

**ORDINANCE NO. 4  
SERIES OF 2021**

**AN ORDINANCE OF THE BOARD OF TRUSTEES  
OF THE TOWN OF CARBONDALE, COLORADO  
APPROVING A COMBINED PRELIMINARY AND FINAL PLAT FOR  
PARCELS 3 & 4 OF THE THOMPSON PARK SUBDIVISION**

WHEREAS, Thompson Park, LLC, a Colorado limited liability company (“Applicant”), has submitted an application for the contemporaneous approval of a combined Preliminary and Final Plat (the “Final Plat”) in order to further subdivide Parcels 3 and 4 of the Thompson Park Subdivision, according to the Master Plat thereof recorded in the Garfield County real property records on May 19, 2015 at Reception No. 862909 into eleven residential lots, to include four multi-family residential lots within Parcel 3, and seven single family residential lots within Parcel 4, which lots may be developed to include up to a maximum of thirteen total residential units; and

WHEREAS, after all required notices, the Planning and Zoning Commission of the Town of Carbondale reviewed this application at a noticed public hearing held on February 25, 2021 and recommended approval of this application with conditions; and

WHEREAS, after all required notices, the Board of Trustees conducted a noticed public hearing on this application on April 13, 2021 during which public hearing the Board of Trustees heard and considered the statements of Town staff, the Applicant’s representatives, and members of the public, and reviewed and considered all other relevant documents and information presented at such hearing, all as required by law; and

WHEREAS, the Board of Trustees finds and determines that the application meets the following approval criteria for preliminary subdivision plats set forth in Municipal Code Chapter 17.02, Sub-Sections 2.6.4.C.4.a.i through -x, inclusive, including:

- i. The proposed subdivision provides lots which are compliant with development and design standards;
- ii. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Code;
- iii. The applicant has provided evidence that provision has been made to connect to the Town’s public water supply system;
- iv. The applicant has provided evidence that provision has been made for a public sewage disposal system;

- v. The applicant has provided evidence to show that the proposed use of any areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards will be compatible with such conditions;
- vi. The applicant has provided evidence to show that all areas of the proposed subdivision do not involve natural hazards including flood and wildfire;
- vii. The application provides a clear assumption of responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision;
- viii. The proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing;
- ix. The subdivision is consistent with the subdivision conceptual plan, which was approved as part of the Thompson Park Annexation and Rezoning and the 2018 Major Site Plan approval; and
- x. The subdivision is consistent with the Comprehensive Plan as it optimizes the use of land in Town and functions as infill development; and

WHEREAS, the Board of Trustees further finds that the Final Plat for Parcels 3 & 4 complies with the following standards for final plat approval in Municipal Code Chapter 17.02, Sub-Sections 2.6.5.C.2.b.i through iii, inclusive:

- i. The Final Plat will conform to the approved preliminary plat and incorporate all recommended changes, modifications, and conditions attached to the approval of the preliminary plat;
- ii. The development will comply with all requirements of the Town's Unified Development Code ("UDC"); and
- iii. The development will comply with applicable technical standards and specifications adopted by the Town; and

WHEREAS, the Board of Trustees finds that certain conditions of approval should be imposed so that said subdivision will be developed consistent with the purposes of Title 17 of the Carbondale Municipal Code and the terms of the Annexation and Development Agreement Relating to the Thompson Park Property, Town of Carbondale, recorded in the Office of the Garfield County Clerk and Recorder on March 16, 2012, Reception No. 816055, as amended by the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Amendments to the same, which amendments were recorded at Reception Nos. 854368, 847651, 851116, 859604, 859605, 862912, 881125, 914138, and 921277, respectively (said agreement, as amended, is referred to herein as the "Annexation Agreement"). Exhibit C to the Annexation Agreement sets forth the Thompson Park

Development Plan, which terms and conditions apply to the Development in addition to applicable provisions of the Carbondale Municipal Code. The Development is also subject to: (1) all terms and conditions of the Master Subdivision Improvements Agreement for the Thompson Park Subdivision dated May 19, 2015 and recorded in the real property records of Garfield County, Colorado at Reception No. 862913 (“the Master SIA”); (2) all terms and conditions of the Ordinance No. 11, Series of 2018, dated July 10, 2018 and recorded in the Garfield County, Colorado real property records on November 14, 2018 at Reception No. 914139 (the “Major Site Plan Approval Ordinance”); and (3) the Subdivision Improvements Agreement for Parcels 3 & 4, Thompson Park Subdivision, to be entered into by the Applicant and the Town contemporaneously with and as a condition of recordation of the Final Plat (the “SIA”).

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO as follows:

1. **Approval of Final Plat.** The Board of Trustees hereby grants preliminary and final plat approval for the Final Plat, subject to compliance with all terms and conditions of this Ordinance, the Master Site Plan Approval Ordinance, the Master SIA, the Annexation Agreement, and the terms of the SIA. The Final Plat shall be in a form acceptable to and approved by Town staff prior to recording. The Applicant shall execute and record the Final Plat on or before 90 days following the date that this Ordinance becomes effective in accordance with the Town’s Home Rule Charter. The Final Plat shall include plat notes in substantially the form set forth below:

- a. Except as otherwise expressly authorized by the Town of Carbondale, all lawn and garden, common space, open space and parkland irrigation uses within Thompson Park shall be from a separate private raw water irrigation system or systems that shall not be connected to the domestic in-house supply for any building unit or residence or to the non-potable irrigation system that serves the Historic House Parcel. Total irrigated areas within Thompson Park, including irrigation of the Historic House Parcel, shall not exceed 4.71 acres, and total residential lawn and garden irrigation shall not exceed 3.3 acres. Each lot depicted hereon shall have no more than 5,000 square feet of irrigated lawn and garden area.
- b. The residential lots shown hereon are all part of a common interest community governed by the Master Declaration of Covenants, Conditions and Restrictions recorded in the Office of the Garfield Clerk and Recorder at Reception No. 928313. Such Declaration includes common expense budgeting, assessment, and collection procedures for the purposes of funding common expenses, including upkeep of private common areas as well as operation, maintenance, repair and replacement of certain infrastructure located within public rights-of-way, including open sections of irrigation ditches

and a private irrigation system, as well as upkeep of all landscaped areas within public rights-of-way.

- c. A Declaration of Covenant—Real Estate Transfer Assessment (“RETA”) in a form approved by the Town of Carbondale has been recorded in the Office of the Garfield County Clerk & Recorder, Reception No. 922724, for purposes of establishing a transfer assessment of one percent (0.01) of the gross sales price of each sale, payable to the Town of Carbondale at the time of future resales of Lots.
- d. All three future condominium units to be developed upon Lot 4 shall be subject to a Deed Restriction to be approved by the Town and recorded in the Office of the Garfield County Clerk & Recorder for purposes of establishing income qualifications, and occupancy and resale restrictions, to preserve the affordability of all future condominium units to be located upon this Lot.
- e. There shall be non-exclusive public access for the benefit of the Town of Carbondale throughout the easement areas shown on this Plat for Jewel’s Drive, and the sidewalk connection from the north end of Jewel’s Drive to the public street right of way for Jewel’s Lane, for purposes of allowing perpetual public access, ingress/egress, and the construction, operation, maintenance and repair of public utilities to be located within these easement areas, including but not limited to public water and sewer mains to be placed within these areas. These easement areas shall not be signed as private property or in any way that limits public access to or use of streets and sidewalks to be constructed within these areas. Despite the public having access to the easement areas, the homeowners association for the Thompson Park Subdivision shall have perpetual responsibility for maintenance, repair and replacement of all sidewalks, curbs, gutters, drainage and paved street areas within these easement areas, and the Town of Carbondale shall have no obligation to construct, maintain, repair or replace the same, or to plow snow within public access easement areas shown on this Plat.

2. **Dedication of Public Easements/Title Commitment.** The Final Plat shall include dedications to the Town of public utility and access easements. These public easements shall provide for perpetual public pedestrian, bicycle and vehicle access across and upon all private roadways and sidewalk areas shown on the Final Plat, and each roadway shall be signed at each connection with public roadways in a manner acceptable to the Public Works Director without any restriction as to public access and use. Prior to recordation of the Final Plat, the Applicant shall provide the Town Attorney with an updated title commitment showing that such dedications and conveyances shall be free and

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clear of all encumbrances, except those shown on the Final Plat, or subject only to such exceptions as may be approved by the Town Attorney. Any lender with a lien against the Subject Property shall sign consents and lien subordinations for the Final Plat prior to recordation.

3. **Master Declaration of Covenants.** A Master Declaration of Covenants, Conditions and Restrictions (“Master Declaration”) for the Thompson Park Subdivision has already been recorded at Reception No. 928313. After recordation of the Final Plat, all lots shown thereon shall become members of the common interest community established by the Master Declaration. No properties outside of the Thompson Park Subdivision shall be included in the common interest community for the Thompson Park Subdivision without prior approval of the Board of Trustees. All lots shown on the Final Plat for Parcels 3 and 4 shall be incorporated into the common interest community and commence paying assessments for common expenses in the same manner as the lots shown on the Phase 2 Plat. Affordable housing units shall have full voting rights, but shall only pay 50% of the assessments levied against free market residential units within the community. These provisions of the Master Declaration shall not be amended in the future except with advance approval of the Town’s Board of Trustees.

4. **Affordable Housing Deed Restrictions.** All future residential units to be developed upon Lot 4 shall be subject to Deed Restrictions to be recorded in the Office of the Garfield County Clerk & Recorder for purposes of establishing income qualifications, and occupancy and resale restrictions, to preserve the affordability of residential units located upon these two Lots. The Applicant shall execute and record the Deed Restrictions in a form approved by Town staff and the Town Attorney contemporaneously with the condominiumization of residential units within Lot 4 (presently anticipated to be a tri-plex). At the time that the Deed Restrictions are recorded, the Applicant shall provide the Town Attorney with an updated title commitment showing that such Deed Restrictions shall be free and clear of all encumbrances, except those shown on the Final Plat, or subject only to such exceptions as may be approved by the Town Attorney. Any lender with a lien against the properties to be deed-restricted shall sign consents and lien subordinations for each Deed Restriction. No certificates of occupancy shall issue for any residential units upon any Lot shown upon the Final Plat until three residential units have been condominiumized according to all applicable Town land use requirements and review procedures, and thereafter deed-restricted for affordable housing in accordance with this paragraph and certificates of occupancy have issued for all three affordable housing units.

5. **Easement Access.** The Board of Trustees hereby approves and authorizes the use of easements dedicated on the Final Plat for legal access to residences to be developed on Lots 1, 2, 3 and 4 within former Parcel 3 as shown on the Master Subdivision Plat. Easement access is also hereby authorized for Lot 11 as shown on the Final Plat.

6. **Additional Conditions of Approval.** The Board of Trustees imposes the following additional conditions of approval:

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a. The Applicant shall submit to the Town proof of payment of the following fees required by the Carbondale and Rural Fire Protection District prior to recordation of the Final Plat:

13 units x \$730 = \$9,490.00

b. The Applicant shall submit proof of payment of the following fees to the Roaring Fork School District prior to recordation of the Final Plat:

7 single family 3-bedroom units x \$1104	=	\$ 7,728
3 multi-family 3-bedroom units x 1043	=	3,129
3 multi-family 2-bedroom units x 403	=	1,209

Total School District Fees: \$ 12,066

c. The following fees in lieu of water rights shall be paid to the Town prior to recordation of the Final Plat:

Parcel 3 - \$8,303  
Parcel 4 - \$4,905

Total fees in lieu of water rights dedication: \$13,208.00

d. Prior to recordation of the Final Plat, the Applicant and the Town shall enter into the SIA to require and secure the completion of certain public and private improvements (the "Parcel 3/4 Improvements") in connection with the development of the Lots shown on the Final Plat in substantially the same form as the draft SIA reviewed and approved by the Board of Trustees in connection with its approval of this Ordinance.

e. This approval is contingent upon Town review and approval of the final civil engineering plans for this project, including the lighting and landscape plan. If any changes are made to the civil engineering plans as a result of the Town's review and approval, the engineer's cost estimate shall be revised to reflect the amended engineering and civil plans. This shall be done prior to recordation of the SIA. The lighting plan shall be also be revised to reflect a new streetlight near the northeast corner of Lot 11 where the sidewalk along Jewell's Lane intersects with the trail which extends from Holland Drive to Triangle Park. The final location of the streetlight shall be subject to review and approval of the Town's Public Works Director.

f. The Applicant shall take the following actions to protect the Historic Thompson House and Historic House Parcel during construction:

- (1) The Applicant shall make reasonable efforts to minimize fugitive dust associated with demolition, excavation and/or construction,

including in the area around the perimeter of the Historic House and upon the Historic House Parcel.

(2) The Applicant shall install construction fencing on the north and west sides of the Historic House Parcel prior to commencement of construction and maintain such fencing in place throughout construction of the Parcel 3/4 Improvements.

(3) There shall be no staging or construction parking upon the Historic House Parcel.

(4) The Applicant shall comply with the currently adopted Building Code requirements which relate to the Protection of Adjoining Property.

(5) The Applicant shall use reasonable care to avoid damage to the Historic House during construction of the Parcel 3/4 Improvements.

g. All development shall continue to comply with all related development approvals and agreements, including the Annexation Agreement, the Master SIA, the Master Site Plan Approval Ordinance, and the SIA.

h. No more than 13 residential units (consisting of seven single family homes and six multi-family (triplex) units) shall be developed upon the property shown on the Final Plat. The configuration and exterior appearances of all residences shall be consistent with the conceptual design and layout materials supplied to the Town in connection with its review of the application approved by this Ordinance. Prior to issuance of any building permits, the Applicant will submit detailed color elevations and a material board which reflect the approved renderings.

i. No certificates of occupancy shall issue for any residence on any lot shown on the Final Plat until all required public and private improvements to serve each residence are completed, including deep utilities, shallow utilities, asphalt paving, and concrete curb and gutters, but excepting landscaping, are certified by Developer's engineer as being complete according to all applicable plans and specifications, and thereafter inspected and accepted by the Town, in accordance with the SIA.

j. All representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.

k. The Applicant shall pay and reimburse the town for all other applicable professional and Staff fees pursuant to the Carbondale Municipal Code. The Applicant shall reimburse the Town for any outstanding reimbursable legal or engineering expenses incurred through the date of recordation.

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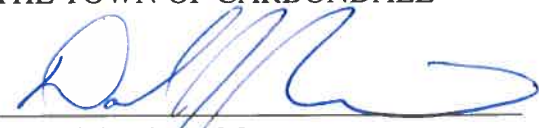
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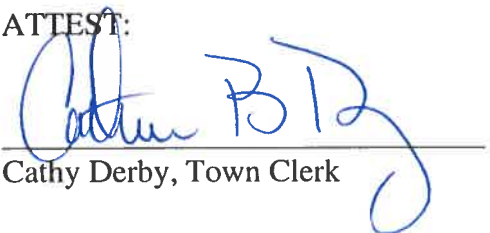
1. Prior to recordation, the draft Final Plat shall be revised to include surveyed lengths of all lot lines, and to show a public sidewalk easement extending from the north boundary of Jewell's Drive to the public right of way for Jewell's Lane.

7. **Recording.** A copy of this Ordinance shall be recorded in the Office of the Garfield County Clerk and Recorder at the expense of the Developer. The terms and conditions of this Ordinance, which touch and concern the property shown on the Final Plat, are intended to run with title to said property and to be binding upon any successors or assigns.

INTRODUCED, READ AND PASSED this 13<sup>th</sup> day of April, 2021.

THE TOWN OF CARBONDALE

By:   
Dan Richardson, Mayor

ATTEST:  
  
Cathy Derby, Town Clerk



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