



**City of Ketchum
Planning & Building**

IN RE:)
)
Sage Mountainside Townhomes) KETCHUM PLANNING AND ZONING COMMISSION
Conditional Use Permit) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
File Number: P22-070B) DECISION
)
Date: July 11, 2023)
)

PROJECT: Sage Mountainside Townhomes
APPLICATION TYPE: Conditional Use Permit
FILE NUMBER: P22-070B
ASSOCIATED APPLICATIONS: Mountain Overlay Design Review & Townhouse Preliminary Plat (File No. P22-070 & P22-070A)
PROPERTY OWNER: Sage Mountainside LLC
REPRESENTATIVE: Shilpa Sushil, Connect Homes (Architect)
LOCATION: 400 & 402 Sage Road (Living Springs Townhomes)
ZONING: General Residential – Low Density (GR-L) & Mountain Overlay (MO)

RECORD OF PROCEEDINGS

The Planning and Zoning Commission considered the Sage Mountainside Townhomes Conditional Use Permit Application File No. P22-070 during their meeting on May 9, 2023. The meeting was continued to June 27, 2023. The application was considered concurrently with Mountain Overlay Design Review & Townhouse Preliminary Plat Applications File No. P22-070 & P22-070A and the public hearings were combined in accordance with Idaho Code §67-6522.

Public Hearing Notice & Public Comment

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 April 19, 2023. The public hearing notice was published in the Idaho Mountain Express on April 19, 2023. A notice was posted on the project site and the city’s website on April 24, 2023. The story pole was installed on the project site on May 2, 2023.

FINDINGS OF FACT

The Planning and Zoning Commission 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:

The applicant is proposing to demolish an existing attached townhouse and construct two new detached modular townhomes (the “project”) located at 400 & 402 Sage Road (the “subject property”) within the General Residential – Low Density Zoning District (the “GR-L Zone”) and Mountain Overlay District (the “MOD”). The proposed townhomes are 4,820 square feet each and contain four bedrooms and a two-car garage. A conditional use permit is required for the project as an avalanche protective wall spanning the length of the two townhomes is proposed. A townhouse preliminary plat to vacate the existing Living Springs Townhomes subdivision and reestablish new townhouse sublots.

The Sage Road neighborhood is characterized by hazards associated with red and blue avalanche zones. Building in the Avalanche Zone must meet the standards and comply with certain restrictions specified in KMC 17.92.010. New construction in the Avalanche Zone must be certified by an engineer licensed in the State of Idaho certifying that the proposed construction, as designed, will withstand the avalanche forces specific to the development site (KMC 17.92.010.D.3). Avalanche structures or earthwork that threaten to deflect avalanches toward the property of others or otherwise threaten to increase the danger to persons or property are prohibited (17.92.010.D.2). Avalanche attenuation and protective structures require the review and approval of a Conditional Use Permit.

Conditional Use Permits for avalanche attenuation devices have been granted within the neighborhood. The applicant has submitted a site-specific avalanche study and avalanche wall plans designed by a structural engineer to withstand the anticipated forces. The wall is located perpendicular to the projected avalanche flow to not deflect avalanches onto adjacent properties or damage/endanger persons or property in the vicinity of the project.

402 SAGE ROAD CONDITIONAL USE PERMIT CRITERIA

Conditional Use Requirements				
EVALUATION STANDARDS: 17.116.030 and § 67-6512 of Idaho Code				
A conditional use permit shall be granted by the commission only if the applicant demonstrates the following:				
Compliance and Analysis				
Yes	No	N/A	City Code	City Standards and <i>Staff Comments</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(A)	<p>The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.</p> <p><i>Staff Comments</i> The proposed avalanche protective wall is not unreasonably incompatible with the types of uses permitted in the General Residential – Low Density (GR-L) District. Other developments along Sage Road include avalanche protective walls in order to withstand against project avalanche forces.</p>

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(B)	The conditional use will not materially endanger the health, safety and welfare of the community.
			<i>Staff Comments</i>	<i>Project plans for the avalanche protective wall include a site specific study prepared by Alpine Enterprises and a memo from Craig Maxwell, P.E. stating that the proposed avalanche protective wall will not deflect avalanche debris onto the surrounding properties of others. The avalanche wall has been designed to be perpendicular to the expected avalanche path in order to be deflection neutral.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.116.030(C)	The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood.
			<i>Staff Comments</i>	<i>N/A. There is no vehicular or pedestrian traffic associated with the avalanche protective wall.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.116.030(D)	The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts.
			<i>Staff Comments</i>	<i>N/A. The avalanche protective wall does impact public facilities or services.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.116.030(E)	The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this section.
			<i>Staff Comments</i>	<i>The Comprehensive Plan states “Due to the potential avalanche hazard in these areas the City established an avalanche zone overlay district where special regulations apply.” These special regulations include the requirement of a conditional use permit when proposing an avalanche protective wall in order to verify the proposed wall will not threaten to increase the danger to persons or property. As stated in Criteria B above, the project plans show the proposed avalanche wall to be deflection neutral and not increase the danger to the subject property or to surrounding properties.</i>

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 Design Review application for the development and use of the project site.
2. The Commission has authority to hear the applicant’s Conditional Use Permit Application pursuant to Chapter 17.116 of Ketchum Municipal Code Title 17.
3. The City of Ketchum Planning Department provided notice for the review of this application in accordance with Ketchum Municipal Code §17.116.040.
4. The Conditional Use Permit application is governed under Ketchum Municipal Code Chapters 17.116, 17.08, 17.12, 17.18, 17.92, 17.132.

The Conditional Use Permit application does meet all applicable standards specified in Title 17 of Ketchum Municipal Code.

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission approves this Conditional Use Permit Application File No. P22-070 this Tuesday, July 11, 2023 subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. This conditional use permit approval is based on the project plans presented at the June 27, 2023, Planning and Zoning Commission meeting. Building Permit Plans must conform to the approved plans unless otherwise approved in writing by the Commission or the Planning and Zoning Administrator. Any building or site discrepancies which do not conform to the approved plans will be subject to removal.
2. This Conditional Use Permit is not transferable from one parcel of land to another.
3. The Conditional Use Permit is subject to all conditions of approval associated with Mountain Overlay Design Review approval P22-070.
4. The term of this Conditional Use Permit shall be that of Mountain Overlay Design Review approval P22-070. In the event the Design Review approval expires, this Conditional Use Permit approval shall also expire and become null and void.

Findings of Fact **adopted** this 11th day of July 2023.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission