site or development standards, except as may be modified by a PUD:

### **A. Minimum Lot Area:**

1. The minimum lot area shall be unlimited herein except for the provisions of subsection 9-5-3A2 of this chapter, and except the minimum area for a ski area shall be forty (40) acres.
2. Frontage on a public or private road shall not be less than seventy-five feet (75') for each lot or parcel.
3. No frontage is required for recreation business.

### **B. Minimum Setbacks:**

1. The minimum setbacks for neighborhood businesses shall be thirty feet (30') from front, rear, and side street property lines and ten feet (10') from all side property lines.

2. The minimum setbacks for service and recreation businesses shall be fifty feet (50') from rear, front, and side street property lines and thirty feet (30') from side property lines.
3. The minimum setbacks for area businesses shall be the same as those for neighborhood businesses. Salvage yards, auto wrecking yards, or commercial agricultural businesses shall be located not less than one thousand feet (1,000') from any residential development, civic or community service use, or other noncompatible commercial use, unless the impacts are adequately mitigated by implementation of standards as approved by the commission. The setbacks will be determined in relation to impact mitigation.

**C. Maximum Building Height And Floor Area:**

1. Building heights shall not exceed thirty-five feet (35') above the lower of the existing or finished grade.
2. The building size or floor area shall not exceed the limitations of subsections 9-5-3A and C of this chapter and title 6, chapter 1 of this code.
3. No building or combination of buildings may cover more than forty percent (40%) of the lot or parcel, except recreation business buildings may not cover more than one percent (1%) of the lot and agricultural business buildings may not cover more than twenty percent (20%) of the lot or parcel.

**D. Site Improvements:**

4. Parking spaces for recreation businesses shall be provided at the rate of one per each four (4) occupants or as determined by the commission. (Ord. 10-06, 8-23-2010)

**SUMMARY:**

Compatibility Rating: Staff's compatibility rating is a +10.

**Staff Questions/Comments/Recommendation:**

The CCR's prohibit commercial uses. This should be considered by the Planning and Zoning Commission. We do not enforce CCR's.

What is the maximum number of guests allowed?

Are you proposing outdoor speakers or amplified music or public address systems of any kind?

Will tents be removed after each event?

Will guest be allowed to camp on-site?

Recommend the Commission look at the conditions of approval proposed by Amy Pemberton and the Pfisters..

## **ATTACHMENTS:**

- Conditions of Approval
- Compatibility Evaluation
- Vicinity Map
- Assessor's Plat
- Site Plan
- Picture Taken 6/26/2020
- CCRs for Ashton Ridge Ranch Subdivision
- Responses

### **Conditions of Approval –**

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.
3. The use must be established according to the phasing plan or this permit will be null and void.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
5. All lighting must comply with the Valley County Lighting Ordinance.
6. Shall obtain a sign permit prior to installation of a sign.
7. Shall have dedicated fire truck/emergency vehicle turnaround at the site.
8. Shall provide for overflow parking on-site.
9. Driving and parking will not occur over the existing septic drainfield.
10. All food will be catered in. All dishes, silverware, glasses, etc., will be catered in and taken off site to be washed.
11. The number of porta potties will be based upon recommendations for number of people from Central District Health.
12. There shall be no fireworks, campfires or bonfires.

13. There shall be no camping on-site.
14. There shall be no ATV's, UTV's, or snowmobile events on-site.
15. Any loudspeakers, music, or PA systems shall be in the barn and directed towards the interior of the barn.
16. Events shall end at 10:00 p.m.
17. The owner or on-site manager shall be in attendance of all events.
18. There shall only be a maximum of two events per month.

**END OF STAFF REPORT**

# Compatibility Questions and Evaluation

Matrix Line # / Use: 18 and 20

Prepared by: CH

YES/NO X Response Value

Use Matrix Values:

(+2/-2) 3/2 X 4 +6

1. Is the proposed use compatible with the dominant adjacent land use?  
S. R. Subdivision +1 N+2 = 3/2

(+2/-2) +2 X 2 +4

2. Is the proposed use compatible with the other adjacent land uses (total and average)?  
S. F. Residential

(+2/-2) -1 X 1 -1

3. Is the proposed use generally compatible with the overall land use in the local vicinity?  
+2 with Agricultural Uses

## Site Specific Evaluation (Impacts and Proposed Mitigation)

(+2/-2) -1 X 3 -3

4. Is the property large enough, does the existence of wooded area, or does the lay of the land help to minimize any potential impacts the proposed use may have on adjacent uses?  
large 10 acre property, but

(+2/-2) +2 X 1 +2

5. wide open fields - sound will carry + no screening

Is the size or scale of proposed lots and/or structures similar to adjacent ones?

Yes - the same

(+2/-2) -1 X 2 -2

6. Is the traffic volume and character to be generated by the proposed use similar to the uses on properties that will be affected by proximity to parking lots, on-site roads, or access roads?

No - large # of vehicle at one time - going to + leaving.

(+2/-2) -1 X 2 -2

7. Is the potential impact on adjacent properties due to the consuming or emission of any resource or substance compatible with that of existing uses?

Emission of noise, views

(+2/-2) +1 X 2 +2

8. Is the proposed use compatible with the abilities of public agencies to provide service or of public facilities to accommodate the proposed use demands on utilities, fire and police protection, schools, roads, traffic control, parks, and open areas?

+ traffic, but little impact to agencies

(+2/-2) +2 X 2 +4

9. Is the proposed use cost effective when comparing the cost for providing public services and improving public facilities to the increases in public revenue from the improved property?

+ taxes

Sub-Total (+) 18

Sub-Total (--) 8

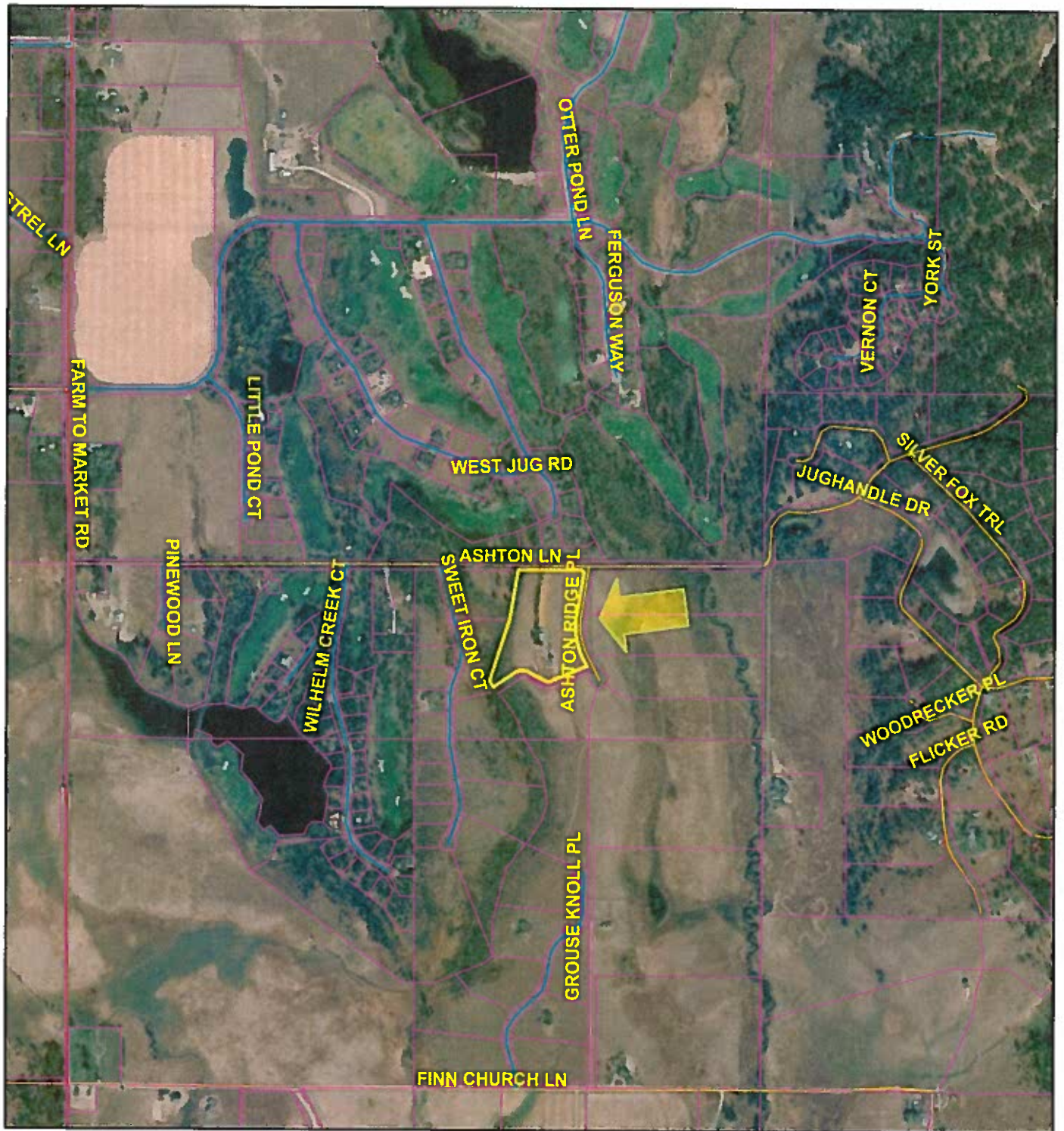
Total Score +10

The resulting values for each questions shall be totaled so that each land use and development proposal receives a single final score.





# C.U.P. 20-11 vicinity



6/3/2020, 10:29:39 AM

Parcel Boundaries Roads

All Road Labels

COLLECTOR  
URBAN/RURAL  
PRIVATE

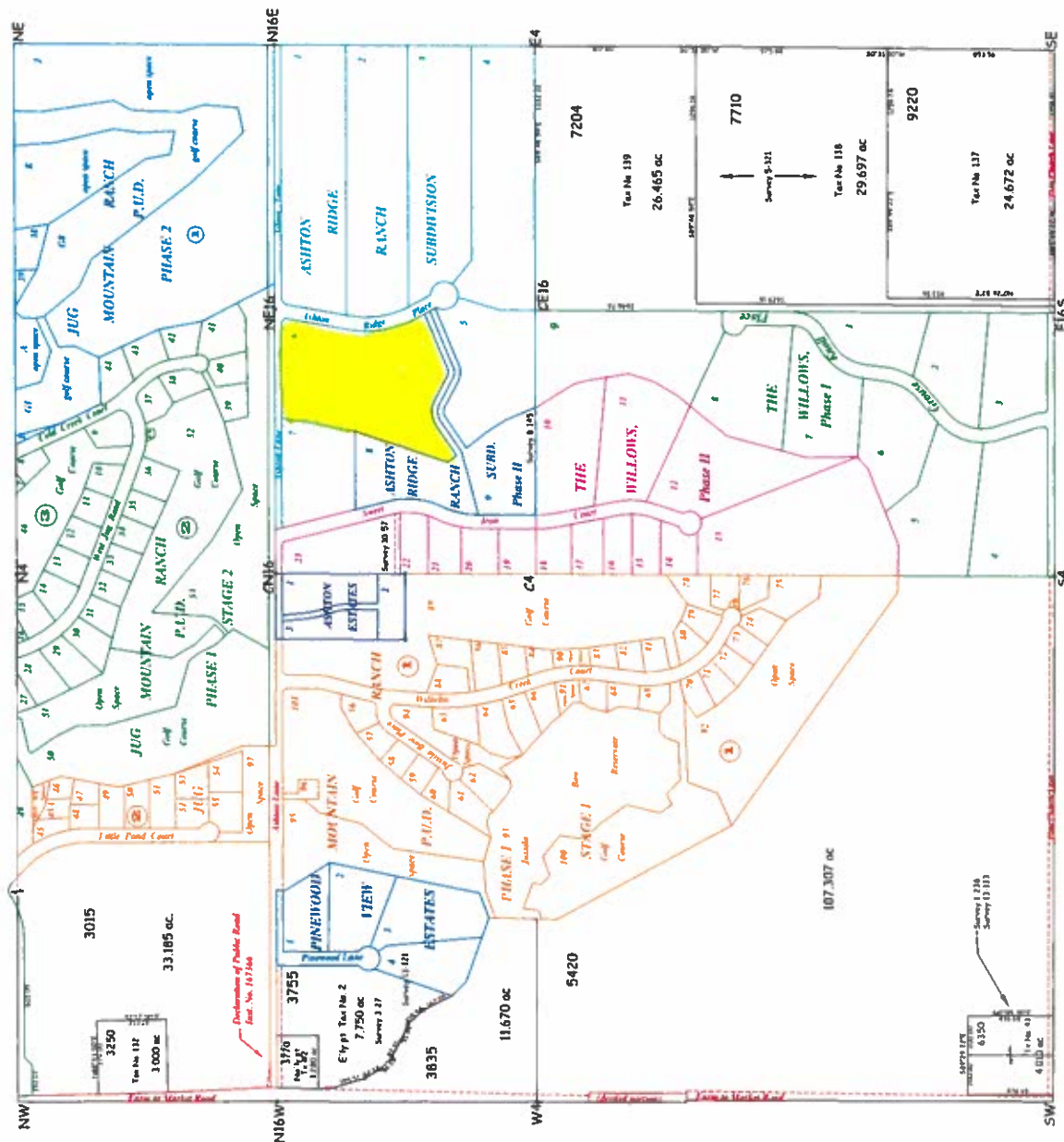
1:18,056  
0 0.1 0.2 0.4 mi  
0 0.17 0.35 0.7 km

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

## T W P . 1 7 N R O 3 E S E C . 1 2

**VALLEY COUNTY**  
Assessor's Office  
Cartography Dept.  
Cascade, ID 83611

<b>Filename:</b> H:\epb\ba\Valley Cemetery Place Map
<b>Scale:</b> 1" = 400 ft.
<b>Date:</b> 2/20/19
<b>Drawn by:</b> L. Friedenck













# DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR ASHTON RIDGE RANCH SUBDIVISION

This Declaration ("Declaration") is made this 24 day of October, 2006, by JJS Southwest, LLC, an Idaho Limited Liability Company, ("Declarant").

**Instrument # 314773**  
**VALLEY COUNTY, CASCADE, IDAHO**  
**00000-24 04:28:47 No. of Pages: 29**  
**Recorded for : SAL GALLUCCI**  
**LELAND G. HEINRICH**  
**Ex-Officio Recorder Deputy**  
**Index to: RESTRICTIVE COVENANT**

Fee: 87.00

## 1.1 General Purposes

- (a) The Declarant owns the real property hereinafter defined as Ashton Ridge Ranch Subdivision (ARRS) and intends to develop said property as a residential community.
- (b) The Declarant has incorporated Ashton Ridge Ranch Home Owners' Association, Inc. (ARRHOA), an Idaho nonprofit corporation. ARRHOA will perform certain functions for the common benefit of all Owners or Lessees of Lots within ARRS. This Declaration defines certain rights and obligations of Owners and Lessees of Lots within ARRS, including, but not limited to those with respect to ARRHOA and with respect to Functions.
- (c) By this Declaration, Declarant also intends to establish a means to provide for and maintain the area within ARRS as a pleasant and desirable environment for all persons residing in or visiting ARRS.

**1.2 Declaration:** To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that all real property hereinafter defined as ARRS shall, at all times, be owned, held, used and occupied subject to the provisions of this Declaration and to the covenants, conditions and restrictions herein contained. Declarant, for each Lot it owns, and each subsequent Owner, by acceptance of a deed or other conveyance of title to a Lot, **HEREBY COVENANTS, PROMISES, AND AGREES** to be bound by and to comply in all respects with all provisions of this Declaration, the Articles and Bylaws of the Association, the Design and Development Guidelines, and all Rules and Regulations promulgated pursuant to any of the above-referenced documents.

## ARTICLE 2. Certain Definitions

The following terms shall be defined as follows in this Declaration:

**2.1 Affirmative Vote of Lot Owners:** The Affirmative Vote of Lot Owners shall be achieved on any particular matter if six (6) of the Lots vote in favor of such matter. There shall be one vote per Lot in all matters addressed in this Declaration, regardless of the number of Owners of a Lot.

- 2.2 Articles:** The Articles of Incorporation for Ashton Ridge Ranch Home Owners' Association, Inc. ("Association").
- 2.3 Ashton Ridge Ranch Subdivision:** All of the real property in Valley County, Idaho, within the boundaries set forth in the legal description attached hereto as Exhibit A.
- 2.4 Association:** Ashton Ridge Ranch Home Owners Association, Inc., an Idaho nonprofit corporation, formed and incorporated to further the common interests of all Owners of Lots within ARRS.
- 2.5 Association Documents:** The various operative documents of ARRS, including: (a) the Articles of Incorporation for ARRHOA; (b) the Bylaws for ARRHOA; (c) this Declaration; (d) the Design and Development Guidelines; (e) all Rules and Regulations promulgated by the Board; (f) all Supplemental Declarations recorded by Declarant; and, (g) all amendments and supplements to any of the aforementioned documents.
- 2.6 Association Facilities:** All property owned or leased by ARRHOA ("Association" herein) or otherwise held or used by the Association, or under the Association's management or control by, through or under contractual arrangements, licenses or other arrangements, including Property Furnished by Declarant, real property or interests therein, improvements on real property, and personal property and equipment.
- 2.7 Benefited Lots:** Intentionally omitted.
- 2.8 Board:** The Board of Directors of ARRHOA. Members of the Board must be Owners.
- 2.9 Bylaws:** The Bylaws of ARRHOA.
- 2.10 Conversion Date:** That date upon which five (5) or more Lots have been sold by Declarant to third parties, pursuant to Valley County Conditional Use Permit No. 05-20, said date to ultimately be determined by Declarant, but in all events by the closing of the sale of all nine Lots by Declarant to third parties.
- 2.11 County:** Valley County, Idaho.
- 2.12 CUP or ARR CUP:** Valley County Conditional Use Permit No. 05-20, including any additional Conditional Use Permit granted by Valley County which applies to the Property; and, as all of said conditional use permits may be amended. The CUP shall be deemed to include and incorporate the following: any and all applications for the above conditional use permits; all conditions of approval of ARR conditional use permits imposed by Valley County; the terms of any agreements entered into by the Declarant and Valley County related to the above conditional use permits; and, the terms and conditions of all permits or licenses issued by Valley County, the State of Idaho, the United States of America, or any department or agency thereof, related to the above conditional use permits.

- 2.13 Declarant:** JJS Southwest, LLC, an Idaho limited liability company, and any party which (a) acquires from Declarant all or substantially all of its Property, and (b) is designated by a written instrument as a successor or assignee of Declarant under this Declaration. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case JJS Southwest, LLC, shall retain all other rights as Declarant.
- 2.14 Declaration:** This Declaration and all Amendments or Supplements hereto, hereafter recorded in the real property records of Valley County, Idaho.
- 2.15 Default Rate:** Any delinquent assessment, charge, fine, penalty or other amount payable pursuant to the terms of the Association Documents shall bear interest at the greater of eighteen percent (18%) per annum, or six (6) points above the prime rate of Wells Fargo Bank, NA, or any other national banking association with offices in Boise, Idaho.
- 2.16 Design and Development Guidelines:** ARRS Design and Development Guidelines, as further described in Section 7.5 herein and as may be amended from time to time.
- 2.17 Design Review Committee:** Design Review Committee ("DRC") shall mean the Design Review Committee established pursuant to Section 7.3 herein.
- 2.18 Function:** Any activity, function or service required under this Declaration to be undertaken or performed by the Association, as well as any activity, function or service otherwise undertaken or performed by the Association.
- 2.19 Guest:** Any customer, agent, employee, guest, lessee, or invitee of a Lot Owner or lessee of a Lot.
- 2.20 Lot.** Each parcel of real property within ARRS, as reflected on a recorded Final Plat for such parcel, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, or occupancy as a single family residence. The term shall refer to the land, as well as any structures and improvements thereon.
- 2.21 Member:** A Person/Owner entitled to membership in the Association.
- 2.22 Owner:** The person or persons, entity or entities who own of record, according to the real property records of Valley County, Idaho, fee simple title to a Lot.
- 2.23 Person:** A natural person, or, a trustee.
- 2.24 Property:** Any and all real property which is now included within ARRS, including public or private streets, roads and any public or private easements or rights-of-ways and including any and all improvements on any of the foregoing.
- 2.25 Property Furnished by Declarant:** Any real property, any improvement or portion of any improvement on real property, and any personal property or equipment with respect to which

Declarant grants, assigns or conveys to the Association title, interests in, or rights of use, or with respect to which Declarant permits use by the Association or some or all Owners and/or Guests, and any replacement of or substitute for any of the foregoing. Property Furnished by Declarant may include, but is not limited to, the access roads or roads serving ARRS; landscaping, trees, shrubs, mailboxes and entry improvements to access roads. The Association shall be obligated to, and shall accept the title to, interests in, or rights of use with respect to any Property Furnished by Declarant which may be assigned, granted, or conveyed to the Association by Declarant, subject to such reservations, restrictions and conditions as Declarant may reasonably request.

**2.26 Residential Lot:** Any Lot for which the Lot use is restricted to a single family residence.

**2.27 Single Family Residential Use:** The term "Single Family Residential" use and/or purposes shall mean the occupation and use of a Lot as a single family dwelling in conformity with this Declaration and any requirements imposed by applicable zoning laws or other Federal, state or municipal rules or regulations. Guest or caretaker quarters (including, but not limited to "accessory dwelling units" as that term is defined in the Valley County Land Use and Development Ordinance) shall be included in the term "single family residential" for purposes of these CC&Rs, if such a structure is permitted under applicable governmental ordinances and regulations, such as the Valley County Land Use and Development Ordinance. Owners must follow all applicable regulations of any governmental entity having jurisdiction thereof prior to construction of such structures. After construction, said structures may have uses such as a guest house, caretaker's quarters, and a "mother-in-law's apartment". Forms of "time-sharing" shall not be considered as "single family residential use".

**2.28 Subowner:** Any person or persons who occupy or use a Lot or portion thereof pursuant to a license, lease, or other arrangement with an Owner or, who have any right, title or interest in a Lot, including a mortgagee or beneficiary, as the case may be, under a mortgage or deed of trust encumbering a Lot.

### **ARTICLE 3. The Ashton Ridge Ranch Home Owners Association**

**3.1 Organization:** The Ashton Ridge Ranch Home Owners Association, Inc. (the "Association") shall be initially organized by Declarant as an Idaho non-profit corporation. The Association is charged with the duties and vested with the powers prescribed by law and as set forth in the Association's Articles of Incorporation and Bylaws, and this Declaration.

**3.2 Membership:** Each Lot Owner within ARRS becomes a Member of the Association upon purchase of a Lot(s). Each Lot shall have one vote, regardless of the number of Members with an ownership interest in said Lot.

**3.3 Compliance with Association Documents:** All Members shall comply with the terms and conditions of all Association Documents, as well as all Rules and Regulations which may be enacted by the Board pursuant to the Association Documents.



## **ARTICLE 4. Assessments And Other Amounts**

- 4.1 Obligation for Assessments and Other Amounts:** Declarant, for each Lot it owns hereby covenants, and each Owner, by acceptance of a deed for his Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be conclusively deemed to have covenanted and agreed to pay to the Association, the Common and Special Assessments and charges, fines, penalties or other amounts, to be levied, fixed, established and collected as set forth in this Declaration, and in the Articles, Bylaws and Rules and Regulations of the Association as from time to time are in force and effect. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.
- 4.2 Purpose of Assessments and Other Amounts:** The assessments levied, and any charge, fine, penalty or other amount collected by the Association, shall be used exclusively to pay expenses that the Association may incur in performing any actions or Functions permitted or required under this Declaration, or under its Articles or Bylaws as from time to time are in force and effect, including the funding of reserve and contingency accounts.
- 4.3 Initial Payment and Other Payments:** The initial assessment fee payment is due through escrow upon transfer of title from Declarant to a Lot Owner. The amount of any other assessment, charge (for interest or otherwise), fine, penalty or other amount payable by any Owner or with respect to such Owner's Lot shall become due and payable as specified in the Articles or Bylaws or this Declaration. In addition, the Bylaws may authorize the Association, during the period of any delinquency, to suspend an Owner or Lessee's voting privileges or any other privileges stemming from membership in the Association.
- 4.4 Lien for Assessments and Other Amounts:** In addition to any other remedies specified herein or in the Association Documents, or allowed by law, the Association shall have a lien against each Lot to secure payment of any assessment, charge, fine, penalty or other amount due and owing to the Association, as provided in the Bylaws and the other Association Documents.
- 4.5 Liability of Owners and Purchasers; Encumbrances:** The amount of any assessment, charge, fine or penalty payable by any Owner, or with respect to such Owner's Lot shall also be a joint and several personal obligation to the Association of such Owner and such Owner's and/or Lessee's, heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Lot shall be jointly and severally liable with the former Owner or Lessee of the Lot for all such amounts which had accrued and were payable at the time of the acquisition of fee simple title to the Lot by such party, without prejudice to such party's right to recover any of said amounts from the former Owner. Each such amount, together with interest thereon at the Default Rate and reasonable attorney's fees and costs, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same. Notwithstanding the foregoing, the holder of a mortgage, deed of trust or other lien on a Lot shall not be liable for any such assessment, charge, fine or penalty, and the lien for any such assessments, charges, fines or penalties shall be junior to any first lien on a Lot taken in good faith and for value and perfected

by recording in the office of the Recorder of Valley County, Idaho, prior to the time a notice of failure to pay any such amount is recorded in said office, describing the Lot and naming the Lot Owner.

## **ARTICLE 5. Certain Obligations And Rights Of The Association**

**5.1 Property Maintenance Function:** The Association shall provide for the care, operation, management, maintenance, repair and replacement of all Association streets and entrances. Said obligation shall include, without limitation, removal of snow from and application of sand and salt to roads, as necessary for their customary use and enjoyment. Said obligations may also include maintenance of roads which are not Association streets, as may be necessary or desirable for access to the boundary of or full utilization of any Lot or any improvements within ARRS.

**5.2 Operation Function:** The Association may do all things that are not prohibited by applicable laws or ordinances which may be reasonably necessary or desirable to keep and maintain ARRS as a safe, attractive and desirable community.

**5.3 Public Health and Safety Function:** The Association may provide safety services within ARRS, including but not limited to, providing security services and systems, fire protection facilities, and a fire water system which may include periodic fire prevention inspections and equipment certifications.

**5.4 Vehicular Access Limitation Function:** The Association shall provide control over vehicular access to ARRS in accordance with all requirements imposed on the Association or on Declarant or otherwise by any other governmental entity or which it deems necessary or desirable for the health, safety or welfare of persons within ARRS. Said function may include, without limitation, constructing, operating and maintaining access road control gates, restricting non-commercial vehicular traffic within ARRS except for Owners, Lessees or Guests, and restricting commercial vehicular traffic within ARRS. All Lot Owners and Lessees may be required to keep the Association completely informed of all persons who have overnight accommodations at such Owner's or Lessee's property in order to appropriately enforce its rules and regulations.

**5.5 Utility Function:** The Association may operate, maintain, repair and replace a fire protection system, or may contract with Declarant for the same. Declarant reserves the right to contract with an independent provider to obtain this service, if any.

**5.6 Trash Collection and Disposal Function:** The Association may provide for the collection, removal and disposal of all trash, garbage and other solid waste in ARRS, through any program offered therefore by or through Valley County, including but not limited to, the construction, operation and maintenance of a central waste disposal facility. The Association shall have the power to adopt, amend and enforce rules and regulations applicable within ARRS to provide for the orderly collection and disposal of such trash, garbage and other solid waste.

**5.7 Recycling Function:** The Association may establish a recycling program and recycling center within ARRS, through or in addition to any program offered therefore by or through Valley County. In such event, all occupants of Lots shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program will accept.

**5.8 Animal Control Function:** The Association may provide for regulations, facilities, manpower and funds to enforce animal and reptile control, and for the orderly disposition of stray animals and reptiles; or, to exclude animals and reptiles from ARRS.

**5.9 Environmental Monitoring Function:** The Association may monitor air and water quality in ARRS to determine trends and to detect violations of state pollution laws, and may control the construction and utilization of fireplaces and other devices that burn wood, coal, or other substances pursuant to rules and regulations promulgated by governmental entities and by the Association from time to time.

**5.10 Exterior Maintenance for Compliance Function:**

- (a) If any Lot Owner fails to maintain his Lot or improvements on such Lot, or fails to perform any acts of maintenance or repair required under this Declaration or the Design and Development Guidelines, the Association may provide exterior maintenance and repair upon such Lot and improvements thereon, in response to a request from the DRC, or, on its own volition, after 30 days prior written notice to the Lot Owner and, if applicable, the Lessees of the Lot. In addition, the Association may, without notice, make such emergency repairs and maintenance as may in its judgment be necessary for the safety of any person or to prevent damage to any other property. The cost of such exterior maintenance and repair shall be assessed against the Owner of such Lot as a compliance assessment; shall be a lien and obligation of the Owner pursuant to Section 4.4 herein; shall be a joint and several liability of the Lot Owners; and, shall become due and payable in all respects as set forth in Section 4.3 herein. For the purpose of performing the exterior maintenance authorized by this Section 5.10, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to any Lot Owner, to enter upon such Lot during reasonable hours on any day except Sunday. The Association or its designee is hereby granted an irrevocable license over all property in ARRS to inspect (in a reasonable manner) property within ARRS in order to determine whether any maintenance or repair is necessary under this Section 5.10.
- (b) Neither Declarant, the Association, nor any of their respective directors, officers, agents or employees, shall be liable for any incidental or consequential damages for failure to inspect any Lot or improvements or portion thereof or to repair or maintain the same. Declarant, the Association and any other person, firm or corporation undertaking such repairs or maintenance shall not be liable for any



personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any Lot, improvements or portion thereof.

**5.11 Other Functions:** The Association may undertake and perform other Functions as it deems reasonable or necessary to carry out the provisions of this Declaration, including without limitation, providing the following services for some or all Lot Owners: property management services, a data information center and central monitoring of fire safety and property security.

**5.12 Insurance:** The Association shall obtain in its name and keep in full force and effect at all times at least the following insurance coverage: (a) casualty insurance with respect to all insurable Association Facilities, insuring such Association Facilities for the full replacement value thereof, and including coverage for fire and extended coverage, vandalism and malicious mischief; (b) broad form comprehensive liability coverage, covering both public liability and automobile liability, with limits in amounts reasonably necessary to insure against foreseeable liability; and (c) errors and omissions coverage for members of the Association Board and committee members in amounts reasonably necessary to insure against foreseeable liability. All insurance may contain such deductible provisions as good business practice may dictate. All insurance shall name Declarant as an additional insured and shall, to the extent reasonably possible, cover each Owner without each Owner being specifically named. The Association shall provide to Declarant, upon request, certificates evidencing such insurance and copies of the insurance policies.

**5.13 Indemnification:** The Association shall be obligated to and shall indemnify Declarant and hold it harmless from all liability, loss, cost, damage and expense, including attorneys' fees, arising with respect to any operations of the Association or any Association Facilities or Functions.

**5.14 Right to Make Rules and Regulations:** The Association shall be authorized to and shall have the power to adopt, amend and enforce rules and regulations applicable within ARRS, and to implement the provisions of this Declaration, the Articles or Bylaws, including but not limited to, rules and regulations to prevent or reduce fire hazard; to prevent disorder and disturbances of the peace; to regulate pedestrian and vehicular traffic; to regulate animals; to regulate the budgeting and assessment procedures according to the Association Documents; to regulate signs; and to protect and preserve property and property rights. All rules and regulations adopted by the Association shall be uniformly applied. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties. Each Lot Owner, Lessee, and Guest shall be obligated to and shall comply with and abide by such rules and regulations and pay such fines or penalties upon failure to comply with or abide by such rules and regulations. Any such unpaid fines and penalties shall be enforceable in accordance with Section 5.18.

In the promulgation of such Rules and Regulations, the Association shall have broad discretion and shall endeavor to maintain a community standard consistent with the intents and purposes of the Association Documents, without being limited to the literal language thereof. In

the event of any challenge to any such Rule or Regulation, the Rule or Regulation shall be upheld unless it is found by clear and convincing evidence to be: (i) in express violation of the Association Documents or ARRS CUP; (ii) in express violation of an applicable federal, state, county or district statute, ordinance or regulation; or, (iii) arbitrary, capricious, unreasonable and oppressive.

**5.15 Right to Establish "No-Burn" Policies:** Assuming the availability of locally reliable air quality monitoring data, the Association, through its Board, may establish enforceable "no-burn" Rules for ARRS. Such Rules shall be adopted by the Board, but the Declarant shall have the right to unilaterally promulgate such Rules at any time prior to the sale of 7 Lots to third parties.

**5.16 Taxes:** The Association shall pay all ad valorem real estate taxes, special improvement and other assessments (ordinary and extraordinary), ad valorem personal property taxes, and all other taxes, duties, charges, fees and payments required to be made to any governmental or public authority which may be imposed, assessed or levied upon, or arise in connection with any Association Facilities and/or Functions.

**5.17 Governmental Successor:** Any Function may be turned over to a governmental entity which is willing to accept and assume the same upon such terms and conditions as the Association shall deem to be appropriate.

**5.18 Implied Rights of the Association:** The Association shall have and may exercise any right or privilege given to it expressly in this Declaration or, except to the extent limited by the terms and provisions of this Declaration, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under this Declaration, including the right to: engage labor and acquire use of or purchase property and equipment; employ personnel; obtain and pay for legal, accounting and other professional services; maintain accounts and reserve accounts; enter into contracts and subcontracts; and, to perform any Function by, through or under contractual arrangements, licenses, or other arrangements with any governmental or private entity as may be necessary or desirable.

## **ARTICLE 6. Restrictions Applicable To ARRS**

**6.1 Land Use Restrictions:** All of the Lots in the Property shall be used and occupied solely for Single Family Residential purposes. Any and all forms of "time-sharing", fraction-sharing, interval ownership, or similar arrangements are not allowed. Neither shall commercial/business use of a Lot be allowed. In addition to the restrictions found in this Article 6, all or any portion of the Property to be sold or leased by Declarant may be further restricted or otherwise affected in its use, density or design according to one or more Supplemental Declarations for ARRS recorded with the Valley County Recorder, prior to the time Declarant transfers or conveys any such Property to any third party, and by the promulgation of Rules by the Association.

**6.2 Occupancy Limitations:** No portion of the Property shall be used as a residence or for



living or sleeping purposes other than a room designed for living or sleeping in a completed structure for which a Certificate of Occupancy has been issued. No room in any structure shall be used for living or sleeping purposes by more persons than it was designed to accommodate comfortably. Except as expressly permitted in writing by the DRC, no trailers or temporary structures shall be permitted on the Property.

**6.3 Maintenance of Property:** All Lots, including all improvements on any Lot, shall be kept and maintained by the Lot Owner thereof in a clean, safe, attractive and sightly condition and in good repair.

**6.4 Trash Collection:** All household garbage and other trash that attracts animals (such as bears and dogs) must be kept in animal-proof containers. The Board shall promulgate Rules and Regulations requiring the Lot Owner of each Lot to either contract directly with a trash collection company for the year-round removal of trash from the Lot, or to participate in a trash collection system developed by the Association, as provided at Section 5.6. Trash removal requirements during the period of construction of any improvements shall be governed by the Design and Development Guidelines. The Association shall participate in such collection program as may be offered by Valley County.

**6.5 No Noxious or Offensive Activity:** No noxious or offensive activity shall be carried on or upon any Property, nor shall anything be done or placed on any Property which is or may become a nuisance or cause any significant embarrassment, disturbance or annoyance to others.

**6.6 No Hazardous Activities:** No activities shall be conducted on any Property and no improvements constructed on any Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms, or paintball guns shall be discharged upon any Property, and no open fires shall be lighted or permitted on any Property except as follows: (a) in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed fireplace, (b) controlled and attended fires authorized in writing by Declarant or the Association and required for clearing or maintenance of land; and, (c) such other exceptions or restrictions as may be implemented pursuant to the Design and Development Guidelines or other Rules or Regulations. Notwithstanding the foregoing, any restriction on burning put in place from time to time by any governmental agency shall be strictly adhered to; and, the Board may create such additional Rules and Regulations with regard to burning or other hazardous activities as it deems appropriate.

**6.7 No Unsightliness:** No unsightliness shall be permitted on any Property. Without limiting the generality of the foregoing: (a) all unsightly structures, facilities, equipment, objects and conditions shall be enclosed within an approved structure; (b) trailers, mobile homes, trucks (including pickups), boats, tractors, all vehicles (including automobiles, motorcycles, ATV's, etc.), campers not on a truck, snow removal equipment and garden or maintenance equipment shall be kept in an enclosed structure at all times, except when in actual use; and automobiles may be parked in a driveway for not longer than a 72 hour period, and limited on-street parking may be allowed by the Board pursuant to Rules and Regulations; (c) refuse, garbage and trash shall be kept in a covered animal-proof container at all times and any such container shall be kept

within an enclosed structure; (d) service areas and facilities for hanging, drying or airing clothing or fabrics shall be kept within an enclosed structure; (e) pipes for water, gas, sewer, drainage or other purposes; wires, poles, antennas and other facilities for the transmission or reception of audio or visual signals or electricity; utility meters or other utility facilities; gas, oil, propane, water or other tanks; and, sewage disposal systems or devices, shall all be kept and maintained within an enclosed structure or below the surface of the ground; and (f) no lumber, grass, shrub or tree clippings or plant waste, bulk materials or scrap or refuse or trash or unused items of any kind shall be kept, stored or allowed to accumulate on any part of the Property. All enclosed structures shall comply with the rules and regulations of the DRC as in effect from time to time. The DRC shall have the power to grant a variance from the provisions of this Section 6.7 from time to time as it deems necessary or desirable.

**6.8 Restriction on Recreational Vehicles:** No ATV, motorcycle or other motorized recreational vehicle shall be operated within ARRS except for ingress and egress, or as may be otherwise specifically permitted by Rules and Regulations of the Association. Snowmobiles are not permitted to be operated within ARRS, except for ingress and egress to a Lot(s).

**6.9 Fire Protection:** The following shall be applied with regard to fire protection and shall be enforced by the DRC: such portions of the International Urban-Wildlands Interface Fire Code as the Association determines are applicable to ARRS; or, such other alternate methods or materials as may be listed by the DRC in the Design and Development Guidelines, or as may be proposed by a Lot Owner and approved by the DRC, to provide protection comparable to the International Urban-Wildlands Interface Fire Code. The Board shall have the authority to create a separate Fire Wise Committee to act as a subcommittee of the DRC, for the purpose of adopting and enforcing such fire protection measures. All activities in ARRS shall comply with the requirements of the Donnelly Rural Fire District.

**6.10 Gates:** The Association shall have no obligation to provide any gate at the entrance(s) or within ARRS, but may, in its discretion, approve the construction of gates as provided herein. There shall be no gates for a Lot, except as otherwise provided in the Design and Development Guidelines. The design and location of any gate shall be subject to the provisions of the Design and Development Guidelines, and any additional rules and regulations established in that regard. The Association shall require compliance with Valley County ordinances/regulations and all emergency service providers' requirements related to gates, including but not limited to requirements related to locks and emergency access. A key or code shall be provided to the Board and to Owners of all Lots which must pass through any approved gate to reach such Lot.

**6.11 Animals:** No animals, birds, insects, poultry or other creatures, of any kind, except for household pets (household pets are limited to a maximum of two dogs and two cats per Lot), and except for one horse per every four full acres per Lot, shall be raised, bred, or kept on any portion of the Property. Said permitted horses and household pets may be kept for personal or non-commercial recreational purposes and only if the presence of such animals and pets does not constitute a nuisance. Permitted pets and horses must be kept within the boundaries of the owner's Lot unless accompanied by and under the positive control of the Owner. All horses shall

be kept/contained on the rear portion of each Lot (i.e., away from the access road and residence) and shall be fenced at least 50 feet away from all residence structures. Consistent and/or chronic barking by dogs, or threatening or aggressive behavior by any animal, shall be considered a nuisance. After all Lots have been sold by Declarant to third parties, the Board may create such additional Rules and Regulations with regard to animals as it deems appropriate, including but not limited to the number and type of animals that may be kept on a Lot at any one time, and the disallowance of pets. At all times, all animals must be fenced at least ten feet off of Boulder Creek and must be fenced into their owner's Lot.

**6.12 Signage:** All signage, including but not limited to "for sale" signs, and signs placed on property during construction, shall be subject to the terms and conditions of the Design and Development Guidelines.

**6.13 Rental of Residential Lots:** Vacation and long term rental of Residential Lots is permissible, subject to Rules and Regulations that may be promulgated by the Board, which may restrict and even eliminate such rental in the Board's sole discretion.

**6.14 Additional Restrictions:** Upon such conditions as are deemed necessary by the Declarant, the Board, and/or the DRC to maintain compliance with the intents and purposes of the Association Documents, additional restrictions on the use of Property within ARRS shall be provided in Supplemental Declarations, the Design and Development Guidelines and/or Rules and Regulations promulgated by the Board.

**6.15 Lot Splits/General Compliance With Law:** No Lot may be further subdivided except upon the Affirmative Vote of Lot Owners, and no Property shall be subdivided, used, occupied, altered, changed, improved or repaired except in compliance with all present and future laws, rules, requirements, orders, directions, ordinances and regulations of the United States of America, State of Idaho, County of Valley, and all other municipal, governmental or lawful authority whatsoever, affecting ARRS or the improvements thereon or any part thereof.

**6.16 General Use Guidelines And Restrictions:** The following guidelines and restrictions are applicable to all Property within ARRS:

- All terms and conditions of the Association Documents;
- The final Plat and all Notes contained on any Final Plat, and all terms and conditions of Supplemental Declarations imposed pursuant to Final Plat approval;
- All terms and conditions imposed by any state or federal agency, including but not limited to the Army Corps of Engineers, the Idaho Department of Water Resources, and the Idaho Department of Environmental Quality.



**6.17 Outdoor Lighting:** The construction upon and utilization of any part of the Property shall be done in such a manner as to comply with all applicable outdoor lighting ordinances, rules and regulations, including those promulgated by Valley County and the Association.

**6.18 No Build Zones:** Certain "no-building zones" (noted as Flood Plain) are indicated on the Plat of ARRS. No buildings or structures shall be allowed in said zones.

**6.19 Wetlands/Flood Plains:** No excavation, filling, or other prohibited activities are allowed in the wetlands and flood plains designated by governmental entities or by the Association.

**6.20 Special Exceptions:** Notwithstanding any other provisions of this Declaration, certain Lots have special circumstances and special exceptions as follows:

- (a) **Lot 6:** shall be allowed to be maintained in its current condition, or better; i.e., Lot 6 is exempt from any building square footage requirements, exterior materials requirements, and any other requirement that would require a change in the current condition of Lot 6 and its improvements. However, should any of the improvements on Lot 6 be torn down and replaced, or substantially remodeled, then the new improvements must comply with this Declaration. Additionally, Declarant will drill a water well on Lot 6, and said well will be used to supply domestic water for Lot 6 as well as fire-fighting water that will be stored in an underground tank located at the extreme southeast corner of Lot 6 in the right-of-way of Ashton Ridge Place. Declarant will also install the necessary pump and piping between the well and said fire storage tank. Thereafter, the installation, maintenance and repair of the piping and other parts of the water distribution system servicing solely the domestic needs of the owner of Lot 6 shall be done at Lot 6 owner's sole expense. All electricity costs for operation of the pump shall also be at Lot 6 owner's sole expense. All other costs associated with the maintenance and repair of the well, pump, tank, piping, and other parts of the water distribution system will be the responsibility of the ARRHOA. The ARRHOA will have an easement over, across and under Lot 6 as is reasonably necessary to conduct its maintenance/repair activities, and any and all fire departments and fire districts will have all necessary use of and access to said system.
- (b) **Lots 7, 8 and 9:** will be bounded on their west sides by a private road that is named Sweet Iron Court. Said road is not part of ARRS, and none of the Lot Owners in ARRS (including the Owners of Lots 7, 8 and 9) will have any right to use said road.
- (c) **Lots 8 and 9:** will be accessed via their respective private shared driveways as shown on the ARRS plat. Lots 8 & 9 will have reciprocal access and utility easements over the aforesaid private shared driveway. Lots 8 & 9 and their respective Owners will be subject to a driveway use and maintenance agreement which will include provisions for snow-plowing.

- (d) **Lot 6:** will have an easement on the private driveway being shared by Lots 8 & 9. Said easement shall be for access, utilities, and the water supply system currently serving Lot 6.
- (e) **Lot 7:** will be accessed only from Ashton Lane (the public county road on the north side of Lot 7).

## **ARTICLE 7. Design Review**

**7.1 Purpose:** In order to preserve the natural beauty of ARRS and its setting, to maintain ARRS as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of property, all exterior design, landscaping and use of all new development and additions, as well as changes or alterations to existing use, landscaping and exterior design and development, shall be subject to design review.

**7.2 Objectives:** Design review shall be directed towards attaining the following objectives for ARRS:

- (1) Preventing excessive or unsightly grading, indiscriminate earthmoving or clearing of property, and the removal of trees and vegetation which could cause disruption of natural watercourses or scar natural landforms;
- (2) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Lot and with surrounding Lots and structures;
- (3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with ARRS over-all appearance, history and cultural heritage, with surrounding development, with natural landforms and native vegetation, and with development plans, zoning requirements and other restrictions officially approved by Declarant, the Association or any government or public authority, if any, for the areas in which the structures are proposed to be located;
- (4) Ensuring that plans for the landscaping of open spaces provide visually pleasing settings for structures on such Lots and on adjoining and nearby Lots and blend harmoniously with the natural landscape;
- (5) Ensuring that any development, structure, building or landscaping complies with the provisions of this Declaration, including but not limited to, those provisions set forth in Article 6, and all applicable provisions of the other Association Documents; and,

- (6) Ensuring that building design and construction techniques respond to energy consumption and environmental quality considerations such as heat loss, air emissions, and run-off water quality.

### **7.3 Design Review Committee:**

- (a) The Association shall establish the Design Review Committee ("DRC") which shall consist of three to five members appointed by the Board. The members of said Committee must also be Owners. The regular term of office for each member shall be one year, coinciding with the fiscal year of the Association or such other annual time period as the Board may determine. Any such member may be removed with or without cause by the Board at any time by written notice to such appointee. A successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member.
- (b) The DRC shall operate in accordance with its own rules of procedure. Said rules shall be filed with the Association and maintained in the records of the Association and shall be available to members of the Association.
- (c) The DRC is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, engineers, building contractors, consultants, inspectors and such other staff or consultants as shall be reasonably necessary to advise and assist the DRC in performing the design review functions prescribed in this Article 7. Such consultants may be retained to advise the DRC on a single project, on a number of projects, or on a continuing basis.

### **7.4 DRC Approval and Control:**

- (a) Neither the Association nor any Lot Owner, nor any agent or contractor of the foregoing, but excluding the Declarant, shall perform any of the following without prior approval by the DRC of the plans and specifications for the project and the construction procedures to be used to insure compliance with Article 7: grading, clearing, or other ground disturbance; landscaping; construction of a building, fence, deck, patio, or other structure; erection of a sign; installation of exterior lighting; cutting, grubbing or removal of trees or vegetation; modification, change or alteration of the exterior of any existing structure, including staining or painting of a color materially different from the existing color; paving; the construction or exterior alteration of any improvements to any Lot or other property or building or structure thereon; or the change of the use of any Lot or other property or building or structure thereon. Alterations or remodeling which are completely within a building or structure, and which

do not change the exterior appearance and are not visible from the outside of the structure, may be undertaken without DRC approval, provided such alterations or remodeling do not change the use of, or the number of dwelling units in the building or structure. All actions taken by the DRC shall be in accordance with Design and Development Guidelines established by the DRC which shall be published as set forth in Section 7.5 and shall be in accordance with the purposes and intents of the Association Documents. Such Design and Development Guidelines may be amended from time to time pursuant to Section 7.6 below. In the case of any challenge to a decision of the DRC, the decision shall be upheld unless the Board finds by clear and convincing evidence the decision to be: (i) in express violation of the Association Documents; (ii) in express violation of an applicable federal, state, county or district statute, ordinance or regulation; or, (iii) arbitrary, capricious, unreasonable and oppressive. The DRC or its designated representative may inspect any approved project to the extent required to insure that the construction or work on such project complies with any and all approved plans and construction procedures as well as any conditions of approval established by the DRC. The DRC or its designated representatives may enter upon any part of the Property at any reasonable time or times to inspect the progress, work status, or completion of any project. In addition to the remedies described in Section 7.9, the DRC may withdraw approval of any project thereby stopping all activity at such project, as provided in the Design and Development Guidelines.

- (b) Any material to be submitted or notice to be given to the DRC shall be submitted c/o Millemann, Pittenger, McMahan & Pemberton, LLP, Post Office Box 1066, McCall, Idaho 83638, unless the DRC's address is changed by notice to the members of the Association.
- (c) All actions requiring approval of the Association pursuant to the provisions of Articles 6 or 7 shall be deemed approved if such approval is obtained in writing from the DRC.

**7.5 Design And Development Guidelines:** The DRC, the Declarant, and/or the Association (as provided below) shall promulgate and publish design and development guidelines and rules and regulations that shall state the general design theme of all projects in ARRS, specific design requirements, and the general construction procedures that will or will not be allowed in ARRS. The DRC, the Declarant, and/or the Association (as provided below) shall also promulgate and publish guidelines, rules and regulations that shall set forth the procedures to be followed and material which must be provided by any Member of the Association or such Member's authorized agents in order to obtain review of proposed construction by the DRC. The Design and Development Guidelines may contain general provisions applicable to all of ARRS, as well as specific provisions which vary from one portion of ARRS to another depending upon the location, unique characteristics, and intended use.



**7.6 Amendment of Design And Development Guidelines:** The Design and Development Guidelines may be amended as follows: the Declarant may make amendments, or the DRC may propose amendments to the Board, or the Board may adopt amendments of their own volition; and, until such time as the Declarant is no longer a Member of the Association, the amendment must be approved in writing by the Declarant.

Any amendments to the Design and Development Guidelines shall apply to construction and modification of structures and improvements commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced; provided, the construction or modification has proceeded in accordance with the plans and specifications therefore, as previously approved.

The DRC shall make the Design and Development Guidelines available to Owners and builders who seek to engage in development or construction within ARRS, and all such Persons shall conduct their activities in accordance with such Design and Development Guidelines. **THE BURDEN SHALL BE ON THE OWNER AND THE BUILDER TO ENSURE THAT THEY HAVE THE MOST CURRENT DESIGN AND DEVELOPMENT GUIDELINES.**

**7.7 Exterior Maintenance:** Pursuant to the provisions of Section 5.10, the DRC may, by vote of a majority of the committee Members present at any meeting, after 30 days notice to the Owner and, if applicable, the Lessee of the Lot, request that the Association provide exterior maintenance and repair upon any Lot.

**7.8 Review Fee:** The DRC shall set a review fee schedule sufficient to cover all or part of the cost of DRC time, consultant's fees, and incidental expenses. Applicants for design review shall be required to deposit with the DRC a fee which the DRC deems sufficient to cover the costs of design review from which the actual costs shall be deducted when determined and the balance, if any, returned to the applicant following completion of the design review procedure.

**7.9 Enforcement of Restrictions:** The Board shall be responsible for the enforcement of the restrictions set forth in Article 6 of this Declaration, the Design and Development Guidelines and restrictions set forth in any Supplemental Declaration recorded in the records of the County; and, in the event that the DRC is unable through the process and procedures provided in the Design and Development Guidelines to secure compliance, then the DRC shall refer the matter to the Board. This provision shall not limit the right of Declarant or the Association to act under Section 7.4. Subsequent to the completion of construction or action subject to review under Section 7.4, the Association shall have primary responsibility to enforce such restrictions.

**7.10 Lapse of Design Review Approval:** Approval of the design of a project shall lapse and become void eighteen months following the date of final approval of the project, unless prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued to completion. An Owner may request an extension prior to expiration of the eighteen month period by filing a written request therefore with the DRC, which request shall be

reasonably granted; however, the DRC may grant such an extension subject to reasonable restrictions or conditions.

**7.11 Assignment of Function:** Any function to be performed by the DRC pursuant to Article 6 or this Article 7 may be assigned to the Association in whole or in part at any time or from time to time at the sole discretion of the Association.

**7.12 Liability:** Neither Declarant, the Association nor the DRC, nor any of their respective officers, directors, employees or agents, shall be responsible or liable to any person for any defects in any plans or specifications submitted, revised or approved under this Article 7 nor for any defects in construction performed pursuant to such plans and specifications. Approval of plans and specifications under this Article 7 shall not relieve the Owner or lessee of strict compliance with applicable governmental laws or regulations.

## **ARTICLE 8. Easements**

**8.1 Easements Of Encroachment:** There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than five feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

**8.2 Easements For Utilities, Etc.:** There are hereby reserved to Declarant (so long as the Declarant owns any Property subject to this Declaration), the Association, and the designees of each (which may include, without limitation, the County and any utility), access and maintenance easements upon, across, over, and under all of ARRS to the extent reasonably necessary for the purpose of constructing, replacing, repairing, and maintaining: security and similar systems, fire protection systems, communications systems, roads, drainage systems, surface water management facilities, signage, and all utilities, including, but not limited to, meter boxes, telephone, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of ARRS. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

**8.3 Easements For Collection Of Storm Water Runoff And Flood Water:** The Declarant reserves for itself, and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon any property to (a) install, keep, maintain, and

replace irrigation ditches, equipment or systems; (b) construct, maintain, and repair any structure designed to divert, collect or retain water; and (c) remove trash and other debris. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any Property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of The Willows abutting or containing any portion of any water course, stream, wetlands or area covered by a conservation easement, to the extent reasonably necessary to exercise their rights under this Section.

**8.4 Easements To Serve Additional Property:** The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over any roads, streets or drives depicted on any Plat of any portion of the Property, for the purposes of access to adjoining property which may now or later be owned by Declarant. This easement includes, but is not limited to, a right of ingress and egress for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

**8.5 Easements For Cross-Drainage:** Every Lot and all open space shall be burdened with easements for natural drainage of storm water runoff from other portions of ARRS; provided, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of storm water onto adjacent portions of ARRS without the consent of the Owner of the affected property and Declarant, for so long as Declarant owns any part of the Property, and, thereafter, the consent of the Board. Notwithstanding the foregoing, Declarant shall have the right to modify drainage patterns.

**8.6 Easements For Maintenance, Emergency, And Enforcement:** Declarant grants to the Association easements over ARRS as necessary to enable the Association to fulfill its responsibilities under Article 5. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcement of the Association Documents, after prior written notice to the Owner(s) of the Lot. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.



**8.7 Compliance With Wetlands Permit:** All Owners purchase their Lots with the knowledge that the Property contains jurisdictional wetlands, which are governed by the terms of a Wetlands Permit, and the terms and conditions associated therewith. By purchasing their Lot, each Owner agrees to comply with and be bound by the terms and conditions of said Permit. Said wetlands are located along Boulder Creek, and along the common lot lines between Lots 6 and 7, Lots 6 and 8, Lots 5 and 9, and portions of the common line between Lots 5 and 6.

**8.8 View Impairment:** Neither the Declarant nor the Association guarantees or represents that any view over and across any Lot from adjacent Lots will be preserved without impairment. Neither the Declarant, the Association, nor the Owner of a Lot shall have an obligation to prune or thin trees or other landscaping. In addition, the Declarant, the Association, or an Owner may add trees and other landscaping, and construct improvements, all subject to the Design and Development Guidelines and the approval of the DRC. Any such improvements may diminish or obstruct the view from any Lot(s), and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

#### **ARTICLE 9. Roads**

All streets, roads and drives within the Property shall be private unless dedicated to the County or other governmental entity, in whole or in part, by a written declaration by Declarant and accepted by the County or other governmental entity. Neither Valley County nor any other governmental entity shall have responsibility for the maintenance, repair or upkeep of any of such private roads unless, and to the extent, such responsibility is accepted in writing in whole or in part by the County or other governmental entity. Declarant shall complete the construction of such roads to the standards depicted in the documents submitted to and approved by Valley County. Except for public roads and private drives, the roads shall be transferred by Declarant to the Association after completion. Thereafter, the Association shall be solely responsible for the maintenance, repair and upkeep of such roads, which shall be part of its Property Maintenance Function. All such roads shall be dedicated to the use of the Association, the Owners, their guests and invitees. Declarant may reserve rights in such roads, as part of the conveyance.

#### **ARTICLE 10. Neighboring Public Property**

A significant amount of the real property in the vicinity of ARRS is public property. The State of Idaho and the U.S. Government own real property which is located East of ARRS. All Owners shall take title to their Lot(s) with the knowledge that such surrounding property is public property, and they waive any claims against Declarant with regard to the government's regulation of such property, and any uses occurring on such property, including but not limited to use by trucks, vehicles, snowmobiles, ATVs and motorcycles.



## **ARTICLE 11. Certain Rights Of Declarant, Owners And Lessees**

**11.1 Reserved Rights with Respect to Property Furnished by Declarant:** Whether or not expressed at the time, all Property Furnished by Declarant shall be deemed accepted by the Association and shall at all times remain subject to: existing or future easements for utilities, including gas, electricity, telephone, television or other utility services, and for intercommunication, alarm or other similar systems; existing easements for ingress, egress and access for the benefit of other property in the vicinity of ARRS, and easements as provided in Section 11.3.

**11.2 No Sale or Abandonment of Property Furnished by Declarant:** No Property Furnished by Declarant may be sold, conveyed, encumbered, leased, transferred, abandoned or otherwise disposed of without the prior written consent of Declarant. No improvements which may be included in Property Furnished by Declarant may be destroyed, permitted to deteriorate or waste, or disposed of by the Association without the prior written consent of Declarant.

**11.3 Easements of Owners with Respect to Association Facilities:** Each Owner, lessee, and guest shall have a non-exclusive easement over, upon, and across Association Facilities as appropriate and necessary for: access, ingress and egress to the Lot of such Owner, encroachment by improvements caused by the settling, rising or shifting of earth; and horizontal and lateral support of improvements; subject, however, in the case of easements for access, ingress and egress, to such reasonable and uniformly applied rules and regulations as the Association may impose to assure reasonable use and enjoyment of Association Facilities by all persons entitled to such use and enjoyment.

**11.4 Owner's Rights and Obligations Appurtenant:** All rights, easements and obligations of an Owner under this Declaration, and all rights of an Owner with respect to membership in the Association under this Declaration, are hereby declared to be and shall be appurtenant to the title to the Lot owned by such Owner and may not be transferred, conveyed, devised, bequeathed, encumbered or otherwise disposed of separate or apart from fee simple title to such Owner's Lot. Every transfer, conveyance, grant, devise, bequest, encumbrance or other disposition of a Lot shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance or transfer or disposition of such rights and obligations.

## **ARTICLE 12. Dispute Resolution and Limitation on Litigation**

### **12.1 Agreement to Encourage Resolution of Disputes Without Litigation.**

- (a) Declarant, the Association and its officers and directors, all Owners, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving ARRS without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with

respect to a Claim described in subsection (b) unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 12.2 in a good faith effort to resolve such Claim.

- (b) As used in this Article, the term "Claim" shall refer to any claim, tort claim, grievance or dispute arising out of or relating to:
  - (i) the interpretation, application or enforcement of the Association Documents;
  - (ii) the rights, obligations, and duties of any Bound Party under the Association Documents; or,
  - (iii) the decisions of the DRC and/or the Board.
- (c) Notwithstanding the foregoing, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 12.2:
  - (i) any suit by the Association to collect assessments or other amounts due from any Owner;
  - (ii) any suit by the Association to obtain a temporary restraining order and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Design and Development Guidelines, or any of the Association Documents;
  - (iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Association Documents;
  - (iv) any suit in which any indispensable party is not a Bound Party;
  - (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 5.10(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article; and,
  - (vi) any suit by the Association to enjoin a continuing violation of or to enforce the provisions of the Design and Development Guidelines or any other Association Document.

## **12.2 Dispute Resolution Procedures:**

- (a) Notice. The Bound Party asserting a Claim ("Claimant") against another

Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim;
  - (ii) the legal basis of the Claim (i.e. the specific authority out of which the Claim arises);
  - (iii) the Claimant's proposed resolution or remedy; and,
  - (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.
- (b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.
- (c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days after the date of the Notice (or within such other time period as the parties may mutually agree upon), the Claimant shall have 45 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to a mutually acceptable individual providing dispute resolution services in Idaho.

If the Claimant does not submit the Claim to mediation within such time or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim in mediation, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit.

Each party shall bear its own costs of the mediation, including attorney's fees, and each Party shall share equally all fees charged by the mediator.

- (d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

## **ARTICLE 13. Miscellaneous**

**13.1 Duration of Declaration:** This Declaration shall run with and bind all property within ARRS, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 50 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of 10 years, unless an instrument in writing, signed by the Declarant (if Declarant then owns any part of the Property) and the Association, and upon the Affirmative Vote of Lot Owners, is recorded, agreeing to terminate this Declaration, in which case this Declaration shall be terminated as specified therein.

**13.2 Amendment:** This Declaration may be amended upon the affirmative vote of at least six (6) Lot Owners (and by Declarant if Declarant then owns any part of the Property), by the recording of a written instrument or instruments specifying the amendment or the repeal, signed by said Lot Owners (and Declarant, if applicable). Notwithstanding the above, the percentage of votes necessary to amend a specific clause in this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

Amendments to this Declaration shall become effective upon recordation in the land records of Valley County, Idaho, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to any of the Association Documents, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment. No amendment shall be contrary to the terms or conditions of any valid County, State, or Federal Permit applicable to the CUP; nor, shall any amendment divest any Owner of any material and substantial vested property rights. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

**13.3 Effect of Provisions of Declaration:** Each provision of this Declaration and the other Association Documents, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration and the other Association Documents, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration and the other Association Documents: (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any real property within ARRS is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in any real property within ARRS by an Owner or the Association, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner or the Association, as the case may be, (c) shall, as a personal covenant, be binding on such Owner or the Association and such Owner's or the



Association's respective heirs, personal representatives, successors and assigns; (d) shall, as a personal covenant of an Owner, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner, except as expressly provided in this Declaration; (e) shall, if a personal covenant of the Association, be deemed a personal covenant to, with and for the benefit of Declarant and to, with and for the benefit of each Owner; (f) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to each parcel of real property within ARRS; (g) shall, as a real covenant and also as an equitable servitude, be deemed a covenant and servitude for the benefit of any real property now or hereafter owned by Declarant within ARRS and for the benefit of any and all other real property within ARRS; and (h) shall be deemed a covenant, obligation and restriction secured by a lien, binding, burdening and encumbering the title to each parcel of real property within ARRS, which lien with respect to any Lot shall be deemed a lien in favor of Declarant and the Association, jointly and severally, and, with respect to any real property owned by the Association, shall be deemed a lien in favor of Declarant.

#### **13.4 Enforcement and Remedies:**

- (a) In General: Each provision of this Declaration with respect to the rights and/or responsibilities of the Association or property of the Association shall be enforceable by Declarant, or by any Owner who has made written demand on the Association to enforce such provision and 30 days have lapsed without appropriate action having been taken, by a proceeding for a prohibitive or mandatory injunction. In addition to any other remedy available at law or in equity or in any of the Association Documents, each provision of this Declaration with respect to an Owner or property of an Owner shall be enforceable by Declarant or the Association by a proceeding for a prohibitive or mandatory injunction and/or by a suit or action to recover damages, and/or, in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, by exclusion of such Owner and such Owner's Lessees, Subowners and Guests from use of any Association Facility and from enjoyment of any Function. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and injunction bond premiums.
- (b) Fines: In addition to the foregoing provisions of Section 13.4, the Board shall be entitled to impose fines and penalties for violations of this Declaration in amounts to be provided in the Design and Development Guidelines and/or Rules and Regulations. Fines and penalties may be assessed only against a Lot Owner or Member of the Association, and only if the violator is the Lot Owner or a member of the Lot Owner's family or a

guest, invitee, lessee, contractor, subcontractor, employee or agent of the Lot Owner. Fines and penalties may be increased in the case of a continuing violation, where the Lot Owner has failed to abate the violation within the time allowed therefore by the Board in written notice to the Lot Owner. Fines and/or penalties may not be assessed unless the Lot Owner has received at least one prior written notice from the Board that the violation may subject the Lot Owner to fine(s)/penalty(s). Fines and penalties imposed pursuant to this Section may be collected as an assessment as provided in the other Association Documents and this Declaration. Non-payment of assessments shall not subject a Lot Owner to fines; rather, the remedy therefore shall be as provided in the Bylaws and as may otherwise be provided in this Declaration and the other Association Documents.

**13.5 Protection of Encumbrancer:** No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the Recorder of Valley County, Idaho, prior to the time of recording in said office of an instrument describing such property and listing the name or names of the Owner or Owners of fee simple title to the property and giving notice of such violation, breach or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust, or other lien, or the title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien, or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser upon foreclosure shall, however, take subject to this Declaration with the exception that violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

**13.6 Limited Liability:** Neither Declarant, the Association, the DRC, the Board, nor any member, agent or employee of any of the same, shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

**13.7 Use of Trademark:** Each Owner, by acceptance of a deed for his Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to acknowledge that the name "Ashton Ridge Ranch" is the property of the Declarant, or its licensees, and each Owner covenants that he shall not use the term "Ashton Ridge Ranch" without the prior written permission of the Declarant or its licensees.

**13.8 Successors and Assigns:** Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant, the Association, and each Owner and their respective heirs, personal representatives, successors and assigns.

**13.9 Severability:** Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

**13.10 Captions:** The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

**13.11 Construction:** When necessary for proper construction, the masculine of any word used in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.


**13.12 No Waiver:** Failure to enforce any provisions of the Association Documents shall not operate as a waiver of any such provision or of any other provision of the Association Documents.


**13.13 Notice Of Sale Or Transfer Of Title:** Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Association at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Association may reasonably require.

**IN WITNESS WHEREOF,** Declarant has executed this Declaration the day and year first above written.

JJS Southwest, LLC, an Idaho limited liability company

By:   
Salvatore Gallucci, Member

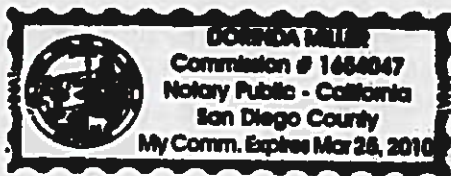
By:   
John K. Zagara, Member

By:   
Joseph Zagara, Member

State of CA )  
County of San Diego ) ss.

On this 20th day of Oct, 2006, before me, a Notary Public in and for said State, personally appeared Salvatore Gallucci, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

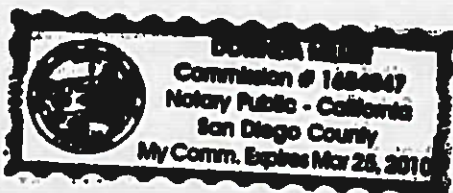


Brenda Miller  
Notary Public for CA/San Diego  
My Commission Expires 2/20/10

State of CA )  
County of San Diego ) ss.

On this 20th day of Oct, 2006, before me, a Notary Public in and for said State, personally appeared John R. Zagara, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Brenda Miller  
Notary Public for CA/San Diego  
My Commission Expires 2/20/10



State of CA )  
County of San Diego )ss.  
 )

On this 20th day of Oct, 2006, before me, a Notary Public in and for said State, personally appeared Joseph Zagara, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Dorinda Miller  
Notary Public for CA/San Diego  
My Commission Expires 3/25/10





**FIRST AMENDMENT TO****DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
ASHTON RIDGE RANCH SUBDIVISION**

Reference is hereby made to that certain Declaration of Covenants, Conditions and Restrictions for Ashton Ridge Ranch Subdivision, recorded in Valley County, Idaho, as Instrument #314773. Certain provisions of said Declaration are modified as follows:

1. Section 6.11 is amended in its entirety to read as follows:

A maximum of two (2) horses shall be allowed to be kept on Lots 5, 7, 8 and 9. A maximum of three (3) horses shall be allowed to be kept on Lots 1, 2, 3, 4 and 6. Otherwise, no animals, birds, insects, poultry or other creatures, of any kind, except for household pets (household pets are limited to a maximum of two [2] dogs and two [2] cats per Lot), shall be raised, bred, or kept on any portion of the Property. Said permitted horses and household pets may be kept for personal or non-commercial recreational purposes and only if the presence of such animals and pets does not constitute a nuisance. Permitted pets and horses must be kept within the boundaries of the owner's Lot unless accompanied by and under the positive control of the Owner. All horses shall be kept/contained on the rear portion of each Lot (i.e., away from the access road and residence) and shall be fenced at least 50 feet away from all residence structures. Consistent and/or chronic barking by dogs, or threatening or aggressive behavior by any animal, shall be considered a nuisance. Notwithstanding the foregoing, a majority of the Lot Owners may create such additional Rules and Regulations with regard to animals as they deem appropriate, including but not limited to the number and type of animals that may be kept on a Lot at any one time, and the disallowance of pets. At all times, all animals must be fenced at least ten feet off of Boulder Creek and must be fenced into their owner's Lot.

2. Section 6.20 (c) is amended in its entirety to read as follows:

**Lots 8 and 9:** will be accessed via a private shared driveway as shown on the ARRS plat. Lots 8 and 9 will have reciprocal access and utility easements over the aforesaid private shared driveway ("PSD"). Lots 8 and 9 and their respective Owners will be subject to a driveway use and maintenance agreement which will include provisions for snow-plowing. Said driveway use and maintenance agreement will be subject to the approval of the Declarant and Ashton Ridge Ranch Homeowner's Association. Using the best design for safety and road grades, one traveled roadway will be

established inside the boundaries of the private shared driveway, and all parties with the rights to use said PSD (e.g., owners of Lots 5, 6, 8 and 9) shall stay on said traveled roadway as much as reasonably possible.

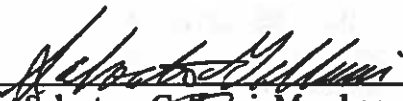
3. Section 6.20 (d) is amended in its entirety to read as follows:

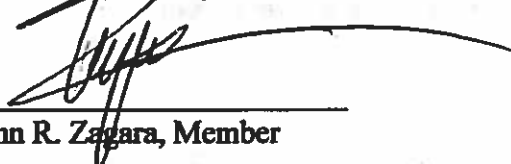
**Lots 5 and 6:** will have an easement on the private shared driveway being shared by Lots 8 and 9, providing a secondary access for Lots 5 and 6. Said easement shall be for ingress and egress to the westerly and rear portions of Lots 5 and 6, and for utilities, and Lot 6 additionally shall be able to access the utilities servicing the Lot 6 water supply system, as well as the water supply system itself currently serving Lot 6. Should the PSD be damaged while it is being used for the benefit of Lot 5 and/or Lot 6, then said damage will be repaired in a reasonable and timely fashion at the expense of the person causing the damage. If said repairs are not so made, then said repairs may be accomplished by the other affected parties and they shall have a lien upon the property of the person causing the damage until reimbursed in full.

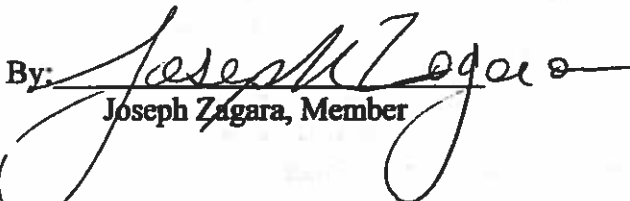
In all other respects, the initial Declaration of Covenants, Conditions & Restrictions For Ashton Ridge Ranch Subdivision, recorded in Valley County, Idaho, as Instrument #314773, is hereby is ratified and confirmed and shall remain in full force and effect.

Effective this 9<sup>th</sup> of APRIL, 2008.

JJS Southwest, LLC, an Idaho limited liability company

By:   
Salvatore Gallucci, Member

By:   
John R. Zagara, Member

By:   
Joseph Zagara, Member

Owners of Lots 1 through 9

State of CALIFORNIA )  
 ) ss.  
County of SAN DIEGO )

On this 9<sup>th</sup> day of APRIL, 2008, before me, a Notary Public in and for said State, personally appeared Salvatore Gallucci, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



*Susan L. Clary*  
Notary Public for State of CALIFORNIA  
My Commission Expires 2-27-2009

State of CALIFORNIA )  
 ) ss.  
County of SAN DIEGO )

On this 9<sup>th</sup> day of APRIL, 2008, before me, a Notary Public in and for said State, personally appeared John R. Zagara, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



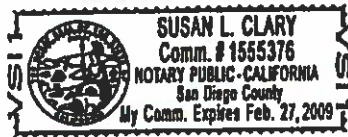
*Susan L. Clary*  
Notary Public for State of CALIFORNIA  
My Commission Expires 2-27-2009

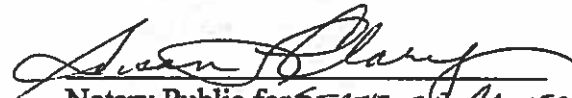


State of CALIFORNIA )  
 ) ss.  
County of SAN DIEGO )

On this 9<sup>th</sup> day of APRIL, 2008, before me, a Notary Public in and for said State, personally appeared Joseph Zagara, known or identified to me to be a Member of JJS Southwest, LLC, the Idaho Limited Liability Company that executed the foregoing instrument, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



  
Notary Public for STATE OF CALIFORNIA  
My Commission Expires 2-27-2009

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR ASHTON RIDGE RANCH SUBDIVISION**

THIS FIRST AMENDMENT TO DECLARATION IS MADE effective the 14th day of October, 2016, by JJS SOUTHWEST, LLC, an Idaho limited liability company, hereinafter referred to as "Declarant." This instrument amends that certain Declaration recorded in Valley County, Idaho, as Instrument #314773. The abbreviations, defined terms and capitalized words in this Amendment have the same meaning and definition as they do in the Declaration.

**AMENDMENTS**

1. Section 6.1 is amended in its entirety to read as follows:

6.1 **Land Use Restrictions:** All of the Lots in the Property shall be used and occupied solely for Single Family Residential purposes. Any and all forms of "time-sharing", fraction-sharing, interval ownership, or similar arrangements are not allowed. Neither shall commercial/business use of a Lot be allowed. Each Lot may have one garden, maximum of one acre in size, but no resale or retail activities on any Lot or on the Property is allowed. However, a Lot Owner can harvest crops that are grown in said garden and sell all or a portion of the harvested crop off site; i.e., a Lot Owner may harvest the garden crop and then transport all or a portion of the harvested crop from the Property to a farmer's market for sale or to some other offsite location (i.e., a location off of the Property) for wholesale or retail sale. Additionally, the haying of a Lot and the resale of the entire hay harvest in bulk from the Property is authorized, so long as: (1) the entire harvest is either sold to a third party, or is used on the Lot, or both; and (2) if sold, the sale is to one buyer and is accomplished in a single transaction. The buyer of the hay may include, but is not limited to, the person who actually does the work of harvesting the hay. The Lot Owner may keep all or a portion of the hay harvest for consumption by said Lot Owner's animals. Any and all hay kept by said Lot Owner must be stored in said Lot Owner's barn or other DRC-approved outbuilding. In all events, the harvested hay is to remain in the field for no longer than three (3) weeks per haying season. In addition to the restrictions found in this Article 6, all or any portion of the Property to be sold or leased by Declarant may be further restricted or otherwise affected in its use, density or design according to one or more Supplemental Declarations for ARRS recorded with the Valley County Recorder, prior to the time Declarant transfers or conveys any such Property to any third party, and by the promulgation of Rules by the Association.

2. Section 6.7 is amended in its entirety to read as follows:

6.7 **No Unsightliness:** No unsightliness shall be permitted on any Property. Without limiting the generality of the foregoing: (a) all unsightly structures,

facilities, equipment, objects and conditions shall be enclosed within an approved structure; (b) trailers, mobile homes, trucks (including pickups), boats, tractors, all vehicles (including automobiles, motorcycles, ATV's, RV's, motor homes, recreational motor vehicles, etc.), campers not on a truck, snow removal equipment and garden or maintenance equipment shall be kept in an enclosed structure (such as a garage or barn) at all times, except when in actual use outside of ARRS; and operating automobiles may be parked in a driveway for not longer than a 72 hour period unless all built garage parking space is filled by other operating automobiles (non-operating vehicles may be parked and stored only in enclosed structures), and limited on-street parking may be allowed by the Board pursuant to Rules and Regulations; (c) refuse, garbage and trash shall be kept in a covered animal-proof container at all times and any such container shall be kept within an enclosed structure; (d) service areas and facilities for hanging, drying or airing clothing or fabrics shall be kept within an enclosed structure; (e) pipes for water, gas, sewer, drainage or other purposes; wire poles, antennas and other facilities for the transmission or reception of audio or visual signals or electricity; utility meters or other utility facilities; gas, oil, propane, water or other tanks; and, sewage disposal systems or devices, shall all be kept and maintained within an enclosed structure or below the surface of the ground; and (f) no lumber, grass, shrub or tree clippings or plant waste, bulk materials or scrap or refuse or trash or unused items of any kind shall be kept, stored or allowed to accumulate on any part of the Property. All enclosed structures shall comply with the rules and regulations of the DRC as in effect from time to time. Notwithstanding the foregoing, one motor home per Lot can be parked outside an enclosed structure while it is in actual use by persons visiting the occupants of said Lot; provided, however, that said parking shall not exceed two (2) weeks per calendar season (Spring, Summer, Autumn and Winter) for a maximum of eight (8) weeks per calendar year if so used during all four seasons of the calendar year.

3. Section 6.11 is amended in its entirety to read as follows:

**6.11 Animals:** Two domestic dogs and two domestic cats are allowed per Lot on all Lots 1 – 9. On Lots 1, 2, 3, 4 and 6, the following applies: (a) a maximum of six (6) chickens are allowed per Lot as long as each Lot has a DRC-approved enclosed structure and fenced area not to exceed 400 square feet; (b) each Lot may contain a maximum of two (2) cows and two (2) horses, or, alternatively, three (3) horses and one (1) cow, or four (4) horses and no cows; and (c) no other farm animals are allowed (i.e., no pigs, goats, llamas, etc.). On Lots 5, 7, 8 and 9, the following applies: (a) a maximum of four (4) chickens are allowed per Lot as long as each Lot has a DRC-approved enclosed structure and fenced area not to exceed 400 square feet; (b) each Lot may contain a maximum of two (2) horses and one (1) cow, or, alternatively, three (3) horses and no cows; and (c) no other farm animals are allowed (i.e., no pigs, goats, llamas, etc.). Except as aforesaid, no animals, birds, insects, poultry or other creatures, of any kind, shall be raised, bred, or kept on any portion of the Property. Said permitted animals and household pets may be kept for personal or non-commercial recreational purposes

and only if the presence of such animals and pets does not constitute a nuisance. Permitted pets and animals must be kept within the boundaries of the owner's Lot unless accompanied by and under the positive control of the Owner. All animals, except the permitted dogs and cats, shall be kept/contained on the rear portion of each Lot (i.e., away from the access road and residence) and shall be fenced at least 50 feet away from all residence structures. Consistent and/or chronic barking by dogs, or threatening or aggressive behavior by any animal, shall be considered a nuisance. After all Lots have been sold by Declarant to third parties, the Board may create such additional Rules and Regulations with regard to animals as it deems appropriate, including but not limited to the number and type of animals that may be kept on a Lot at any one time, and the disallowance of pets. At all times, all animals must be fenced at least ten feet off of Boulder Creek and must be fenced into their Owner's Lot. Additionally, no animals of any kind are permitted to be in any wetlands areas, including but not limited to the Boulder Creek area and any other waterways located within ARRS and the areas referenced in Section 8.7 of this Declaration of Covenants, Conditions and Restrictions.

4. Section 6.20 is amended in its entirety to read as follows:

**6.20 Special Exceptions:** Notwithstanding any other provisions of this Declaration, certain Lots have special circumstances and special exceptions as follows:

- (a) **Lot 6:** shall be allowed to be maintained in its current condition, or better; i.e., Lot 6 is exempt from any building square footage requirements (however, a reduction in the current square footage of any existing building on Lot 6 is not allowed), and Lot 6 is exempt from exterior materials requirements and any other requirement that would require a change in the current condition of Lot 6 and its improvements. However, should any of the improvements on Lot 6 be torn down and replaced, or substantially remodeled, then the new improvements must comply with this Declaration. The existing spring water on Lot 6 is for the sole benefit of Lot 6 and is for personal use and not for resale.
- (b) **Lot 5:** Declarant has drilled a water well on Lot 5, and said well will be used to supply: (1) domestic water for Lot 5; (2) irrigation water for the vegetation and trees in Ashton Ridge Place; and (3) fire-fighting water that will be stored in an underground tank located in the right-of-way of Ashton Ridge Place. Declarant has also installed the necessary pump and piping between the well and said irrigation system and fire storage tank. Hereafter, the installation, maintenance and repair of the piping and other parts of the water distribution system servicing solely the domestic needs of the Owner of Lot 5 shall be done at Lot 5 Owner's sole expense.

All electricity costs for operation of the pump that services Lot 5 shall also be at Lot 5 Owner's sole expense. All other costs associated with the fire storage tank system and Ashton Ridge Place irrigation system -- such as maintenance and repair of the well, pump, tank, piping, and other parts of the water distribution systems -- will be the responsibility of the ARRHOA. The ARRHOA will have an easement over, across and under Lot 5 as is reasonably necessary to conduct its maintenance/repair activities, and any and all fire departments and fire districts will have all necessary use of and access to said system.

- (c) **Sweet Iron Court:** Lots 7, 8 and 9 are or will be bounded on their west sides by a private road that is named Sweet Iron Court. Said road is not part of ARRS, and none of the Lot Owners in ARRS (including the Owners of Lots 7, 8 and 9) currently have any legal right to use said road; provided, however, the Owners of Lots 8 and 9 might, in the future, gain a legal right to use Sweet Iron Court if said rights are granted by the owners of Sweet Iron Court.
- (d) **Lots 8 and 9:** will be accessed via the private shared driveway shown on the ARRS plat. Lots 8 and 9 will have reciprocal access and utility easements over the aforesaid private shared driveway. Lots 8 and 9 and their respective Owners will be subject to a driveway use and maintenance agreement which will include provisions for snow-plowing. Said easement shall also be for any water supply systems.
- (e) **Lots 5 and 6:** will each have an easement on the private driveway being shared by Lots 8 and 9, as it is shown on the plats of ARRS. Said easement shall be for access, utilities, and any water supply systems.
- (f) **Lot 7:** will be accessed only from Ashton Lane (the public county road on the north side of Lot 7).

5. Section 7.4(b) is amended in its entirety to read as follows:

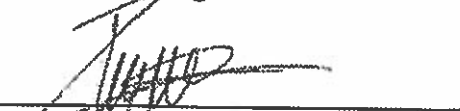
- (b) Any material to be submitted or notice to be given to the DRC shall be submitted to JJS Southwest, LLC, 2033 San Elijo Ave., Suite 131, Cardiff, CA 92007, unless the DRC's address is changed by notice to the members of the Association.

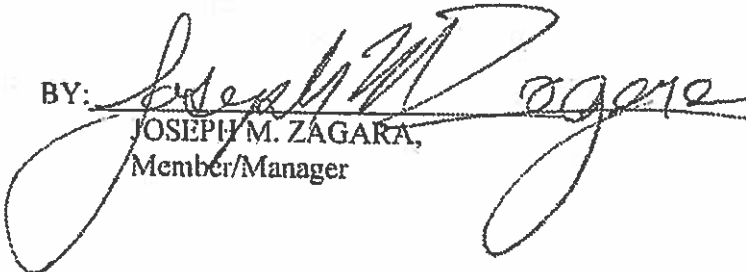


THIS FIRST AMENDMENT TO DECLARATION is effective on the 14th day of October, 2016, and is made by Declarant as the current Owner of the Property. In all other respects, the initial Declaration (Valley County Instrument #314773) shall remain in full force and effect.

DECLARANT:  
JJS SOUTHWEST, LLC

BY:   
SALVATORE G. GALLUCCI,  
Member/Manager

BY:   
JOHN R. ZAGARA,  
Member/Manager

BY:   
JOSEPH M. ZAGARA,  
Member/Manager

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT****CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California

County of San Diego

On October 19<sup>th</sup>, 2016, before me, Rebecca Kussmann, Notary Public, personally appeared **SALVATORE G. GALLUCCI**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

[Signature]  
Signature of Notary Public

Place Notary Seal Above

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT****CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California

County of San Diego

On October 19<sup>th</sup>, 2016, before me, Rebecca Kussmann, Notary Public, personally appeared **JOHN R. ZAGARA**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

[Signature]  
Signature of Notary Public

Place Notary Seal Above

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

**CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California

County of San Diego

On October 19<sup>th</sup>, 2016, before me, Rebecca Kussmann, Notary Public personally appeared JOSEPH M. ZAGARA, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Re Kuss

Signature of Notary Public



Place Notary Seal Above



1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the transparency and accountability of the organization.

2. The second part outlines the specific procedures for recording transactions. It details the steps involved in capturing data, ensuring its accuracy, and storing it securely.

3. The third part addresses the challenges associated with record-keeping, such as data loss, corruption, and unauthorized access. It provides strategies to mitigate these risks and ensure the integrity of the records.

4. The fourth part discusses the role of technology in modern record-keeping. It highlights the benefits of using digital systems and provides recommendations for selecting and implementing appropriate software.

5. The fifth part concludes the document by reiterating the importance of record-keeping and encouraging the organization to adopt best practices.

**THIRD AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR ASHTON RIDGE RANCH SUBDIVISION**

THIS THIRD AMENDMENT TO DECLARATION IS MADE effective the 2nd day of May, 2019, by JJS SOUTHWEST, LLC, an Idaho limited liability company, hereinafter referred to as "Declarant." This instrument amends that certain Declaration recorded in Valley County, Idaho, as Instrument #314773, as well as those certain amendments recorded as Instrument #333472 and Instrument #401959. The abbreviations, defined terms and capitalized words in this Amendment have the same meaning and definition as they do in the Declaration.

**AMENDMENTS**

1. By way of clarification, it is noted that Instrument #401959 is titled as "First Amendment". However, Instrument #333472 is in fact the First Amendment, thus making Instrument #401959 in actuality the Second Amendment. Hereafter Instrument #401959 will be referred to as the Second Amendment.

2. Section 6.11 is amended in its entirety to read as follows:

6.11 **Animals:** No bulls are allowed anywhere on the Property, but two domestic dogs, two domestic cats, one goat, one sheep, and no more than four (4) rabbits are allowed per Lot on all Lots 1 – 9. On Lots 1, 2, 3, 4 and 6, the following applies: (a) a maximum of six (6) chickens are allowed per Lot as long as each Lot has a DRC-approved enclosed structure and fenced area not to exceed 400 square feet; (b) each Lot may contain a maximum of two (2) cows and two (2) horses, or, alternatively, three (3) horses and one (1) cow, or four (4) horses and no cows; and (c) no other farm animals are allowed (i.e., no pigs, llamas, etc.). On Lots 5, 7, 8 and 9, the following applies: (a) a maximum of four (4) chickens are allowed per Lot as long as each Lot has a DRC-approved enclosed structure and fenced area not to exceed 400 square feet; (b) each Lot may contain a maximum of two (2) horses and one (1) cow, or, alternatively, three (3) horses and no cows; and (c) no other farm animals are allowed (i.e., no pigs, llamas, etc.). Except as aforesaid, no animals, birds, insects, poultry or other creatures, of any kind, shall be raised, bred, or kept on any portion of the Property. Said permitted animals and household pets may be kept for personal or non-commercial recreational purposes and only if the presence of such animals and pets does not constitute a nuisance. Permitted pets and animals must be kept within the boundaries of the owner's Lot unless accompanied by and under the positive control of the Owner. All animals, except the permitted dogs and cats, shall be kept/contained on the rear portion of each Lot (i.e., away from the access road and residence) and shall be fenced at least 50 feet away from all residence structures. Consistent and/or chronic barking by dogs, or threatening or aggressive behavior by any animal, shall be considered a nuisance. After all Lots have been sold by Declarant to third parties, the Board may create such additional Rules and Regulations with regard to animals as it deems appropriate, including but not limited to the number and type of animals that may be kept on a Lot at any one time, and the disallowance of pets. At all times, all animals must be fenced at least ten feet off of Boulder Creek and must be fenced into their Owner's Lot.

3. Section 6.19 is amended in its entirety to read as follows:

**6.19 Wetlands/Flood Plains:** No excavation, filling, or other prohibited activities are allowed in the wetlands and flood plains designated by governmental entities or by the Association, except pursuant to applicable laws, regulations, permits and/or mitigation plans issued by the governmental entities with jurisdiction over said activities (e.g., Army Corps of Engineers, Valley County, etc.).

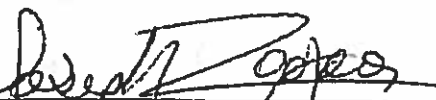
THIS THIRD AMENDMENT TO DECLARATION is effective on the 2nd day of May, 2019, and is made by Declarant in its capacity as Declarant and as the current Owner of at least six (6) Lots within the Property. In all other respects, the initial Declaration (Valley County Instrument #314773), as well as the Amendments contained in Valley County Instrument #333472 and Instrument #401959, shall remain in full force and effect.

DECLARANT AND OWNER OF AT LEAST SIX LOTS:  
JJS SOUTHWEST, LLC

BY:

  
SALVATORE G. GALLUCCI,  
Member/Manager

BY:

  
JOSEPH M. ZAGARA,  
Member/Manager

BY:

  
JOHN R. ZAGARA,  
Member/Manager

*Notaries on following pages.*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT****CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California  
County of San Diego

On May 09, 2019, before me, M. Busch, Notary Public personally appeared **SALVATORE G. GALLUCCI**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

M. Busch

Signature of Notary Public

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT****CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California  
County of San Diego

On May 8, 2019, before me, Rebecca Laser, Notary Public personally appeared **JOHN R. ZAGARA**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Rebecca Laser

Signature of Notary Public



Place Notary Seal Above



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

**CIVIL CODE: 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )  
County of San Diego )

On May 9, 2019, before me, Rebecca Laser, Notary Public, personally appeared **JOSEPH M. ZAGARA**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



Signature of Notary Public



Place Notary Seal Above



CENTRAL DISTRICT HEALTH DEPARTMENT  
Environmental Health Division

Return to:

- ☐ Cascade  
☐ Donnelly  
☐ McCall  
☐ McCall Impact  
☒ Valley County

Rezone # \_\_\_\_\_

Conditional Use # CUP 20-11

Preliminary / Final / Short Plat \_\_\_\_\_

Martena Farms BUBBIT CENTER  
Lot 6 Ashton Ridge Ranch Sub 239 Ashton Lane

- ☐ 1. We have No Objections to this Proposal.
- ☐ 2. We recommend Denial of this Proposal.
- ☐ 3. Specific knowledge as to the exact type of use must be provided before we can comment on this Proposal.
- ☐ 4. We will require more data concerning soil conditions on this Proposal before we can comment.
- ☐ 5. Before we can comment concerning individual sewage disposal, we will require more data concerning the depth of:  
☐ high seasonal ground water ☐ waste flow characteristics  
☐ bedrock from original grade ☐ other \_\_\_\_\_
- ☐ 6. This office may require a study to assess the impact of nutrients and pathogens to receiving ground waters and surface waters.
- ☐ 7. This project shall be reviewed by the Idaho Department of Water Resources concerning well construction and water availability.
- ☐ 8. After written approvals from appropriate entities are submitted, we can approve this proposal for:  
☐ central sewage ☐ community sewage system ☐ community water well  
☐ interim sewage ☐ central water  
☐ individual sewage ☐ individual water
- ☐ 9. The following plan(s) must be submitted to and approved by the Idaho Department of Environmental Quality:  
☐ central sewage ☐ community sewage system ☐ community water  
☐ sewage dry lines ☐ central water
- ☐ 10. Run-off is not to create a mosquito breeding problem
- ☐ 11. This Department would recommend deferral until high seasonal ground water can be determined if other considerations indicate approval.
- ☐ 12. If restroom facilities are to be installed, then a sewage system MUST be installed to meet Idaho State Sewage Regulations.
- ☐ 13. We will require plans be submitted for a plan review for any:  
☐ food establishment ☐ swimming pools or spas ☐ child care center  
☐ beverage establishment ☐ grocery store

☒ 14. SEE ATTACHED

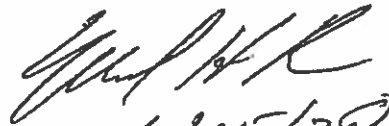
Reviewed By: [Signature]

Date: 6/15/20

CUP 20-11 Matlena Farms Event Center Lot 6 Ashton Ridge Ranch Sub, 239 Ashton Lane

The septic system on the property is sized for the two bedroom home and cannot be used by event attendees unless the dwelling is no longer occupied. The applicant will need to submit an Accessory Use Application describing the following:

- 1.) How attendees will be prohibited from using the facilities in the residence.
- 2.) How many portable sanitation units will be provided for each event.
- 3.) Maximum number of attendees per event.
- 4.) Number of events per year. (Depending on the number of events and number of people served, the well on the property may have to be certified as a public water system.
- 5.) All food will be catered in.
- 6.) No ware washing will occur on site. All dishes, silverware, etc. will be catered in and taken off site to be washed at an approved location.
- 7.) Indicate on a plot plan that driving and parking will not occur over the existing septic drainfield.

  
6/15/20

JJS Southwest, LLC

2033 San Elijo Ave, Suite 131

Cardiff, CA 92007

Cell: 760.805.7983

sgallucci@roadrunner.com

June 26, 2020

Cynda Herrick, AICP, CFM  
Valley County Planning & Zoning Administrator  
PO Box 1350  
Cascade, Idaho 83611-1350

Re: Public Hearing Application for C.U.P. 20-11, Matlena Farms Event Venue at  
Ashton Ridge Ranch Subdivision.

Cynda,

The recorded CCR's of Ashton Ridge Ranch already expressly state, at section 6.1, that  
commercial and business use of a lot is not allowed. Therefore we oppose C.U.P 20-11  
application.

Thank you.

Best Regards,



Sal Gallucci

Managing Member/Partner



Amy and Paul Pemberton  
254 Cold Creek Court  
McCall, ID 83638  
amy@mpmplaw.com

June 30, 2020

Via email to [cherrick@co.valley.id.us](mailto:cherrick@co.valley.id.us)

Cynda Herrick, AICP, CFM  
Planning & Zoning Administrator  
PO Box 1350  
Cascade, ID 83611

RE: CUP 20-11, Matlena Farms Event Venue

Dear Cynda,

We are writing to provide comments about the above referred proposed event venue which is to be reviewed by the Planning & Zoning Commission on July 9. We are neighbors of the proposed venue. The proposed venue is located on the south side of Ashton Street, and we live across the street on the north side of Ashton Street. We will be significantly impacted by this project.

We would first like to say that the applicant has done a fantastic job of refurbishing the old barn and farmhouse on the property. The structures are beautiful and the property is always in a neat and well maintained appearance. To date, the applicants have been very good neighbors. I have spoken about the application with the applicant, Terri Martin, and appreciate her intentions.

That being said, we oppose the proposed application. An event venue has enormous impacts on a residential neighborhood, at a minimum in terms of light, noise and traffic. Granted, we live in Jug Mountain Ranch, where there are not only residential uses, but also commercial uses which include golf, a restaurant and an event venue area. However, the commercial components of the project are located in the middle of the project, to assure adequate mitigation of any impacts on external properties. Everyone in Jug Mountain Ranch buys with the understanding that the commercial aspect exists. We happen to live a long way from the clubhouse venue area, and we don't hear much if any noise from it. We picked our lot for the privacy and quiet that it would bring. An event venue across the street would significantly and negatively impact our continued quiet enjoyment of our property.

Additionally, any event held at the clubhouse or venue area in Jug Mountain Ranch is closely monitored the entire time by Jug Mountain Ranch employees. Timelines and protocols for setup, closing, lights, noise, garbage and cleanup are all closely monitored. It appears that the proposed venue would be rented out in its entirety, including the home located on the site. Additionally, we do not believe that the applicant plans to be in Valley County when the events occur. While the applicant has stated that the wedding planner would manage the events, this lack of local

presence could leave the event venue without oversight to confirm that renters are complying with requirements of the rental agreement or CUP conditions.

Lighting is an enormous concern for us. We have the most beautiful night skies. The neighbors are all very good about keeping their exterior lights off at night. The barn at the event venue has for many years, and still does have, a light at the peak of the roof that is a VERY bright light that doesn't begin to comply with the Valley County lighting ordinance. The applicant is very good about keeping that light off for the most part. However, it appears to get left on every once in a while on accident, and the brightness is awful. If left in place, it is likely that this light would be used by event participants frequently, and even left on all night long.

A secondary, but very imposing light impact will be headlights from traffic leaving the event. The access to the venue appears to be from Ashton Ridge Place, which intersects with Ashton Lane directly south of and across from our house. Headlights will be pointing toward our house with each evening departure. This is not such a huge impact if Ashton Ridge Place is used only by the owners of Ashton Ridge lots (which would be a maximum of 8 lot owners using this road). But events that might draw 75 cars just for guests, plus vehicles for caterers, bands, etc., would be a disturbing impact.

Noise is another concern. Jug Mountain Ranch requires that all music and amplified systems for speaking must be turned off by 10:00 pm. The applicant proposes an 11:00 turn off time. Weddings are by definition a big party, and often very loud. As a person that goes to bed early, 11:00 would be an imposition and far too late. Also, if the music is turned off at 11:00, then it will be at least another hour of people leaving, driving out of the venue, etc. This becomes a very late night.

Traffic is also clearly a concern. Ashton does not have a lot of traffic. The proposed event venue would significantly increase traffic on Ashton, and as mentioned above, the lights from the cars leaving the venue would shine into the neighbors' homes, including ours. The intersection of Ashton Ridge Place with Ashton Lane is at the top of a hill which drops to the east toward Jughandle Estates. This intersection does not have a good line of site for people coming up the hill from the direction of Jughandle Estates. The increase in traffic from Ashton Ridge Place should raise red flags for traffic safety.

Finally, the Ashton Ridge Ranch CC&Rs do not appear to allow for this type of activity to happen within the subdivision. The proposed event venue is located on Lot 6 of Ashton Ridge Ranch Subdivision. The Ashton Ridge Ranch CC&Rs, in an Amendment recorded as Instrument No. 401959, states at Section 6.1 that "All of the Lots in the Property shall be used and occupied solely for Single Family Residential purposes. ... Neither shall commercial/business use of a Lot be allowed." The proposed event venue is clearly not a single family residential use, and clearly is a commercial/business use. I spoke with the applicant about this and other aspects of the proposed event venue, and she did mention that she is working with the developer to amend the CC&Rs to allow for the proposed use.

The event venue would be classified as a Commercial Use under Table 3-A, which requires a CUP. Section 9-5-2 of the LUDO provides that the conditional uses should be allowed “in areas and to standards that will increase the value of privately owned property without undue adverse impact on ... adjoining properties...”. I don’t think there is any way to minimize the impacts of this proposed project in a manner that does not create an undue adverse impact on adjoining properties, let alone properties in the vicinity.

While we strongly oppose this application, we realize that we do not have a lot of opportunity for input. Therefore, in the event that you do consider approving this project, the applicant needs to minimize adverse impacts on the neighbors. We would propose the following as conditions of approval, which conditions should all be placed on the face of the CUP whether they are included in the application or not, to make sure that the conditions are known to all parties.

1. The owner or a representative of the owner must be onsite the entire day and evening of the planned event. The owner or representative must be available to answer questions and give directions during set up and take down of the event.
  - a. This could be the wedding planner, but a responsible representative must be designated for this purpose.
2. The owner will provide a phone number for the owner and for the designated onsite representative to neighbors who request it. At least one of those parties shall be available to take phone calls during events.
3. 120 guest maximum.
  - a. The Jug Mountain Ranch maximum is 120 people. This is one limitation that seems to be taken advantage of regularly by renters, so a lower maximum will help to allow the venue to handle the volume.
4. Maximum of 12 events per year, to be held during the months of May through November. Maximum of one event per week.
  - a. If all events were held in the summer months, during the highest demand period, this limitation still allows for an event every weekend for 3 months.
  - b. The applicant requested 12 to 24 events. 24 events would result in an event for just under ½ of the weeks of the year, which is not conducive to a residential community.
5. The total event time period will last for a maximum of three days, which will include one day of set up, one day of take down, and the day of the event itself. The actual event shall be limited to a single day, and gatherings on the property in excess of 10 people shall occur only on that day. Set up and take down of the event the day before and after may include in excess of 10 people for the purpose of set up and take down.
  - a. This condition is to discourage bridal showers, bachelor parties and similar events the night before the event, and an after wedding or other gathering the day after the wedding. All of these smaller events would only act to increase the party atmosphere impacts on the neighbors.
6. The existing barn light at the peak of the barn shall be removed completely. Replacement lighting may be installed no more than 20’ off the ground that is compliant with the

Valley County lighting ordinance. All exterior lighting shall be in compliance with the Valley County lighting ordinance and shall be turned off after the event is over. In no circumstances may any outdoor lighting be left on all night. No overhead lighting of parking areas is permitted.

7. Guests shall use a shuttle to access the event, and may not park onsite. The wedding party, caterers, band, etc. will be permitted to park onsite.
  - a. This would significantly lessen the impact of noise and lights at the beginning and end of the event. It would also minimize drunk driving, and reduce the number of cars that are picked up the next day.
8. All music, loudspeaker systems and any other amplification shall be turned off not later than 10:00 pm.
9. All music, loudspeaker systems and any other amplification shall be located inside the barn, and all speakers shall be directed to the barn interior, and not to an open door of the barn.
  - a. Music and loudspeakers in the barn will likely still be easily heard by neighbors, but at least there should be some minimizing of the sound.
10. No concerts will be allowed on the site.
11. Noise shall not exceed forty (40) decibels between the hours of 7:00 p.m. and 7:00 a.m. and sixty (60) decibels during the other hours at the property line (see Section 9-5B-1A of the LUDO).
12. The applicant shall install and monitor external decibel meters at the property boundaries and will preserve the data generated by the meters for a period of at least thirty days.
13. Activities such as a wedding ceremony and dining may be held outside or under tents, but no loudspeakers or amplification are permitted except in the barn.
14. Any outdoor tents shall be removed after each event.
  - a. It would be difficult to tastefully hide a large white event tent on the property.
15. Appropriate restroom facilities shall be provided.
16. A dumpster shall be required onsite, and all trash and food waste shall be placed in the dumpster after the event.
  - a. Weddings in particular tend to have an enormous amount of trash. A dumpster will lessen the possibility that trash is spread around by animals or by the wind.
  - b. Food waste left onsite after an event will attract animals, which is the reason to state that the trash and food waste will be placed in the dumpster.
17. No camping, including tents, RVs or campers, either onsite or in the barn.
18. No bonfires.
  - a. It may be wise to also require a fire suppression system due to fire hazards.
19. No discharge of firearms.
20. No fireworks.
21. No ATVs, UTVs, motorcycles, snowmobiles or similar vehicles, other than for ingress and egress.



22. No short term rentals of the home on the property shall occur during years in which events are held.
  - a. This is to minimize the negatives of short term rental impacts on top of the event impacts.
23. The owner shall pay for the cost of the Valley County Sheriff's response to any complaints regarding events which are found to have merit (i.e. involving the violation of a condition of the CUP).
24. All conditions of approval shall be included in the rental agreement for the venue site, and the rental agreement must be provided to the Valley County P&Z Administrator for review. Any modifications to the agreement impacting the conditions of approval shall be provided to the Administrator as well.
25. The conditions of approval shall be reviewed by the Planning & Zoning Commission on or before the expiration of two years after issuance of the CUP, at a public hearing to obtain input from the neighbors as to the actual impact to them from the event venue, and to consider possible modifications to the CUP to address the same.

We respect the applicant's desire to have an event venue. But, the application would conceivably allow an event to be held every weekend for the whole summer. We all love McCall, and those of us who live here should not be required to lose our quiet nights and dark skies due to a commercial endeavor next door to a residential community.

Thank you very much for your consideration of these comments.

Best regards,

*Amy Pemberton & Paul Pemberton*

## CUP 20-11 Matlena Farms Event Venue

pfister.me@comcast.net <pfister.me@comcast.net>

Wed 7/1/2020 10:47 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cynda Herrick  
Planning and Zoning Administrator

Dear Cynda:

We appreciate the opportunity to submit written comment for the public hearing regarding proposal CUP 20-11 Matlena Farms Event Venue on July 9, 2020.

We currently reside out of state, but are building a home at 205 E Finn Church Ln, which is in close proximity to Matlena Farms. We would like to be on record as opposing this venue proposal outright.

While it seems the proposal has taken into account some of it's impact on the local environment we do not believe the presence of this particular event venue will be in keeping with the values of a majority of the property owners in the area that will be directly affected.

First we do not feel there is a need to have another event venue in the area. Jug Mountain Ranch already serves as an event venue in the area. Two in this close of proximity is excessive.

Second we are especially concerned about noise pollution permeating the environment (from music/bands/musicians/inebriated wedding participants) as clearly the events will not all be inside closed doors (ie tents/outside, or barn with open doors/windows) and wedding receptions are often loud.

We bought our property on Finn Church Ln specifically due to the quiet openness of the area, away from the type of disturbance that would be created by an event venue on a nearby property.

Thirdly an event venue as proposed in close proximity to many homes/properties in the area will have an absolute negative effect on property value.

The particular location of the property under proposal puts an excessively large number of individual properties at risk. More than is usual in rural ID, due to all the nearby residential developments in the area. Matlena Farms is closely surrounded on three sides by residential development.

It's a large valley and there are better places for another event venue if the valley needs one.

We are obviously newcomers to the area and Idaho but would anticipate the Planning and Zoning Commission to give more weight and decision making power to the rights of the multitude of neighboring home/property owners than the rights of a single landowner to ruin the local environment of a residential community.

We will be incredibly disheartened if the Planning and Zoning Commission were to grant this proposal.

However if the proposal were to pass we would ask for serious consideration of the following:

- 1: Lower limit to maximum number of guests to 75 (150 is excessive)
- 2: Earlier limit to end of the event (11pm is extremely late)
- 3: Exclude events from all Sundays
- 4: Set specific limit to duration of events that include music
- 5: Limit all music/loud speakers to be indoors only
- 6: Limit noise level on site to specific db level with strict enforcement and repercussion for violation
- 7: Mandatory installation of natural sound barriers around perimeter of the property site where music/loud noise may occur

8: Limit number of events to one every 2 weeks maximum

Thank you for your kind consideration  
We are looking forward to joining the community

Dr Michael and Dara Pfister  
West Linn OR

**\*\*We would appreciate an email confirmation of receipt. Thank you very much!!**

## Matlena Farms Event Venue

Geoff Crane <geoff@giffinandcrane.com>

Wed 7/1/2020 3:33 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

Cc: Kim Crane <kimc1375@gmail.com>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cynda Herrick,

As homeowners located in the Willows subdivision just to the south of the proposed Matlena Farms Event venue and also land owners in Jug Mountain Ranch with a lot located to the southwest we are writing to express our opposition to the approval of a commercial wedding venue in our residential area.

We completed our home in 2010 and have enjoyed the peace and solitude that comes from owning property in this part of McCall. A venue like Matlena Farms with events occurring one or more times per week will seriously degrade the beauty and quality of life for us and our neighbors. I would also like to add that we do have experience with living in close proximity to a VRBO and have learned the hard way that there is no way to control paying guests regardless of the rules in place. The attitude is that they paid and they can do what they want.

We would like to point out that there are several mistakes within the application filled out by Terri Martin. In the application it asks for information regarding the adjacent properties which are as follows:

North - she filled this out correctly "Jug Mountain Ranch - Homes and Golf Course/Club

South - she states "Ranches". This is incorrect as our home is the first one due south of the proposed venue with a total of 5 homes located in close proximity to the venue. In addition there are a total of 9 new home sites including ours at lot #7 and our neighbors at lot #2 located in this part of the Willows Subdivision.

East - she states "Ranches". This is incorrect as there are several homes in close proximity to the east, not to mention all of the homes located on the ridge and within Jug Handle Estates.

West - she states "Homes (one)". This incorrect as there are 2 homes within the Willows Subdivision, lots #22 and #19 with a total of 14 home sites directly to the west and southwest. Also to the west in very close proximity are many homes located within Jug Mountain Ranch.

Parking spaces proposed - she states "60-75" how is this managed and what if there are more cars?

Event closes at 11:00pm? We have never heard of an outdoor event lasting past 10:00pm and in our experience as mentioned above, there is no way to really enforce that time without one of us or one of our neighbors getting involved.



The application asks: Does any portion of this parcel have slopes in excess of 15% - she states "No" which is incorrect as the west side of the property falls off into the creek running through the Willows.

The application asks: Are there wetlands located on any portion of the property - she states "No" which is most likely incorrect as the creek runs across the property as stated above.

Other concerns that we have are as follows:

- Increased traffic
- Lighting
- Music...on the application she states that the music will be inside the barn. On another part of the application she states that music will be inside and occasionally outside.
- Fire is always a concern for all of us. Grass fires can spread and grow very quickly and I do not see anything mentioned regarding fire prevention protocols.

As stated above we are opposed to this venue and have no interest in becoming the local police and putting ourselves in potentially confrontational situations. This is our sanctuary and the thought of losing it for someone's own profit is very disturbing.

Sincerely,  
Geoff and Kim Crane  
13759 Grouse Knoll Place  
McCall, ID 83638  
805 331-6060

## Ashton Lane Wedding Venue

KATHLEEN POSTON <katposton@me.com>

Wed 7/1/2020 3:11 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cinda,

I have three lots in Jug Mountain Ranch and will someday build there. I am nervous about a wedding venue so close to these properties.

The land of the proposed venue is beautiful and a nice quiet wedding venue may be nice but please consider the following:

#1 - A shorter time of operation. Close down the music between 9:30 or 10:00, not 11:00. This is more consistent with people's bedtimes.

#2 - Keep the decibel levels of music lower than what would disturb neighbors of this property.

Please be very conscientious of neighbors and people who live near this commercial venue especially when the country side of peace and quiet is what brought people to this area.

Sincerely,  
Kathy Poston

## CUP 20-11, Matlena Farms event venue

Robert Looper <bob@brundage.com>

Wed 7/1/2020 2:47 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

Cc: kitty@spellc.com <kitty@spellc.com>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cynda,

I own 20 acres of property at the end of Finn Church Road and have significant concerns regarding this proposal. I would first question the need for another event center in Valley County, especially one located adjacent to Jug Mountain Ranch, which already hosts multiple events throughout the year. The JMR event venue is part of a planned community development providing the necessary access, lighting, parking, potable water, power, sewer and permitted food, beverage and alcohol operation. The proposal at hand is lacking in many of these details and does not contain the necessary infrastructure to host large events. Specific concerns that should be addressed;

1. Will the venue have night lighting, if so what kind and at what location? Will the light comply with the dark sky guidelines?
2. Is there potable water on site? A well on site does not constitute a municipal water source that can be used for public events.
3. What are the plans for a food and beverage operation? Does the site plan to serve alcohol?
4. I believe 11pm as a time for shut down would be late for the noise and light that may be generated by large groups. This time should be set at 10pm.
5. How large a group will they be permitted for? An event center for 50 people is a big difference than an event center for 200 or more. Some level would trigger a required traffic study into the Ashton Residential Street.
6. If they have large events, what type of events are they looking to draw? The detail here is really lacking. They suggest the type of events "to include weddings", it does not specify what it will not include. Will this be a concert venue? If so, where will the stage be set and what noise levels will be allowed? Will the stage and speakers be pointed south down the valley to my property?
7. The number of events should be limited. I am not sure what feasible option for winter facilities they are providing but would find it hard to believe there is a market for winter events in this location.
8. Will the site require additional access for an "entry" and an "exit" ?

This area south of JMR is generally a mix of residential, small farms, and open land used predominantly for cattle grazing. I own 20 acres which is at the end of Finn Church Road, a rural gravel road providing access to residential properties and small farms. The area is very quiet, is habitat to extensive wildlife, and the stars are bright because there is minimal night sky light pollution. I am opposed to seeing this type of mix in the development plan for this specific area of Valley County.

Thank you for the opportunity to comment.

Robert & Kitty Looper  
208-870-5371

**C.U.P 20-11 Marlene Farms Even Venue**

Llona Ney Clausen <llonaneyclausen@gmail.com>

Wed 7/1/2020 1:48 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Herrick.

I am writing about the proposed event venue at the old farmstead to the east of our home. I am, of course, against the idea because of the noise, lights, traffic, and possible public disturbances on Ashton.

It looks like the farmstead was subdivided and the Martin's purchase the parcel that had the homestead and barn. The other lots are all in an LLC but are still zoned under grazing. The property the Martin's own is now Rural Residential.

What I want to know is what are the uses that are allowed under the Rural Residential zoning? Are there any ordinances that I should be aware of that would apply to this C.U.P.? Since it is not advisable to come to a meeting, what method would you prefer for people to put in comments or concerns? Would you prefer email, letters in the mail, or some other form of communication?

I know from experience that just because I feel this is wrong, it only is wrong if there are legal reasons that the permit should not be issued. I know you have a lot of expertise in these issues so I appreciate your insight.

Sincerely  
Llona Ney Clausen  
P O Box 2230  
McCall, ID 83638

(physical address is 419. Wilhelm Creek Court)

--

Llona Ney Clausen  
P O Box 2230 McCall, ID 83638  
208-271-6427



Date: June 30, 2020

To: Valley County Planning and Zoning Commission

From: Mark Mason, land owner near subject proposal

Subject: C. U. P. 20-11, Matlena Farms Event Venue

To the Commissioners:

Thank you for the opportunity to comment on this proposed Event Venue on Ashton Lane near my property. I have lived in Valley County most of my life and intend to live here for the rest of it.

I offer the following.

1. I do not believe the covenants for this subdivision allow for any commercial business operations.
2. I am concerned about the noise that will accompany any events at this location, including but not limited to, music, alcohol fired attendees, and potential fireworks.
3. I am very concerned about the fire danger associated with potential fireworks, the proposed parking on grass areas, any outdoor or in-barn cooking, and the response time of the local fire department, capable as they are.
4. I am also concerned that there will be no enforcement of the proposed 11:00 p.m. shut-down time, which is already much too late in my opinion.

The subject property is only about 500 yards across an open level field from my house. I and my neighbors moved out here in part for the quiet and darkness of the night sky. This proposed development will very definitely affect both negatively. I would hope that the covenants and zoning upon which these rural subdivisions and parcels were originally approved still mean something to Planning and Zoning.

Thank you for your time.

## Commenting on CUP 20-11, Matlena Farms Event Venue

Melissa at CANYONS River Company <melissarood@canyonsinc.com>

Mon 6/29/2020 5:02 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Cynda;

Please accept this as my written comment regarding the C.U.P. 20-11, Matlena Farms Event Venue, at 239 Ashton Lane, Ashton Ridge Ranch Subdivision, Lot 6, Valley County.

My house sits directly east of this property, and faces it square on. There are no houses or any type of structures or developments in between this property and mine to act as any type of sound or visual barrier. My concern, therefore, is that the noise level (on what could potentially be a weekly basis) would travel directly toward my house, and that it would be intrusive and inconsistent with what is now a rural, quiet area outside of town. Had I wanted to live next to an event venue with music, DJ's, emcees, etc., I would have chosen to live in town, where that might be expected.

I also feel 11 pm is too late, as most quiet hours begin earlier (10 pm at the latest).

And what defines an "event"? What if the property owners decided to hold a snowmobile rally or race event in the winter, and dozens or (god forbid) hundreds of snowmobilers were zipping around that property? The noise level and pollution would be unbearable and unacceptable in this neighborhood, to both property owners and the abundant wildlife in this area.

I am formally opposing this application, and hope that the committee will agree.

Thank you,

Melissa & Marty Rood  
PO Box 46  
12 Woodpecker Place  
McCall, ID 83638  
(208)315-2979

**Melissa Rood**

Canyons River Company  
Idaho's Middle Fork & Main Salmon River Vacations  
(208) 634-4303 | [canyonsinc.com](http://canyonsinc.com)

**event centers****AMY PEMBERTON** <amy@mpmplaw.com>

Tue 6/30/2020 11:00 AM

To: Cynda Herrick &lt;cherrick@co.valley.id.us&gt;

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Cynda,

I'm writing a letter regarding the application for CUP 20-11 for the Matlena Farms. I know they are nice people, and I am planning to call Terri shortly. But I am opposed to this application.

I have two questions for you:

1. How does the county categorize an event center? Is it considered commercial under the LUDO?
2. Can we participate in the P&Z hearing telephonically or via zoom?

Thank you and have a good day,

Amy

Amy Pemberton

Millemann Pemberton &amp; Holm LLP

P.O. Box 1066 (Mailing Address)

706 N. 1st Street (Physical Address)

McCall, ID 83638

Tel: 208-634-7641

Fax: 208-634-4516

Email: [amy@mpmplaw.com](mailto:amy@mpmplaw.com)Other MPH Emails:Steven J. Millemann: [sjm@mpmplaw.com](mailto:sjm@mpmplaw.com)Amy K. Holm: [aholm@mpmplaw.com](mailto:aholm@mpmplaw.com)Jeanne Baughman: [jbaughman@mpmplaw.com](mailto:jbaughman@mpmplaw.com)Heather Potts: [heather@mpmplaw.com](mailto:heather@mpmplaw.com)Courtney Nimmo: [courtney@mpmplaw.com](mailto:courtney@mpmplaw.com)

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## 239 Ashton Lane Event request

WALTER <gammillfam@msn.com>

Tue 6/30/2020 3:39 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Request by Terri Martin to establish an event venue at 239 Ashton Lane.

We own property on Silver Fox Lane, and look directly at the property in question, at a distance of perhaps half a mile.

We object to this plan for the following reasons:

1. This is a rural area of summer homes, interspersed with many full time residents.
2. Occupants of those homes value the peace and quiet and pastoral nature of the area.
3. That peace and quiet and openness is integral to our enjoyment of our properties in this area.
4. An event center of this type is not in keeping with those qualities.
5. During an event, the associated sounds would certainly be heard and intrude on the neighborhood, lessening enjoyment of our properties.
6. Beyond the noise, it is likely the visual disruption would go on for days, assuming tents and other temporary structures are not left in place. There would likely be a day or two before and after each event devoted to setup and takedown of these structures. This would be all the more intrusive if these structures were left in place between events.

Please deny this request. It is not in keeping with the character of the area, and should not be allowed.

Walt Gammill  
11 Silver Fox Trail

## Matlena Farm Event Venue

Ann Link <alink792@gmail.com>

Tue 6/30/2020 5:27 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Cynda Herrick:

I just learned of the proposed Matlena Farm Event Venue at 239 Ashton Lane. It will go before the Valley County Planning and Zoning Commission on July 9.

My husband and I live in Jug Mountain Ranch at 428 Wilhelm Creek Court, McCall. Our residence is just west of the proposed Matlena Farm Event Venue. We chose to build at Jug Mountain Ranch because of the quiet rural location as did the many other residents of Jug Mountain. We can hear music from Roseberry when they are having concerts. A wedding and event venue so close to many neighbors is not consistent with rural living. We live here because we want to enjoy the peace and quiet of Valley County, not wedding revelers partying late and driving down Ashton after drinking alcohol. Not only will this be a public nuisance but also a public danger. I urge Valley County Planning and Zoning Commission not to approve the Matlena Farm Event Venue.

Ann Link



## Matlena Farms Event Venue Proposal

Rich McChrystal <richmcchrystal@gmail.com>

Tue 6/30/2020 4:42 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mrs Herrick,

I am writing this as a joined email in response to the proposed event center at 739 Asthon Lane in Lakefork. The proposed venue site is in a residential neighborhood and does not appear to represent the best interest of the community members and residents. A repeated gathering of up to 150 people on a weekly basis would be change the entire feel of tranquility enjoyed by the surrounding neighbors. Valley county has a limited amount of open space and the majority of the surrounding home sites are acreages. The current home owners have bought and developed in the area because of the open space and peace. Increased traffic, noise pollution congestion that would arise from these weekly disruptions certainly outweigh any potential economic effect on the community not to mention the deleterious effect that it would have on the surrounding property value and the tax revenue that comes directly from that.

From a public health stand point, any venue over 50 people substantially increases the risk of transmission of infectious diseases whether it be Covid 19 or some other infectious disease. We as a community do not need a further influx of people as the infrastructure of McCall is already at its bursting point including the strain on the healthcare system that we see as the tourist descend on our small community. As a long term full time residents of valley county my wife and I don't see a need for a large event venue and are opposed to this development.

Sincerely

Richard McChrystal PA-C

Pamela McChrystal

Sent from Mail for Windows 10

**C.U.P 20-11 Matlena Farms Event Venue****Karrie Raine-Falkowski <k.raine.f@gmail.com>**

Tue 6/30/2020 4:19 PM

To: Cynda Herrick &lt;cherrick@co.valley.id.us&gt;

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cynda,

The Matlena Farms Event Venue does not seem logical for this to be a serious proposal. It is not good, it is not fair and it is not just.

This is in the middle of a residential area. There are many families and homes that this would impact from a noise and privacy standpoint. Many of us are regular residents and most have purchased in this area, away from McCall, for the serenity, and natural habitat - including the flora and the fauna. These homes were purchased with saved, hard-earned money, and by Idahoans looking for a place to "get away" from the big town, big city hussle and bussle, and noise levels. This would not be good, fair or just for those of us who purchased homes here with these stated expectations.

This area was zoned as a farm; the barn was meant to be a barn for farming purposes; the land to be farmed or grazed for farming purposes. It sounds very creative to turn it into an event venue but it is the wrong location for many reasons. It would not be good, or fair or just to make it anything other than what everyone understood it to be when they purchased in this area.

If this illogical venue is allowed to go through, does it mean that more large commercial businesses can be opened anywhere anyone desires, regardless of the original purpose of the land? Can we easily override zoning areas without a care for legal intent? Should we move forward to prove we don't care if any of this is good, fair and just for the residents in this area of Valley County?

This land is where the deer and the antelope play, and the people quietly watch respectfully.

We object to this proposal and will object to it at the hearing on July 9, 2020.

Karrie and Andrew Falkowski

**Fwd: Matlena Farms Event Venue**

John Link &lt;jlink792@gmail.com&gt;

Tue 6/30/2020 4:10 PM

To: Cynda Herrick &lt;cherrick@co.valley.id.us&gt;

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPad

Begin forwarded message:

**From:** John Link <jlink792@gmail.com>  
**Date:** June 30, 2020 at 1:34:12 PM MDT  
**To:** cherrick@co.valley  
**Cc:** Ann Link <alink792@gmail.com>  
**Subject:** Matlena Farms Event Venue

Dear Cynda,

My name is John Link. My wife, Ann, and I live on Wilhelm Creek Court in Jug Mountain Ranch. We just learned this morning of the proposed Matlena Farms Event Venue planned at 239 Ashton Lane. This is in close proximity to our neighborhood. I have some questions and comments I wanted to share with you. We do not regularly read the Public Notices in the Star News but we reviewed those this morning. I see that comments must be received seven days prior to the public hearing on July 9. Other than the published public notices, is it required that property owners in the area be notified prior to the public notices being published? Possibly, we do not live close enough to be notified but we will certainly be impacted as will the whole area. We have not received any notifications. I see that this venue will be located on Lot 6 in the Ashton Ridge Subdivision. Does the subdivision allow commercial enterprises in their bylaws? I also see the roads are listed as urban/rural. Does this venue comply with the Valley County zoning ordinances in a rural area? The Public Notice in the Star News says the events planned would include weddings. What other types of events could be held at the site? How many people would be attending these events? Since this a rural subdivision comprised of single family homes, the possibility of excessive noise and traffic is not compatible with the area. Are there plans in place for fire suppression in case of fireworks, fire pits, bond fires, etc? Thank you for your time.

Sincerely,  
John

Sent from my iPad

## Matlena Farms Event Venue

Mark Morgan <markmorg1@msn.com>

Tue 6/30/2020 4:05 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cynda, as a resident of Jug Mountain Ranch, I am **opposed** to the planned event venue. The additional traffic, noise (events until 11:00pm - JMR shuts all events down at 10:00pm),, outhouses and general commercialization that a 'weekly' event venue proposes, would be detrimental to the quality that we have worked hard to build at JMR.

Thank you.

Mark Morgan  
306 Otter Pond Ct.  
McCall, ID 83638

425-922-4098

## Matlena Farms Event Venue

Jim Evans <jim@strategicforge.com>

Tue 6/30/2020 4:04 PM

To: Cynda Herrick <cherrick@co.valley.id.us>

Cc: Maureen Ann Breakiron-Evans <maureen@strategicforge.com>

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Dear Cynda,

My name is Jim Evans. My wife, Maureen Breakiron-Evans (copied) and I live on Wilhelm Creek Court in Jug Mountain Ranch. We just learned this morning of the proposed Matlena Farms Event Venue planned at 239 Ashton Lane, in close proximity to our neighborhood.

A few comments and concerns.

1. We never received the Public Notice of this P&Z Review Mtg even though we live less than 800 yards from the proposed event location. We were informed this morning by a neighbor who saw the posting driving by the property.
2. As a result, I drove around the corner to see the property for myself. The property is roughly 10 acres in size and is bordered on my side by single family home lots (Ashton Ridge Ranch), most waiting to be purchased and built upon. There are a few homes already present and occupied. A party event like a wedding/reception of 150 people once a week will wreak havoc with current and future immediate neighbors. While we are located in the next group of homes away, we are sure to hear loud music and partying, not to mention the heavy traffic on the farm roads that lead to our homes.
3. While I'm a supporter of small business including short term rental properties accommodating less than 20 Guests, this particular large, noisy, bright party event business is not compatible with our quiet, rural neighborhood. I'm a supporter of the business concept, but IMO, it needs to be located on a parcel in excess of 500 acres with no neighbors within a mile.

Sincerely,

Jim



**C.U.P. 20-11 Matlena Farms Event Venue**

Dave N <dnagelma@msn.com>

Wed 7/1/2020 9:12 AM

To: Cynda Herrick <cherrick@co.valley.id.us>

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cynda Herrick,

As a homeowner in Valley County and a Board member of an HOA, I do not believe this event venue should be allow in private subdivisions. This is establishing a precedence is valley county that goes against the established homeowners that bought for quiet and privacy. Why should everyone in the subdivision suffer because someone want to profit from their home investment by establishing a commercial business.

In addition, there is a nice facility not a mile away (Jug Mountain Golf Course) that offers event venues like weddings etc.

Sincerely,

David Nagelmann  
1709 Pine Circle  
McCall, Id 83638  
Ph. 208-870-0560

**Alan Pearson Barn**

wayne solomon <wsolo1@gmail.com>

Wed 7/1/2020 9:11 AM

To: Cynda Herrick <cherrick@co.valley.id.us>

Cc: AMY PEMBERTON <amy@mpmplaw.com>; Janet Reis <janetreis@boisestate.edu>

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Hi Cynda,

I doubt that Alan Pearson's Old Barn is in any condition for commercial operation. In fact, it could be dangerous. Last I heard there was \$100K of deferred maintenance due. Commercial Wedding parties usually involve food, liquor etc. sales. Are the appropriate inspection results and approvals available? Unless there is some new statement about commercial zoning being established in our residential area, I don't think that approval should be forthcoming.

Wayne Solomon  
15 Flicker Rd  
Jughandle Estates

Sent from Mail for Windows 10

## Mantlena Farms Event Venue

wendy harris <glenis420@hotmail.com>

Wed 7/1/2020 9:44 AM

To: Cynda Herrick <cherrick@co.valley.id.us>

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To Valley County Planning and Zoning Commission

From Dale and Wendy Harris

Regarding the event venue proposal near our home, we would like to share some of our concerns. We feel this commercial endeavor doesn't fit our rather rural single homes residential area. We live within about a third of a mile of the proposed venue and back up to Ashton Lane. We are concerned about increased traffic, increased noise, possible lack of enforcement of the rules stated in the application. Will events only occur once per week? Will the event end at 11 PM? How will this be enforced? We live in a quiet residential area and these are some of our concerns. And I believe there will be new concerns that we have not yet foreseen.

We also feel that our neighborhood did not receive much of a detailed notice of this proposal. We learned of it through a neighbor who lives south of Ashton Lane only yesterday.

Thank you for considering our concerns.

Sincerely

Dale and Wendy Harris

Sent from my iPad