

DEPT. OF LANDS

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BOISE, IDAHO

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#23253.0

Attorneys for Sharlie-Grouse Neighborhood Association, Inc.

**BEFORE THE STATE BOARD OF LAND COMMISSIONERS**

SHARLIE-GROUSE NEIGHBORHOOD )  
ASSOCIATION, INC., )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
IDAHO STATE BOARD OF LAND )  
COMMISSIONERS, )  
 )  
Respondent, )  
and )  
 )  
PAYETTE LAKES COTTAGE SITES )  
OWNERS ASSOCIATION, INC., and )  
WAGON WHEEL BAY DOCK )  
ASSOCIATION, INC., )  
 )  
Intervenors/Respondents. )

**DECLARATION OF ZEPHANIAH JOHNSON**

ZEPHANIAH JOHNSON, under penalty of perjury, hereby declares and states as follows:

1. My wife and I own the property at 2390 Sharlie Lane in McCall, Idaho. Our property is immediately adjacent to what is commonly called Community Beach within the enclave of residences surrounding Community Beach known as the Sharlie-Grouse Neighborhood on Payette Lake. We purchased the foregoing property in 2011. Community Beach was an important consideration in our purchase of the property because being next to a public park area such as this increases the value of adjacent properties.

2. After our purchase, we tracked with interest the Idaho Board of Land Commissioners' and Idaho Department of Lands' actions relative to the re-platting of lots around Payette Lake.

3. In 2013, we learned that the State intended to convey the common areas and road it owned to third party entities that could manage such common areas. We joined with other neighbors in the enclave to form the Sharlie-Grouse Neighborhood Association ("SGNA"). For illustrative purposes, attached hereto as **Exhibit A** is a map of the Sharlie-Grouse Neighborhood, which identifies the members of SGNA. The map reflects ownership as of the date it was prepared, but some members have changed. There are now 14 families who are members of SGNA who own 18 parcels comprising the enclave.

4. The primary reason for the formation of SGNA was to pursue ownership of Community Beach, and the right and ability to preserve it in its natural state. SGNA has no objection to community use or public use of Community Beach. Indeed, if SGNA acquires Community Beach, it would be open to establishing a conservation easement or other measures to protect this open space for enjoyment by future generations.

5. During the re-plat process, SGNA contacted the State to propose taking title to the lands within the Sharlie-Grouse Neighborhood. Notwithstanding offers to convey the beach to adjacent associations of homeowners, the State denied SGNA's proposal to take ownership of Community Beach.

6. Thereafter, we understand from tracking the State's re-plat process, that a new larger homeowners association was formed, the Payette Lake Cottage Site Owners Association ("PLCSOA"), which association consists of six subdivisions. The Sharlie-Grouse Neighborhood is the most geographically isolated. Attached hereto as **Exhibit B** is a true and correct copy of an illustrative map reflecting the Sharlie-Grouse Neighborhood's location relative to the remainder of the PLCSOA. I created the graphic with Bluebeam Revu software. The neighborhood map on the left was pulled from the PLCSOA website, and the plat line work was overlaid with a Google Maps satellite image of the Sharlie-Grouse Neighborhood. The dock that has been installed at Community Beach was then drawn to scale. As Exhibit B reflects, the Sharlie-Grouse Neighborhood is grouped within the northernmost subdivision, the Wagon Wheel Bay Neighborhood, and is isolated from the remaining waterfront neighborhoods, including the Wagon Wheel Bay Neighborhood, by Wagon Wheel Bay. It is the only neighborhood without direct connectivity to the remaining PLCSOA lakefront; with the exception of SGNA lakefront, which is accessed from Warren Wagon Road at Sharlie Lane, the entirety of the PLCSOA lakefront can be accessed on a single byway off Warren Wagon Road. The propriety of SGNA land being arbitrarily grouped within PLCSOA is questionable geographically and appeared to result from the Land Board inserting itself into local neighborhood politics. The State ultimately conveyed Community Beach to PLCSOA, resulting in a political control over SGNA common areas that was ultimately unaccountable to residents of our small and isolated enclave.

7. I am not aware that the Board or the Idaho Department of Lands held an auction to dispose of Community Beach, or otherwise appraised the value of Community Beach, before it ultimately deeded its interest in such property to PLCSOA. I am not aware, and the State has not identified, that it received any consideration from PLCSOA or anyone else in exchange for the transaction.

8. In recognition of our understanding that Community Beach had been among lands held in trust for the benefit of the State Hospital South in Blackfoot, Idaho, I contacted the hospital director to determine whether the hospital was aware that lands intended for its benefit had been disposed of without auction, and possibly for no consideration. He indicated he was not aware of that, but that based on practical concerns, including the protection of other funding sources and the need to avoid offending donors, legislators and public officials, he did not expect the hospital would involve itself in addressing a controversial issue such as that.

9. The present owner of Community Beach, the Payette Lake Cottage Site Owners Association (“PLCSOA”) recently leased the littoral rights at the beach to a separate private organization called the Wagon Wheel Bay Dock Association (“WWBDA”). WWBDA, of which no person that lives in our enclave is a member, has installed an enormous dock, stretching across 100 feet of lake frontage at Community Beach, which includes 8 slips, with tie-up accommodations for as many as 19 watercraft. There are 8 members of WWBDA, and each owns a property within the PLCSOA (which consists of approximately 225 properties). Two of them are PLCSOA board members. In other words, upon the State’s conveyance of Community Beach to the larger neighborhood association for little or no consideration and without auction, such association selected the most geographically isolated spot to allow a large dock. That large dock has been constructed so that a few PLCSOA members can enjoy this new, loud, bustling dock in the middle

of a formerly quiet neighborhood, while their own respective PLCSOA properties to the south retain their respective neighborhood's character.

10. The dock is uniquely large and out of character in comparison to other private docks in the neighborhood, which are simple straight "I" docks or unobtrusive "T" docks. The WWBDA dock is in a "T" shape, with the "T" stretching 100 feet parallel to the shoreline such that persons on the dock look directly into our home's living area and master bedroom. When standing on our property, approximately 1/3 of our view consists of the dock, boats and dock users. I previously enjoyed sitting on the beach on our property, and now avoid it. In the home, it feels like living in a fishbowl. The dock also even more substantially obstructs views from Community Beach, especially when watercraft are docked, and WWBDA has installed video cameras, adding an additional unwelcome invasion of privacy for public users.

11. The dock is regularly used by 30-40 people, and the sounds of partying, loud ATV traffic, cars, and motorized watercraft have replaced the relative tranquility that prevailed on Community Beach. Several ATVs and often vehicles park at Community Beach, and on almost any given summer weekend since the dock's installation, there is more loud ATV traffic to and from Community Beach than was experienced in the entirety of the summer of 2017. Critically, since our home is directly adjacent to Community Beach, the noise from the dock is invasive—both the traffic and use by members and their guests during the day, and the watercraft and large dock's loud squeaks and other sounds in response to waves (in the summertime, when the windows are open at night, this is particularly impactful when trying to sleep).

12. Community Beach is no longer utilized as a community beach or common area. Although ostensibly still available for public use, the beach is now engulfed by a dock. WWBDA's dock is akin to a private or commercial marina in the middle of a quiet neighborhood, complete

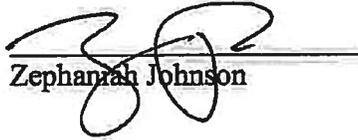
with video surveillance. It is not welcoming for those wishing to quietly enjoy views sitting on the beach due to the dock's size, nor for swimmers, fisherman and other non-motorized recreationists, due the traffic of motorized watercraft.

13. As previously noted, the dock is directly adjacent to our property. It has not only impacted our quality of life, as described above, but the transformation from a quiet beachside park to a staging ground and parking lot for a large dock has impacted the value of our property. As a property owner in McCall, I have maintained a working knowledge of sales of lake front lots in the neighborhood of our property. I have also retained a property valuation expert, Mark Richey, MAI, to evaluate value impacts to my property, and based on my knowledge of my own property and review of sales, I believe his conclusion is accurate.

14. If SGNA had been afforded the opportunity to bid at an auction of Community Beach, it would have participated. In view of the financial resources available to SGNA through its membership, SGNA would have raised, and can still raise, substantial funds to participate in an auction. Hypothetically, even if SGNA did not exist or did not wish to participate, if I had personally been afforded the opportunity to bid at an auction of Community Beach, I would have participated.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 12 day of April 2019.

  
Zephaniah Johnson

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15 day of April 2019, I caused a true and correct copy of the above to be served upon the following individuals in the manner indicated below:

Angela Schaer Kaufmann  
Joy M. Vega  
Idaho Department of Lands  
P.O. Box 83720  
Boise, ID 83720

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*COURTESY COPY TO:*

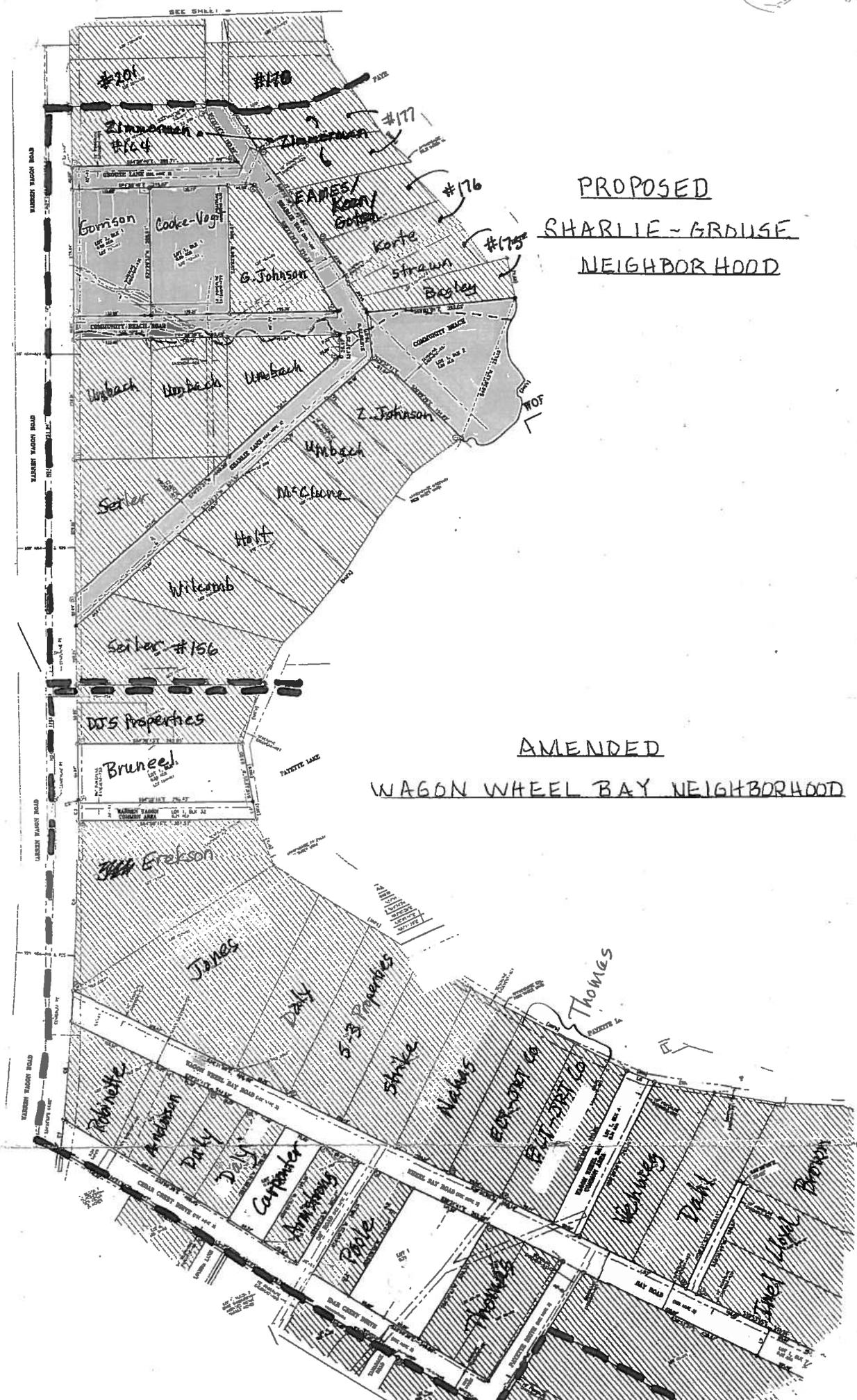
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Matthew J. McGee

# EXHIBIT A



PROPOSED  
SHARLIE - GROUSE  
NEIGHBORHOOD

AMENDED  
WAGON WHEEL BAY NEIGHBORHOOD

# EXHIBIT B

# SHARLIE-GROUSE NEIGHBORHOOD

