



**City of Ketchum
Planning & Building**

IN RE:)	
)	
Miller Residence)	KETCHUM PLANNING & ZONING COMMISSION
Conditional Use Permit)	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Date: August 8, 2023)	DECISION
)	
File Number: 22-046A)	

PROJECT: Miller Residence

FILE NUMBER: P22-046A

APPLICATION TYPE: Conditional Use Permit

REPRESENTATIVE: Aaron Bunse – Studio DVLP, LLC (architect)

PROPERTY OWNER: Paramount Property Development LLC

LOCATION: 219 Hillside Drive (Lot 9, Block 5, Warm Springs Valley Subdivision)

ZONING: Limited Residential (LR) & Mountain Overlay (MO)

REVIEWER: Paige Nied – Associate Planner

RECORD OF PROCEEDINGS

The Planning and Zoning Commission considered the 219 Hillside Drive Design Review (Application File No. 22-046) and Conditional Use Permit (Application File No. 22-046A) applications during their regular meeting on June 13, 2023, meeting of the Planning & Zoning Commission and was continued to a regular meeting on July 11, 2023. The development applications were considered concurrently, and the associated public hearings were combined in accordance with Idaho Code §67-6522.

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 24, 2023. The public hearing notice was published in the Idaho Mountain Express on May 24, 2023. A notice was posted on the project site and the city’s website on June 6, 2023. Story poles were documented on the project site as of June 6, 2023.

FINDINGS OF FACT

The Planning & 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:

BACKGROUND

The applicant is proposing a new 3,745 square foot three-story single-family residence (the “project”), located at 219 Hillside Drive (the “subject property”). The project contains four bedrooms and an attached two car garage. The subject property is zoned Limited Residential (LR) in the Mountain Overlay District (MOD), and the lot is currently vacant.

The project will construct improvements in the right-of-way per the City of Ketchum improvement standards. The project proposes paver a driveway with no snowmelt system. All improvements to the right-of-way have been preliminarily reviewed by the Streets Department and the City Engineer. Final review of the proposed improvements will be conducted by the City Engineer and Streets Department prior to issuance of building permit.

During the Planning and Zoning meeting on June 13, 2023, the Commission requested additional information regarding the avalanche retaining wall’s flow deflection and roof pitches of the home and continued the applications to the July 11, 2023, meeting. The applicant submitted a clarification letter to accompany the site-specific avalanche report, revised the grading and architectural plans to increase the exposed height of the retaining wall, and removed the can exterior lighting fixtures from the patio. Upon review of the new application materials, staff and applicant presentation, and public comment, the Commission approved the Design Review and Conditional Use Permit applications.

FINDINGS REGARDING COMPLIANCE WITH 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)	The characteristics of the conditional use will not be unreasonably incompatible with the types of uses permitted in the applicable zoning district.
			<i>Staff Comments</i>	The project includes an avalanche retaining wall to the rear of the residence, requiring a conditional use permit. The function of the avalanche wall is to protect the proposed structure, adjacent structures, and to prevent snow from sliding onto the Hillside Drive right-of-way. Staff finds the avalanche protective structure for the project to be compatible with the zoning district, as other conditional use avalanche protective structures have been permitted on Hillside Drive and in the surrounding neighborhood.
<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>	As previously mentioned, the function of the avalanche wall is to protect the proposed structure, adjacent structures, and to prevent

				<p>snow from sliding onto the Hillside Drive right-of-way. The applicant 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.</p> <p>Since the June 13th Planning & Zoning meeting, the applicant submitted revised civil plans which indicate the uphill grade north of the foundation has been lowered in order to expose more of the vertical foundation wall. The applicant also submitted a new north elevation architectural sheet to reflect the new exposed wall height. Previously, the maximum exposed height of the wall was three feet, and the revised plans indicate the maximum exposed height of the wall is five feet. This was done in an effort to increase avalanche safety to the proposed structure and surrounding properties by having a higher wall exposed to mitigate avalanche forces. However, as explained by Alpine Enterprises Inc. during the June 13th meeting, during this time of year much of the wall will be covered by snow on the ground. The entirety of the retaining wall (which is built vertically into the hillside), roof design, and regrading uphill above the wall are cohesive elements to the design which will protect the structure and adjacent structures from avalanche forces.</p> <p>In addition to the revised civil and architectural drawings, the applicant submitted a Snow Avalanche Hazard Evaluation clarification letter, dated June 3, 2023, produced by Alpine Enterprises Inc. which provides a detailed analysis of the methods used and findings in the site-specific avalanche report for the project. It presents three different avalanche scenarios which all indicate that the proposed development does not increase the danger to adjacent properties, compared to the existing danger if the development were not constructed.</p>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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>	The proposed development is platted within the Warm Springs Valley Subdivision that was recorded in 1963. The subject property was identified as being within an Avalanche Zone by the City of Ketchum in 1979. The proposed conditional use avalanche protective wall will not be hazardous or conflict with existing and anticipated traffic in the neighborhood. A function of the avalanche protective wall is to act as a mitigation structure and prevent snow from sliding onto the Hillside Drive right-of-way.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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>	As mentioned above, all departments have reviewed the proposed conditional use including streets, fire, water, wastewater, planning and engineering. The conditional use permit is for the structure's avalanche protective wall. Avalanche protective walls do not require public facilities or services.
<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>	The community's core values in the City of Ketchum's 2014 Comprehensive Plan include protecting the community character of Ketchum and preserving its environmental quality and scenic beauty. Ketchum's undeveloped hillsides are visual assets that define the character of our community. Protecting and preserving Ketchum's natural resources is critical to maintaining our economy, quality of life, and community identity. Staff believes that the goals and policies of the comprehensive plan related to hillside development are met with the proposed project as the single-family residence is within the list of primary uses anticipated in the future land use category and due to the location of the structure sited at the minimum front yard setback to cause minimal impact on the visual character of the hillside.

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 Conditional Use Permit 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 219 Hillside Drive Conditional Use Permit application meets all applicable standards specified in Title 17 of Ketchum Municipal Code.

DECISION

THEREFORE, the Planning and Zoning Commission **approves** this Conditional Use Permit Application File No. P22-046A this Tuesday, August 8, 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 July 11, 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 Design Review approval P22-046.
4. The term of this Conditional Use Permit shall be that of Design Review approval P22-046. 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 8th day of August 2023.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission