

**ORDINANCE NO. 9
SERIES OF 2019**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING A MAJOR PLAT AMENDMENT FOR THE TOWN CENTER
SUBDIVISION**

WHEREAS, Pickwick Holdings, LLC a Colorado limited liability company (“Applicant”) has submitted an application for a Major Plat Amendment to the Final Plat for the Town Center Subdivision in order to convert a lot known as Tract A that was originally platted as common area a lot to be owned and maintained by the Applicant, subject to a perpetual non-exclusive easement granted to the Town of Carbondale (“Town”) for public, pedestrian use, and as a drainage and utility easement; and

WHEREAS, on February 26, 2019, pursuant to documents entitled “Termination Agreement for Town Center Owners Association, Inc.” (the “Termination Agreement”) and the related “Consent Resolution of Town Center Owners Association, Inc. Approving Dissolution of Common Interest Community, Termination of Covenants, and Conveyance of Master Open Space to Pickwick Holdings, LLC” (the “Consent Resolution”) 82% of the membership interests in the Association have consented to the termination of the common interest community (Town Center Owner’s Association, Inc.) and the declaration of covenants for the subdivision, and to the conveyance of Tract A to the Applicant, upon condition that Applicant assume perpetual operation and maintenance responsibility for Tract A according to terms acceptable to the Town; and

WHEREAS, after all required notices, the Town’s Board of Trustees conducted a public hearing on May 14, 2019, at which time the Board heard and considered the statements of town staff and the public and reviewed and considered all relevant documents and information presented at such hearing, all as required by law; and

WHEREAS, the Board of Trustees finds that is appropriate to approve the requested Major Plat Amendment, subject to the terms and conditions set forth in this Ordinance and in the related document entitled Amendment to Subdivision Improvements Agreement, as such amendments comply with Sections 2.6.7.B.1 and 2.6.5.C.2.a & -b of the Town’s Unified Development Code (“UDC”), including that:

- a. The amended Final Plat shall continue to conform with the approved preliminary plat;
- b. The development shall continue to comply with all requirements of the UDC; and
- c. The development shall continue to comply with applicable technical standards and specifications adopted by the Town.

WHEREAS, the Board of Trustees also finds and determines that certain conditions of approval should be imposed, as set forth herein and in the Amendment to Subdivisions Improvements Agreement.

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

1. **Approval of Amended Final Plat.** The Town hereby approves the replat of the Town Center Subdivision to depict Tract A according to the Amended Final Plat proposed by the Applicant (see draft Amended Final Plat prepared by Sopris Engineering, LLC dated April 9, 2019). As set forth on the Amended Final Plat, Tract A shall no longer be common area, but shall rather become a privately-owned lot, provided that such area may not be further developed as it shall remain subject to a perpetual non-exclusive easement granted to the Town for public, pedestrian use, and as a drainage and utility easement. This approval is also conditioned upon the existing concrete pedestrian sidewalk located upon Tract A being privately maintained, repaired and periodically replaced in perpetuity by the Applicant, or any successor owner of all of Lots 1-10 and 13-18, Town Center Subdivision, unless and until the Town approves the creation of a successor common interest community and Tract A is conveyed to that successor community as common area, as more fully set forth in the associated Amendment to Subdivision Improvements Agreements being approved contemporaneously herewith.

2. **Approval of Amendment to Subdivision Improvements Agreements.** Prior to any construction on the Property, the Town and the Applicant shall enter into an Amendment to Subdivision Improvements Agreements in the form attached to this Ordinance as *Exhibit A*. All terms of such Agreement are incorporated as terms and conditions of this Ordinance.

3. **Recording.** The Termination Agreement, the Consent Resolution, the Amended Final Plat, and the Amendment to Subdivision Improvements Agreement shall all be fully executed and recorded in the Garfield County real property records at the expense of the Applicant within 90 days of the adoption of this Ordinance.

4. **Other representations.** All other representations of the Applicant and its representatives made in written submittals to the Town or during Town public hearings shall be considered additional conditions of approval.

5. **Prior Approvals and Agreements.** Except as amended by this Ordinance, the Amended Final Plat, and the Amendment to Subdivision Improvements Agreements, all prior development approvals, agreements and related documentation for the Town Center Subdivision shall remain in full force and effect.

INTRODUCED, READ AND PASSED this 14th day of May, 2019.

THE TOWN OF CARBONDALE

By: 
Dan Richardson, Mayor

ATTEST:

Cathy Derby, Town Clerk

