

Reception#: 981816  
12/05/2022 10:02:20 AM Jean Alberico  
1 of 2 Rec Fee: \$18.00 Doc Fee: 0.00 GARFIELD COUNTY CO

**ORDINANCE NO. 12  
SERIES OF 2022**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, APPROVING AN EXTENSION OF THE DEADLINE TO COMPLETE PUBLIC IMPROVEMENTS FOR CARBONDALE MARKETPLACE SUBDIVISION, RESUBDIVISION OF LOT 5A.**

WHEREAS, ProBuild Company, LLC, also known as Builders FirstSource or BFS Group, LLC (“Applicant”) previously submitted an application to the Town of Carbondale (“Town”) for the approval of a preliminary plat and a final subdivision plat (“Amended Plat”) to re-subdivide Lot 5A of the Carbondale Marketplace Subdivision (the “subject property”) as described on the First Amended Plat of Lot 5, Carbondale Marketplace Subdivision, recorded in the Garfield County real property records on May 25, 2018 at Reception No. 907183, into two lots to be known as Lot 5A (as amended) and Lot 5C, for Major Site Plan Review approval to develop a lumber and building supply business on Lot 5A (as amended), and for approval of alternative compliance related to landscaping/ screening, fence height and commercial building design upon Lot 5A (as amended); and

WHEREAS, on June 23, 2020 the Board of Trustees of the Town of Carbondale adopted Ordinance No. 6, Series of 2020, and the Subdivision Improvements Agreement for Carbondale Marketplace Subdivision, Re-subdivision of Lot 5A; and

WHEREAS, pursuant to section 5.d of Ordinance No. 6, Series 2020 and section 4.b of said Subdivision Improvements Agreement, the deadline to complete required public improvements pursuant to the terms of said Ordinance and Subdivision Improvements Agreement, was within two years of the date of recordation of the Amended Plat; and

WHEREAS, on September 2, 2020 Applicant purchased the subject property from Crystal River Marketplace, LLC; and

WHEREAS, the First Amended Plat was recorded in the Garfield County real property records on September 3, 2020 at Reception No. 941398; and

WHEREAS pursuant to Section 16 of said Subdivision Improvements Agreement, the Town has discretion to extend the deadline for completion of the required Public Improvements upon written request from the Developer and any third party that provided security to the Town to guaranty completion of the Public Improvements after a hearing before the Board of Trustees and approval of the associated ordinances and/or amendments to the Annexation Agreement; and

WHEREAS, pursuant to a letter to the Town dated August 3, 2022, Sopris Engineering, LLC on behalf of the Applicant has certified that the Public Improvements have not been completed and request a new completion date of June 15, 2023; and

WHEREAS, the Board of Trustees finds that the reasons for the delay occurred through no fault of the Applicant and for reasons beyond the Applicant’s control; and

WHEREAS, the Board of Trustees finds and determines that this extension request should be granted, for good cause shown, including that the Applicant has been diligently engaged with Town staff in the construction of required public improvements.

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

1. Applicant's request for an extension of the required public improvements completion date is hereby granted. Applicant shall have through and including June 15, 2023 to complete the required public improvements for Carbondale Marketplace Subdivision, Re-subdivision of Lot 5A.
2. Except as amended herein, all terms and conditions of Ordinance No. 6, Series of 2020, the Subdivision Improvements Agreement for Carbondale Marketplace Subdivision, Re-subdivision of Lot 5A shall remain in full force and effect.

INTRODUCED, READ AND PASSED this 22<sup>ND</sup> day of November, 2022.

THE TOWN OF CARBONDALE

By: Ben Bohmfalk  
Ben Bohmfalk, Mayor

ATTEST:

By: Cathy Derby  
Cathy Derby, Town Clerk



TOWN OF CARBONDALE  
101 S. CLARK AVENUE  
CARBONDALE, COLORADO