



City of Ketchum
Planning & Building

IN RE:)
)
460 North Main Street Mixed-Use Building) KETCHUM PLANNING AND ZONING COMMISSION
5th & Main Condominiums) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
Variance) DECISION
)
Date: March 29, 2022)
)
File Number: P22-013)

PROJECT: 460 North Main Street Mixed-Use Building /5th & Main Condominiums

APPLICATION TYPE: Variance

FILE NUMBER: P22-013

ASSOCIATED APPLICATIONS: Design Review P22-007, Lot Consolidation Preliminary Plat P22-005, and Condominium Subdivision Preliminary Plat P22-006

ARCHITECT: Michael Bulls, Ruscitto Latham Blanton Architecture

DEVELOPER & OWNER: David Wilson, Main Street Realty Partners LLC

LOCATION: 460 N Main Street (Ketchum Townsite: Block 5: Lots 3 & 4)

ZONING: Retail Core of the Community Core (CC-1)

OVERLAY: None

RECORD OF PROCEEDINGS

The Planning and Zoning Commission considered the 460 N Main Mixed-Use Building (5th & Main Condominiums) Variance Application File No. P22-013 during their regular meeting on March 8th, 2022. The application was considered concurrently with Design Review Application File No. P22-007, Lot Consolidation Preliminary Plat Application File No. P22-005, and Condominium Subdivision Preliminary Plat Application File No. P22-006 and the public hearings were combined in accordance with Idaho Code §67-6522. After considering Staff’s analysis, the applicant’s presentation, and public comment, the Planning and Zoning Commission unanimously approved the applicant’s variance request.

Public Hearing Notice & Public Comment

The public hearing notice for the project was mailed to all owners of property within 300 feet of the project site and all political subdivision on February 16th, 2022. The public hearing notice was published in the Idaho Mountain Express the on February 16th, 2022. A notice was posted on the City’s

website on February 16th, 2022. The public hearing notice was posted on the project site on March 1st, 2022. The Planning & Building Department received one public comment following publication of the March 8th Staff Report, which was forwarded to the Commission for their consideration and incorporated into the project record.

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, developer and property owner David Wilson represented by architect Michael Bulls of Ruscitto Latham Blanton Architecture, is proposing to develop a new 26,386-square-foot mixed-use building at the southeast corner of Main and 5th Streets within the Retail Core (CC-1) Zoning District. The mixed-use building will accommodate two retail units on the ground floor, a parking garage with 8 off-street parking spaces, 4 community housing units with private entrances accessed from the alley, and 4 market-rate residential units. During their review of the Pre-Application for the project, the Commission supported Staff's suggestion that a connection be provided from the paver pathway along the alley to the sidewalk along 5th Street. The applicant provided this connection on the project plans submitted with the final Design Review application. The paver pathway is supported by a retaining wall and guardrail that borders the rear property line and encroaches within the 3-foot required setback from the alley.

The applicant submitted a variance request for relief from the 3-foot setback required from the alley to accommodate the retaining wall and guardrail that support the pathway accessing the community housing units. The Planning and Zoning Commission has the authority to review and approve the applicant's variance request pursuant to Ketchum Municipal Code §17.148.010. Pursuant to Ketchum Municipal Code §17.148.010, a variance shall not be considered a right or special privilege but may be granted to an applicant only upon a showing of undue hardship because of unique characteristics of the site and that the variance is not in conflict with the public interest. The applicant has demonstrated compliance with all of the variance criteria outlined in Ketchum Municipal Code §17.148.010.

Ketchum Municipal Code §17.148.010: Variance Criteria

- A. *The strict enforcement of the provisions of this title creates an undue hardship to the property owner; however, economic feasibility shall not be considered an undue hardship.*

Commission Findings: The hardship associated with this variance request is the existing utility and infrastructure encroaching within the block 5 alley and creating a dead end. This dead end impedes pedestrian and vehicular circulation. These obstructions within the alley also create challenges for emergency access and service delivery. These site constraints as well topographical challenges create an undue hardship to the property owner.

- B. *The variance is necessary because of the unique size, shape, topography or location of the subject property.*

Commission Findings: The north end of the block 5 alleyway is unpaved but contains significant improvements, including retaining walls, a streetlight, telephone and cable tv risers, a concrete pad, and power boxes. The existing improvements within the right-of-way block the alley creating

a dead end. Additionally, the development site is characterized by topographical challenges as the grade falls approximately 8 feet from the alley towards 5th Street.

- C. *The subject property is deprived, by provision of this title, of rights and privileges enjoyed legally by other properties in the vicinity and under an identical zone.*

Commission Findings: The subject property is denied the same rights and privileges enjoyed by other properties in the vicinity within the Community Core as the alleyway is blocked by existing utilities and infrastructure. The dead end impedes pedestrian and vehicular circulation as well as emergency access.

- D. *The need for the variance is not the result of actions of the applicant or property owner.*

Commission Findings: The need for the variance is not the result of actions by the applicant or property owner. The City allowed the existing electrical infrastructure to be placed within the alley right-of-way in 2007 as part of a project to underground overhead powerlines. The power boxes, concrete pad, and retaining walls block the alley and create a dead end.

- E. *The variance does not create health and safety hazards.*

Commission Findings: The variance does not create any health or safety hazards. The paver pathway enhances safety by providing access for emergency services around the entirety of the building. The paver pathway includes a snowmelt system so the area will be free of snow and ice in the winter. The guardrail provides fall protection as the alley grade descends to approximately 8 feet towards 5th Street.

- F. *The variance does not relieve an applicant from any of the procedural provisions of this title.*

Commission Findings: The variance request does not relieve the applicant from any of the procedural provisions of the zoning code (Title 17 of Ketchum Municipal Code). Excepting relief from the 3-foot setback required from the alley as requested through the variance, the project complies with all applicable zoning code standards.

- G. *The variance does not relieve an applicant from any standard or provision that specifically states that no variance from such standard or provision is permitted.*

Commission Findings: Ketchum Municipal Code §17.08.020 defines a variance as a modification of the requirements of the zoning code as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, parking areas, height of buildings, or other title provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. The applicant's variance request for relief from the 3-foot alley setback is in accordance with the definition of variance. No request has been made from any standard that prohibits the option to request a variance.

- H. *The variance does not relieve an applicant from conditions established during prior permit review.*

Commission Findings: The variance does not relieve the applicant from any conditions established during prior permit review or the development applications currently under review. The Commission recommended the applicant provide a connection from the community housing units to the 5th Street sidewalk during their review of the Pre-Application for the 460 N Main Mixed-Use Building Project. The retaining wall and guardrail enhance the safety of the pathway by providing

fall protection. The pathway enhances emergency access by providing access around the perimeter of the mixed-use building.

- I. *The variance does not allow establishment of a use that is not otherwise permitted in the zone in which the property is located.*

Commission Findings: The variance does not allow the establishment of a prohibited use within the Community Core. The three-story mixed-use building includes two commercial units on the first floor, four community housing units, and four market-rate residential units on the upper levels. *Retail Trade* and *Dwelling, Multi-Family* are both permitted uses in the CC-1 Zone pursuant to Ketchum Municipal Code §17.12.020.

- J. *The variance is the minimum necessary to grant relief to applicant.*

Commission Findings: The applicant is seeking relief from the 3-foot alley setback required in the CC-1 Zone for the retaining wall and guardrail supporting the paver pathway. Due to the site constraints and topographical challenges, the variance is the minimum necessary to grant relief to the applicant and to provide fall protection, connectivity to the 5th Street sidewalk, and enhanced emergency access around the perimeter of the mixed-use building.

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 Idaho Code Title 50 and is required and has exercised its authority pursuant to the Local Land Use Planning Act codified as 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 Ketchum Municipal Code 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 Variance Application for the development and use of the project site.
2. This Variance Application is governed under Chapter 17.148 of Ketchum Municipal Code.
3. The Planning and Zoning Commission has the authority to hear the applicant's Variance Application pursuant to Ketchum Municipal Code §17.148.010.
4. The Ketchum Planning Department provided adequate notice for the review of this application in accordance with Ketchum Municipal Code §17.148.020.C.
5. The applicant's variance request for relief from the 3-foot setback required from the alley to accommodate a retaining wall and guardrail that support the pathway accessing the community housing units meets the variance criteria specified in Ketchum Municipal Code §17.148.010 and meets the standards of approval under the zoning code.

DECISION

THEREFORE, the Ketchum Planning and Zoning Commission **approves** this Variance Application File No. P22-013 this Tuesday, March 8th, 2022 subject to the following conditions of approval.

CONDITIONS OF APPROVAL

1. The Variance is subject to the 460 N Main Mixed-Use Building (5th & Main Condominiums) Design Review Application File No. P22-007. All associated conditions of approval shall apply to the project.
2. Pursuant to Ketchum Municipal Code §17.148.050, the variance shall be issued and construction shall commence within 6 months from the date that such variance is granted, otherwise, the variance shall no longer be considered valid.
3. The applicant shall submit specifications for the retaining wall and guardrail on the civil drawings submitted with the building permit application for the project. The final design of the retaining wall, guardrail, and pathway shall be subject to review and approval by the Planning, Fire, and Streets departments and the City Engineer.

Findings of Fact **adopted** this 29th day of March 2022.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission