



**City of Ketchum
Planning & Building**

IN RE:)
)
1st and 4th Mixed Use) KETCHUM CITY COUNCIL
Final Plat) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: July 5, 2022) DECISION
)
File Number: P22-016B)

PROJECT: 1st and 4th Mixed Use

APPLICATION TYPE: Final Plat

FILE NUMBER: P22-016B

ASSOCIATED APPLICATIONS: Second Amendment of Development Agreement (P22-016)
Condominium Preliminary Plat (P22-016A)
First Amendment of Development Agreement (P20-122)
Design Review (P19-038)
Variance (P19-040)
Development Agreement #20427 (P19-037)
Petition for Alley Vacation (P19-036)
Preliminary Plat for Removal of Lot Lines (P19-039)

REPRESENTATIVE: Dave Patrie, Benchmark Associates

OWNER: Waypoint Pearl, LLC – Jack E. Bariteau

LOCATION: 391 First Ave North and 120 W 4th Street – Lot 1B, Block 57, Ketchum Townsite

ZONING: Community Core – Subdistrict 2 – Mixed Use (CC-2)

OVERLAY: None

RECORD OF PROCEEDINGS

The City of Ketchum received applications for a Development Agreement Amendment, Condominium Preliminary Plat, and Final Plat for the 1st and 4th Mixed Use project, located at 391 First Ave North, on March 16th, April 6th and April 7th of 2022 respectively. The applications have been reviewed concurrently and were deemed complete on April 18, 2022. Department comments were provided to the applicant on April 18, 2022. All department comments have been addressed satisfactorily through applicant revision of project plans or conditions of approval.

The Ketchum City Council (the “Council”) considered the 1st and 4th Mixed Use development agreement amendment (Application No. P22-016) and the Final Plat (Application No. P22-016B) applications during a regular meeting on June 14, 2022. A public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivisions on May 25, 2022. The public hearing notice was published in the Idaho Mountain Express the on May 25, 2022. A notice was posted on the project site and on the city’s website on May 25, 2022.

The applications were considered by the concurrently, and the associated public hearings were combined in accordance with Idaho Code §67-6522. After considering staff’s analysis, the applicant’s presentation, and public comment, the Council approved of the development agreement amendment and condominium preliminary plat applications unanimously.

BACKGROUND

The Applicant is constructing a new mixed-use building at 391 First Ave N and 120 W 4th Street (the “subject property”). The building includes an underground parking garage, 12 employee housing units, 3 community housing units, 7 market rate residential units, and approximately 6,900 square feet of ground floor commercial space (the “project”). The project includes 31 underground parking spaces, seven dedicated to the commercial uses, and nine dedicated to residential units that require parking. The remaining 15 spaces will be made available to the tenants of the employee housing and community housing units dependent on need and availability. The employee housing and community housing units are exempt from parking requirements.

The project received Design Review approval from the Commission on June 6, 2019. Following Design Review approval, the Development Agreement (#20427) was approved by the City Council on December 16, 2019. An amendment to the Development Agreement was approved on January 19, 2021 amending various deadlines within the agreement including building permit issuance, receipt of certificate of occupancy, and others. A building permit was issued for the project on April 19, 2021.

FINDINGS OF FACT

The Council, having reviewed the entire project record, provided notice, and conducted the required public hearing, does hereby make and set forth these Findings of Fact, Conclusions of Law, and Decision as follows:

CONFORMANCE WITH APPROVED PRELIMINARY PLAT

The subdivision preliminary plat was approved by the Ketchum City Council on December 16, 2019 with five conditions of approval. Below is an overview of the conditions and how the project is in conformance with each:

Condition #1: Related to the removal of the Ketchum Springs Water Line and new services to adjacent property owners prior to recording of the final plat.

- The 1st and 4th development project has completed the removal of the Ketchum Springs Water Line and service to all adjacent property owners have been completed as of the date of this report.

Condition #2: Related to the dedication of public utilities, maintenance responsibilities for the pedestrian/non-vehicular easement, allowance for installation of public amenities.

- Plat note 1 on the final plat identify the pedestrian/non-vehicular easement and allowance for public amenities to be placed within said easement. Plat note 4 references the right-of-way encroachment and maintenance agreement which references ongoing maintenance responsibilities and requirements for snowmelt, lighting, and signage.

Condition #3: Regarding the alley maintenance agreement for the entire alley within Block 57.

- Plat note 4 references an encroachment agreement recorded at instrument number #675091 which stipulates ongoing maintenance requirements for the full extent of the alley on Block 57.

Condition #4: Regarding building restrictions within the vacated alleyway.

- Plat note 2 stipulates no building shall encroach into the vacated alley.

Condition #5: Regarding the recordation of the development agreement.

- Plat note 3 notates Development Agreement #20427 and the First Amendment of Development Agreement #20427 with associated recording instrument numbers.

COMPLIANCE WITH FINAL PLAT SUBDIVISION REQUIREMENTS

Final Plat Requirements					
Compliant			City Code	City Standards	
Yes	No	N/A			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.1	Point of beginning of subdivision description tied to at least two governmental survey corners, or in lieu of government survey corners, to monuments recognized by the City Engineer.	
			<i>Findings</i>	The City Engineer verified that the final plat includes this element, as shown on Sheet 1 of the Final Plat.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.2	Location and description of monuments.	
			<i>Findings</i>	The City Engineer verified that the final plat includes this element, as shown on Sheet 1 of the Final Plat.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.3	Tract boundary lines, property lines, lot lines, street right-of-way lines and centerlines, other rights-of-way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway and avalanche district, all with bearings, accurate dimensions in feet and decimals, in degrees and minutes and radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.	
			<i>Findings</i>	As shown on Sheet 1, all elements of the preliminary plat are included on the final plat. The property is not within the floodplain, floodway, or avalanche districts. All other bearings and dimensions have been reviewed by the City Engineer for accuracy.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.4	Names and locations of all adjoining subdivisions.	
			<i>Findings</i>	As shown on Sheet 1, the property is adjacent to multiple Ketchum Townsite lots.	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.5	Name and right-of-way width of each street and other public rights-of-way.	
			<i>Findings</i>	As shown on Sheet 1, rights-of-way and widths are shown for Second and First Avenues, and Third and Fourth Streets.	
			16.04.030.K.6	Location, dimension and purpose of all easements, public or private.	

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
			<i>Findings</i>	As shown on Sheet 1, all easements are outlined and dimensioned. The plat notates Easement A, a public utility, emergency access, public pedestrian access easement, and access easement for tenants and owners of Lot 1B, Lot 6A, and the City of Ketchum.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.7	The blocks numbered consecutively throughout each block.
			<i>Findings</i>	As shown on Sheet 1, there is only one block for the subdivision which is identified in the legal description.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.8	The outline of any property, other than a street, alley or easement, which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Ketchum for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated.
			<i>Findings</i>	The plat notates Easement A, a public utility, emergency access, public pedestrian access easement, and access easement for tenants and owners of Lot 1B, Lot 6A, and the City of Ketchum.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.9	The title, which shall include the name of the subdivision, the name of the City, if appropriate, county and state, and the location and description of the subdivision referenced to section, township, range.
			<i>Findings</i>	As shown on Sheet 1, the title of the final plat includes all required information.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.10	Scale, north arrow and date.
			<i>Findings</i>	The scale, north arrow, and date are included on Sheet 1 of the final plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.11	Location, width, and names of all existing or dedicated streets and other public ways within or adjacent to the proposed subdivision.
			<i>Findings</i>	All existing streets are notated. No additional streets are being created or dedicated. The plat also notates the alley, half of which remains city right-of-way.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.04.030.K.12	A plat note provision referencing the County Recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowners' association governing the subdivision are recorded.
			<i>Findings</i>	This standard is not applicable as this final plat does not create a condominium subdivision.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.13	Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat.
			<i>Findings</i>	Sheet 2 of the final plat includes a Surveyor Certificate and a Project Engineer Certificate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.14	A current title report of all property contained within the plat shall be provided to the City and used, in part, as the basis for the dedication of easements and encumbrances on the property.
			<i>Findings</i>	The title report, dated April 16, 2019, was used in the preparation of the final plat.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.15	Certification of owner(s) of record and all holders of security interest(s) of record with regard to such property.
			<i>Findings</i>	Sheet 1 of the final plat includes the current owner of record information.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.16	Certification and signature of engineer (surveyor) verifying that the subdivision and design standards meet all City requirements.
			<i>Findings</i>	Sheet 1 includes a Project Engineer Certificate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.17	Certification and signature of the City Engineer verifying that the subdivision and design standards meet all City requirements.
			<i>Findings</i>	Sheet 1 includes a City Engineer Certificate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.18	Certification and signature of the City Clerk of the City of Ketchum verifying that the subdivision has been approved by the council.
			<i>Findings</i>	Sheet 1 includes a City Clerk Certificate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.030.K.19	Notation of any additional restrictions imposed by the council on the development of such subdivision to provide for the public health, safety and welfare.
			<i>Findings</i>	The plat notes shown on Sheet 1 cover all requirements of the preliminary plat, any restrictive plat notes from the previous subdivision. Sheet 1 also includes the Health Certificate.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.B	Improvement Plans: Prior to approval of final plat by the commission, the subdivider shall file two (2) copies with the city engineer, and the city engineer shall approve construction plans for all improvements required in the proposed subdivision. Such plans shall be prepared by a civil engineer licensed in the state.
			<i>Findings</i>	All improvements were reviewed and approved at the time of building permit issuance and will be completed prior to certificate of occupancy per the provisions of Development Agreement #20427, as amended. No additional approvals are required at this time.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.C	Prior to final plat approval, the subdivider shall have previously constructed all required improvements and secured a certificate of completion from the city engineer. However, in cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the city council may accept, in lieu of any or all of the required improvements, a performance bond filed with the city clerk to ensure actual construction of the required improvements as submitted and approved. Such performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the city council (which shall be one year or less, depending upon the individual circumstances), the council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the city for additional costs. The amount that the cost of installing the required improvements exceeds the amount of the performance bond shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider.
			<i>Findings</i>	All improvements were reviewed and approved at the time of building permit issuance and will be completed prior to certificate of occupancy per the provisions of Development Agreement #20427, as amended. No additional approvals are required at this time.

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.D	As Built Drawing: Prior to acceptance by the city council of any improvements installed by the subdivider, two (2) sets of as built plans and specifications, certified by the subdivider's engineer, shall be filed with the city engineer. Within ten (10) days after completion of improvements and submission of as built drawings, the city engineer shall certify the completion of the improvements and the acceptance of the improvements, and shall submit a copy of such certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the city clerk. Thereafter, the city clerk shall release the performance bond upon application by the subdivider.
			<i>Findings</i>	All improvements were reviewed and approved at the time of building permit issuance and will be completed prior to certificate of occupancy per the provisions of Development Agreement #20427, as amended. No additional approvals are required at this time.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16.04.040.E	Monumentation: Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as follows: <ol style="list-style-type: none"> 1. All angle points in the exterior boundary of the plat. 2. All street intersections, points within and adjacent to the final plat. 3. All street corner lines ending at boundary line of final plat. 4. All angle points and points of curves on all streets. 5. The point of beginning of the subdivision plat description.
			<i>Findings</i>	Per Surveyor's Narrative note 1 on Sheet 1, all monuments have been found and placed per these requirements.

CONCLUSIONS OF LAW

1. The City of Ketchum is a municipal corporation established in accordance with Article XII of the Constitution of the State of Idaho and Title 50 Idaho Code and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified at Chapter 65 of Title 67 Idaho Code and pursuant to Chapters 3, 9 and 13 of Title 50 Idaho Code to enact the ordinances and regulations, which ordinances are codified in the Ketchum Municipal Code ("KMC") and are identified in the Findings of Fact and which are herein restated as Conclusions of Law by this reference and which City Ordinances govern the applicant's application for the development and use of the project site.
2. The Council has authority to hear the applicant's Final Plat Application pursuant to Ketchum Municipal Code Title 16.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §16.04.030.
4. The application is governed under Ketchum Municipal Code Chapter 16.04.
5. The Final Plat application meets all applicable standards specified in Title 16 of Ketchum Municipal Code.

DECISION

THEREFORE, the Council **approves** this Final Plat Application File No. P22-016B this Tuesday, July 5, 2022, subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. This Final Plat application is subject to all conditions of approval for Design Review approval P17-038 and all provisions of Development Agreement #20527, First Amendment to Development Agreement #20427, and Second Amendment to Development Agreement #20427.
2. Failure to record the Final Plat within one year of Council's approval of the Final Plat shall cause the Final Plat to be null and void.

Findings of Fact **adopted** this 5th day of July 2022.

Neil Bradshaw, Mayor
Ketchum City Council