

**ORDINANCE #06
(SERIES OF 2024)**

AN ORDINANCE OF THE ASPEN CITY COUNCIL APPROVING A MAJOR PUBLIC PROJECT REVIEW, A PLANNED DEVELOPMENT – PROJECT REVIEW AND DETAILED REVIEW, GROWTH MANAGEMENT REVIEW, COMMERCIAL DESIGN REVIEW, PARKING & TRANSPORTATION REVIEW, SUBDIVISION/BOUNDARY ADJUSTMENT, AND REZONING FOR LOTS 3, 4, AND PARK C, PHASE II, BURLINGAME RANCH AFFORDABLE HOUSING FILING NO. 1 FINAL SUBDIVISION PLAT – SECOND AMENDMENT, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 9, 2013 IN PLAT BOOK 102 AT PAGE 69, COUNTY OF PITKIN, STATE OF COLORADO.

Parcel ID: 2735-023-18-006; 2735-023-18-007; 2735-023-18-803

WHEREAS, the Community Development Department received an application from the City of Aspen, 427 Rio Grande Pl. Aspen, CO 81611 c/o Sara Ott, City Manager (Applicant), requesting approval for the following land use review approvals:

- Major Public Project Review pursuant to Land Use Code Section 26.500; and
- Planned Development – Project Review and Detailed Review pursuant to Land Use Code Section 26.445; and,
- Growth Management Review pursuant to Land Use Code Section 26.470; and,
- Commercial Design Review pursuant to Land Use Code Section 26.412; and,
- Transportation & Parking Management pursuant to Land Use Code Section 26.515; and,
- Subdivision/Boundary Adjustment pursuant to Land Use Code Section 26.480; and,
- Rezoning pursuant to Land Use Code Section 26.310.

WHEREAS, the application for development proposes: A childcare facility and associated improvements.

WHEREAS, the proposed development has been informed by months of public outreach and feedback from community outreach sessions, surveys, and City Council work sessions.

WHEREAS, the Community Development Department Staff reviewed the application for compliance with the applicable review standards; and,

WHEREAS, the Development Review Committee, consisting of the Aspen Consolidated Sanitation District, City Engineering, the Building Department, the Environmental Health Department, the Parks Department, the Aspen/Pitkin County Housing Authority, and the Utilities Department provided referral comments to the Community Development Department; and,

WHEREAS, On April 2nd, 2024, during a duly noticed public hearing, the City of Aspen Planning and Zoning Commission approved Resolution #01, Series of 2024, recommending Council Ordinance #06, Series of 2024

approval of the request for Major Public Project Review, Planned Development – Project Review and Detailed Review, Growth Management Review, Commercial Design Review, Transportation and Parking Management, Subdivision/Boundary Adjustment, and Rezoning, with conditions ; and,

WHEREAS, the Aspen City Council has reviewed and considered the request under the applicable provisions of the Municipal Code as identified herein, has reviewed, and considered the recommendation of the Community Development Director, and has taken and considered public comments at a public hearing; and,

WHEREAS, the Aspen City Council reviewed the application at a regular meeting on April 23rd, 2024 and approved Ordinance #06, Series of 2024 in a **X to X (X to X)** vote at First Reading; and,

WHEREAS, the Aspen City Council reviewed the application at a regular meeting on May 28th, 2024, and approved Ordinance #06, Series of 2024 in a **X to X (X to X)** to approve the request; and,

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare, and,

NOW, THEREFORE BE IT RESOLVED, THE ASPEN CITY COUNCIL APPROVES THE FOLLOWING:

Section 1: Lot Line Adjustment:

The Commission recommends approval on the lot line adjustment resulting in the following gross square footages for Lots 3, 4, and Park C:

Lots	Proposed Gross Lot Area
Lot 3	3,920 sq. ft.
Lot 4	3,485 sq. ft.
Lot Park C	39,122 sq. ft.

Exhibit A to the Ordinance is the draft plat that would memorialize this boundary line adjustment.

Section 2: Rezoning:

Due to the lot line adjustment, the areas that were exchanged between Lots 3, 4, and Park C will need to be rezoned. The area absorbed by Lots 3 and 4 shall be rezoned to AH and the area absorbed by Lot Park C shall be rezoned to PUB.

Section 3: Planned Development Dimensional Standards:

The Commission recommends approval to develop the Burlingame ECE based upon the following dimensional standards:

Gross Site Area	39,122 sq. ft.
Gross Floor Area	15,263 sq. ft.
Maximum Height	39.5 feet
Setbacks	As shown on Plat
Parking	Maximum of 41 parking spaces
TIA	73 Trips to be mitigated
FTEs	15.6 (24 FTEs mitigated at 65%)

Section 4: Final PUD Plans and Subdivision Plats:

Pursuant to Land Use Code Section 26.445.090, *Documents & Deadlines*, the Applicant shall prepare and submit an amendment to the Burlingame Subdivision/PD agreement, amended Plat, and PD Plan Set to the Community Development Department within one hundred eighty (180) days following the date of final approval. Community Development staff shall collaborate with the Applicant to finalize and record documents as applicable. Building permits may be applied for, but not issued prior to recording the documents described herein.

Section 5: Aspen Pitkin County Housing Authority Conditions of Approval:

1. A baseline of 24 FTE's will be used to establish the required mitigation.
2. An employee audit will be conducted five years after Certificate of Occupancy (CO) is received on the new building. The audit shall include all employees, full and part-time, working out of the building. The hours will be added and then divided by 2,080 to get the FTE count. If the audits show additional employees above the baseline, additional mitigation shall be required. Mitigation can be satisfied by utilizing existing deed restricted units provided by the City (new or as buy-downs).

Section 6: Growth Management Quota System and Essential Public Facilities

1. The Burlingame ECE is determined to be an Essential Public Facility.
2. As such, City Council grants flexibility in meeting the affordable housing mitigation requirements of this project. The project can provide mitigation through any of the methods allowed by the land use code or can utilize employee units produced by the City's 505 fund – either in the past or the future for meeting the project's mitigation requirements.

Section 7: Parks Department Conditions of Approval:

1. Applicant and Parks & Open Space staff shall coordinate with AVL T for review and potential revisions of the slope maintenance and grading easement and/or the conservation easement caused by the proposed trail re-alignment on Burlingame Lot 1A.
2. Applicant shall document the absence of a water re-use line, backup system with portable water, ponds, pumps, and valves for irrigation supply prior to building permit.
3. Irrigation Water Source Design shall be coordinated with the Utility Department and Parks Department for feasibility to supply all irrigation water required for this project prior to building permit.
4. All necessary improvements to irrigation water supply are to be at the sole cost of the applicant.
5. The Final Subdivision Plat shall grant a 4-foot-wide pedestrian easement to the public for proposed trails on Burlingame Lot 1A.
6. The Final Subdivision Plat shall reference, and the applicant shall obtain, access and development easements for any impacts on non-city owned parcels for certain proposed trails and trail segments.

Section 8: Engineering Department Conditions of Approval:

1. Proposed easements associated with the childcare facility must be finalized prior to building permit Certificate of Occupancy (CO). Ideally these easements are finalized prior to building permit issuance or mid-way through construction and not left until the end of the project.
2. Final improvements to mitigate trips generated by the project will be approved by the Engineering and Transportation Departments prior to submission of a building permit application. As a building permit application submission may not be imminent, the design team will collaborate with the departments to explore mitigation techniques available in the future inclusive of changes to the parking lot, adjacent property and areas within the walking shed of the site. Physical and/or service improvements are the preferred method of mitigation with fee-in-lieu permitted for any remaining unmitigated trips.
3. As the early childhood education center is proposed to be located within a residential subdivision, it is reasonable that some trips will originate and terminate within the neighborhood. The TIA recommends a trip reduction of 20 trips due to the center's location and this reduction may be permitted in the future by city staff if changes to the TIA Guidelines address trip reduction or if permitted by City Council prior to building permit application.
4. An updated soils report, compliant with the requirements outlined in the Engineering Standards, will be required for building permit submittal. Note that the design may need to change in accordance with the findings of the new report.

Section 9: Vested Rights:

The project is approved for 5-years of vested rights. A development order will be issued specific to the approval of the ECE center in granting this vested period.

Section 10: Future Changes to the Project

Significant changes to the project shall utilize the amendment provisions for Planned Development provided by the City of Aspen's Land Use Code. Insignificant changes can be approved by the Community Development Director as part of the building permit review process. If changes are proposed, the applicant shall work with the Community Development Department to evaluate the scale and scope of the changes prior to the submission of a building permit to determine if any further land use action is necessary to review and approve the proposed changes.

Section 11: Material Representations

All material representations and commitments made by the Applicant pursuant to the development proposal approvals as herein awarded, whether in public hearing or documentation presented before the Planning and Zoning Commission, are hereby incorporated in such site development approvals and the same shall be complied with as if fully set forth herein, unless amended by an authorized entity.

Section 12: Existing Litigation

This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 13: Severability

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

INTRODUCED, READ, AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Aspen on the 23rd day of April 2024.

ATTEST:

Nicole Henning, City Clerk

Torre, Mayor

FINALLY, adopted, passed, and approved by a **X to X (X-X)** vote on this 28th day of May 2024.

Approved as to form:

Approved as to content:

James R. True, City Attorney

Torre, Mayor

Attest:

Nicole Henning, City Clerk

Exhibit A: Draft Plat identifying the Boundary Line Adjustment and Rezoning.

Exhibit A: Draft Boundary Adjustment Plat

