

**TOWN OF PARACHUTE, COLORADO  
TOWN COUNCIL  
RESOLUTION NO. 2022-26**

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**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO APPROVING WITH CONDITIONS A SPECIAL USE REVIEW FOR MULTIPLE-FAMILY DWELLING USE FOR PROPERTY IDENTIFIED BY GARFIELD COUNTY PARCEL NO. 2409-121-25-005 IN THE TOWN OF PARACHUTE**

**WHEREAS**, pursuant to the Parachute Municipal Code (“PMC” or “Code”), Headwaters Housing Partners, LLC (the “Applicant”) submitted an application for a special use review for The Gateway, which constitutes a “multiple-family dwelling” use under the Code (the “Application”), related to the parcel Mountain View Plaza, Parcels 2 & 3, located at 252 Green Street and identified by Garfield County Parcel No. 2409-121-25-005 (the “Property”);

**WHEREAS**, W&G, LLC (the “Owner”) owns the Property and authorized the Application;

**WHEREAS**, the Applicant is under contract to purchase the Property from the Owner;

**WHEREAS**, the Applicant wishes to develop the Property as a mixed-use building with approximately 3,000 square feet of ground floor commercial space and 60-70 residential units;

**WHEREAS**, the Property is zoned HT – Highway Tourist Zone District;

**WHEREAS**, the residential component of the project constitutes a “dwelling, multiple-family” use under the Code;

**WHEREAS**, pursuant to Schedule of Uses contained at Section 15.02.230 of the Code, a “dwelling, multiple-family” is a use by special review in the HT Zone District;

**WHEREAS**, the commercial component of the project is a permitted use in the HT Zone District;

**WHEREAS**, pursuant to the Review Procedures Chart (Table 1.1) at Section 15.01.220 of the Code, an application for special use permit is a two-step review process and the Planning Commission reviews an application and makes a recommendation to the Town Council;

**WHEREAS**, pursuant Section 15.02.210.A of the Code, uses designated as special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed use, its relationship to surrounding land uses and its impact on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance with the comprehensive plan;

**WHEREAS**, pursuant to Section 15.02.210.C of the Code, in considering an application for special use, the Planning Commission and Town Council shall consider: (1) the compatibility of the use with adjacent uses and adjacent zone districts, as applicable, including the use’s potential traffic generation, noise, lighting, parking requirements, and general deleterious effects on such adjacent uses and properties; (2) conformance with the comprehensive plan; and (3) the applicant’s history of zoning compliance within the Town;

**WHEREAS**, pursuant to Section 15.02.210.D of the Code, the Town Council may impose conditions on a special use approval designed to lessen the adverse impacts, if any, of the special use, to protect the health, safety and welfare of Town residents, and to ensure compliance with all other applicable provisions of the Code;

**WHEREAS**, pursuant to Section 15.01.260 of the Code, a land use approval for a special use shall be 1 year; however, if, within the duration of the approval, no required subsequent application has been filed, or authorized use established or building permit or other development action taken, the approval shall expire, except, for good cause, the granting authority may grant a single extension of the approval for a time period not to exceed the amount of the initial approval's duration;

**WHEREAS**, pursuant to Section 15.02.210.F of the Code, the Town Council may, in its discretion, specify that the length of the special use approval: (1) be personal to the original applicant, (2) run with the original location for which the permit is approved, or (3) be otherwise transferable, upon such terms and conditions specified by the Town Council; and, in the absence of any specific findings or orders of Town Council concerning the length of an approved special use, the special use approval shall be deemed to be non-transferable and personal to the applicant;

**WHEREAS**, this special use approval shall run with the Property;

**WHEREAS**, pursuant to Sections 15.01.420 and 15.01.270.F of the Code, approval of a special use pursuant to PMC Section 15.02.210 shall be considered a site specific development plan, approval of which creates a vested property right for a period of three (3) years, which may be extended where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions;

**WHEREAS**, a vested property right means the right to undertake and complete development and use of property under the terms and conditions of a site-specific development plan and be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the Town;

**WHEREAS**, pursuant to Section 15.01.270.G of the Code, the Town may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions may, at the option of the Town Council, after public hearing, result in the forfeiture of vested property rights;

**WHEREAS**, the Planning Commission of the Town of Parachute reviewed the Application at a public meeting, found the Application in conformance with the review criteria set forth in Section 15.02.210.C as it relates to the multiple-family dwelling use for The Gateway and recommended the Town Council approve the Application subject to conditions.

**WHEREAS**, the Town Council of the Town of Parachute reviewed the Application at a public hearing, finds the Application in conformance with the review criteria set forth in Section 15.02.210.C as it relates to the multiple-family dwelling use for The Gateway and wishes to approve the Application for a special use permit, subject to the conditions set forth in **Exhibit A**, which is incorporated herein (the "Conditions").

**NOW THEREFORE, BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF PARACHUTE, COLORADO THAT:**

**Section 1.**     Recitals.   The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Special Use Permit. The Town Council hereby approves the Applicant's special use permit for multiple-family dwelling use for The Gateway, subject to the Conditions set forth in **Exhibit A**. This special use permit approval shall constitute approval of a site-specific development plan, and creates a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, for a period of three (3) years, which shall run to the benefit the Property.

Section 3. This Resolution shall be recorded in the public records of Garfield County, Colorado.

**INTRODUCED, PASSED, APPROVED, AND ADOPTED** by a vote of 3 to 0 of the Town Council of the Town of Parachute, Colorado at a regular meeting held at the Town Hall in the Town of Parachute, Colorado on the 18<sup>th</sup> day of August, 2022 and approved by the Mayor on the 18<sup>th</sup> day of August, 2022.

**TOWN COUNCIL OF THE  
TOWN OF PARACHUTE, COLORADO**



By [Signature]  
Tom Rugaard, Mayor

**ATTEST:**

[Signature]  
Lucy Spalenka, Town Clerk

**EXHIBIT A**

1. Multiple Family Residential use shall not exceed 90% of the floor area of the structure. A minimum of 10% of the ground floor area shall be designated for commercial use(s) open to the public.
2. Applicant shall be required to obtain site plan approval. All applicable standards set forth in PMC Ch. 15.04 shall be met prior to the Town approving the site plan application for The Gateway.
3. As a condition of any site plan approval, the Applicant shall enter into a Development Agreement with the Town to address specific matters to the Town's satisfaction and in the Town's discretion related to site development, including, but not limited to, parking, administration, and storage. Further the Development Agreement shall set forth the affordable housing restrictions for use and occupancy of the residential units on the Property; however, such conditions shall not violate the Fair Housing Act and shall not otherwise conflict with any applicable requirements for eligibility for Federal, State, and Local funding for financing and construction of affordable housing, such as this project. The Development Agreement shall be approved and executed by the Town Manager and recorded in Garfield County prior to issuance of a building permit.
4. All representations of the Applicant made in the Application and in statements during the public meeting before the Planning Commission and public hearing before Town Council, either in writing, orally, or reflected in the minutes, shall be considered conditions of approval with which the Applicant shall comply.
5. This approval shall run with the Property. A resolution approving the Application shall be recorded in the public records of Garfield County.
6. Applicant shall reimburse the Town for any and all fees, including consulting costs and attorney fees, incurred in the review of the Application.
7. Applicant shall indemnify and hold the Town harmless from any and all claims against or losses of any nature whatsoever incurred by the Town arising under or resulting from development of the Property.

ACKNOWLEDGED AND ACCEPTED

*Verbally accepted @ hearing*  
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Applicant