

**ORDINANCE NO. 2
SERIES OF 2021**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING AN APPLICATION OF CARBONDALE CENTER PLACE, LLC
FOR MAJOR SITE PLAN REVIEW APPROVAL TO DEVELOP MIXED USE
BUILDINGS UPON LOT 1, CARBONDALE CENTER PLACE SUBDIVISION
EXEMPTION, FOR A CONDITIONAL USE PERMIT TO ALLOW GROUND
FLOOR RESIDENTIAL USE, AND FOR ALTERNATIVE COMPLIANCE FOR
LANDSCAPING AND SCREENING**

WHEREAS, Carbondale Center Place, LLC, a Colorado limited liability company (“Applicant”), as part of a combined land use application to demolish and redevelop the existing Sopris Shopping Center into a project to be known as Carbondale Center Place, has submitted a site-specific development application for Lot 1 of said Carbondale Center Place Subdivision (“Lot 1”) in order to develop mixed use buildings with a maximum combined total size of 73,252 square feet, to include up to 76 residential units and 10,370 square feet of commercial space (Lot 1 consists of approximately 87,031 square feet of land or 1.998 acres that is legally described on the Exemption Plat of Carbondale Center Place recorded in the Garfield County real property records on _____ 2021 at Reception No. _____); and

WHEREAS, pursuant to Ordinance No. 10, Series of 2020, approved by the Town on August 25, 2020 (the “Rezoning Ordinance”), the Town has previously approved the re-zoning of the land that will comprise Lot 1 to become part of the Mixed-Use (MU) zone district, with such rezoning approval to be effective upon: (1) future subdivision approval establishing Lot 1 as a separate piece of property; and (2) future major site plan review approval for development upon Lot 1; and (3) Applicant’s execution and recordation of subdivision improvements agreement that will serve to confirm the demolition and removal of all existing Sopris Shopping Center buildings from Lot 1 (or provide security to guarantee completion of the same prior to additional development), and the completion of all public improvements required to serve Lot 1 after redevelopment; and

WHEREAS, contemporaneously with the consideration of this Ordinance, the Town is simultaneously considering the adoption of Ordinance No. 1, Series of 2021 (the “Subdivision Exemption Ordinance”) that would authorize the establishment of Lot 1 as a separate lot; and

WHEREAS, Applicant’s related site-specific development application for Lot 1 includes requests for approvals of: (1) Major Site Plan Review for the proposed mixed-use buildings; (2) a Conditional Use Permit (to allow ground floor residential); and (3) approval of Alternative Compliance with regard to certain landscaping buffer requirements ordinarily applicable within the Mixed Use (MU) zone district in order to reconfigure a

required landscape buffer along State Highway 133 and reduce the width of a required five-foot wide landscape buffer along the rear of Lot 1 to be only 2.4 to 4.3 feet wide;

WHEREAS, after all required notices, the Town's Planning and Zoning Commission (P&Z) conducted a public hearing that commenced on December 10, 2020 and continued on January 14, 2021, at which time various elements of these requests were discussed and public input was taken; and

WHEREAS, the P&Z subsequently recommended to the Town's Board of Trustees that these requests be approved, with conditions; and

WHEREAS, after all required notices, the Town's Board of Trustees conducted a public hearing on February 9, 2021, 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 hearings, all as required by law; and

WHEREAS, the Board of Trustees also finds and determines that the Applicant's site-specific development application for Lot 1 meets the following Major Site Plan Review approval criteria set forth in Municipal Code Chapter 17.02, sub-sections 2.5.3.C.1 through 4, inclusive, including:

- i. The Applicant's proposed site plan is consistent with the Comprehensive Plan as the area is designated New Urban which envisions a flexible mix of retail, restaurants, service commercial and multi-story mixed-use buildings with buildings being the focal point of the site by locating them close to the street;
- ii. The Applicant's proposed site plan is consistent with the purposes section of the MU zone district as this development will provide a compact, mixed-use development that provides people with the opportunity to live, work, recreate, and shop in a pedestrian-friendly environment. There would be multimodal access to and from Downtown. The development includes both a vertical and horizontal mix of land uses, and provides an interesting and walkable environment through tailored building design and streetscape standards that address features such as building mass and placement, building entries, and windows/transparency; and
- iii. The Applicant's proposed site plan complies with all applicable development and design standards set forth in this Code if the Applicant's proposals for Alternative Compliance are approved; and

- iv. The traffic generated by the proposed development upon Lot 1 is adequately served by existing streets within Carbondale, or such impacts will be sufficiently mitigated; and

WHEREAS, the Board of Trustees also finds and determines that the Applicant's request for a conditional use permit to allow ground floor residential units in the mixed use buildings upon Lot 1 meets the following approval criteria in Municipal Code Chapter 17,.02, sub-section 2.5.1.C.3.a, including:

- i. The site, buildings, and uses meet all criteria specified for the use and all applicable regulations and development standards as specified in Chapter 17 of the Municipal Code and for the MU zone district;
- ii. The proposed use is consistent with the 2013 Comprehensive Plan which envisions a flexible mix of uses, including residential uses;
- iii. The site is in conformance with the development standards of the MU zone district;
- iv. The proposed use is planned in a manner that will minimize adverse impacts on the traffic in the neighborhood and surrounding uses; and
- v. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics; and

WHEREAS, the Board of Trustees also finds and determines that the Applicant's requests for Alternative Compliance concerning certain landscaping buffer requirements (including the reconfiguration of a required landscape buffer along State Highway 133 and the proposed reduction in size of a required landscape buffer area along the rear of Lot 1) should also be granted because they meet the following approval criteria in Chapter 17.05, sub-sections 5.1.3.E.1 through 4, inclusive:

- i. The Applicant's proposed alternatives will achieve the intent of the subject standards to a better degree than the subject standards as the Applicant's proposals will improve the aesthetic character, contribute to the quality of development, and provide for pedestrian activity in front of the buildings and larger common open spaces at the rear of the buildings;
- ii. The Applicant's proposed alternatives will advance the goals and policies of the Comprehensive Plan and the Town's Unified Development Code (Chapter 17 of the Municipal Code) to a better degree than the subject standards as Section 4.11 in the Comprehensive Plan (New Urban) states

that site design should provide obvious and safe connections to the buildings for pedestrians and cyclists as well as suggests that the insides of the buildings be connected with elements such as outdoor activity areas and provides for more useful common open spaces;

- iii. The Applicant's proposed alternatives will result in benefits to the community that exceed the benefits associated with the subject standards; and
- iv. The Applicant's proposed alternatives will impose no greater impacts on adjacent properties than would occur through compliance with the specific requirements of Chapter 17.05, section 5.4 of the Municipal Code; and

WHEREAS, the Board of Trustees also finds and determines that certain conditions of approval should be imposed, as set forth herein and in the related Rezoning Ordinance, , Subdivision Exemption Ordinance, and a Subdivision Improvements Agreement to be approved by the Town and/or entered into by the Applicant and the Town contemporaneously with the finalization of these approvals, which terms and conditions include that the Applicant will pay certain fees to the Town, construct certain required public and private improvements (including water and sewer service system components, street improvements, and stormwater improvements), and dedicate certain associated easements to the Town for purposes of access and/or for future operation, maintenance, repair and replacement of certain of these public improvements.

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

1. **Major Site Plan Review.** The Board of Trustees hereby grants Major Site Plan Review approval to allow a mixed-use development of up to 76 residential units and 10,370 square feet of commercial space in two buildings, which shall have the maximum sizes and the configurations set forth on the approved site plan that is attached to this Ordinance as *Exhibit A*. Site plan approval is conditioned upon all terms and conditions of this Ordinance, the associated Rezoning Ordinance, Subdivision Exemption Ordinance, and Subdivision Improvements Agreement, as well as that the exterior appearance of the project be substantially consistent with all architectural renderings submitted to the Town by the Applicant in connection with this site plan approval. Pursuant to Chapter 17.02, Section 2.5.3.G.2 of the Municipal Code, site plan approval shall remain in effect for a period of three years.

2. **Conditional Use Permit.** A conditional use permit to allow ground floor residential development is hereby approved. The conditional use permit approval shall remain in effect for so long as the mixed-use buildings on Lot 1 remain in use for the

purposes approved herein, and shall otherwise be subject to the terms of Chapter 17.02, Sub-Sections 2.5.1.C.4.b and -c of the Municipal Code, as such may be amended from time to time, concerning termination and/or revocation.

3. **Alternative Compliance.** The Applicant's requests for Alternative Compliance approval as to certain landscaping and screening requirements, as more fully described above, are hereby approved.

4. **Subdivision Improvements Agreement.** Prior to any construction upon Lot 1, the Town and the Applicant shall enter into a Subdivision Improvements Agreement in substantially the same form approved by the Board of Trustees contemporaneously with its approval of the Subdivision Exemption Ordinance and this Ordinance. All terms of such Agreement are incorporated as terms and conditions of this Ordinance (including that the existing Sopris Shopping Center buildings be removed from Lots 1 and Lot 2 prior to any further development).

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

- a. All development shall comply with the Land Use Application submitted to the Town by the Applicant on November 2, 2020.
- b. The Town's approval of Major Site Plan Review is expressly contingent upon:
 - i. The Applicant and the Town entering into the Subdivision Improvements Agreement which further addresses, requires and secures the construction of public improvements associated with this project;
 - ii. Town approval of engineering plans and specifications.
- c. Snow storage areas shall be designated on the final engineered plans and specifications. Thereafter, the snow storage areas shall be kept free of any obstructions that could inhibit snow storage during each winter season, and no above-ground improvements may be constructed within the designated snow storage areas without prior Town approval.
- d. A common shower facility for the commercial portions of the building shall be constructed within the southerly building on Lot 1 prior to the occupancy and use of any commercial spaces within the building.

- e. All rooftop mechanical systems and equipment shall be screened as required by Chapter 17.05, section 5.4 of the Municipal Code.
- f. The Applicant shall enter into an agreement with the Carbondale & Rural Fire Protection District that addresses payment of impact fees prior to the issuance of any building permits for this project.
- g. This approval does not include signage. Separate permits for signage are required to be approved by Town Staff prior to installation.
- h. Prior to issuance of building permits for either the north building or the south building on Lot 1, deed restrictions for Community Housing Units shall be recorded at the Garfield County Clerk and Recorder's Office in forms approved by the Town Attorney. There will be a total of 15 deed restricted units in the two buildings, to include five Category 1 units, five Category 2 units, and five Category 3 units.

The north building will have a total of nine deed restricted units to be administered as part of the Town's affordable housing program in order to remain affordable to the area median income categories set forth in the Town's Community Housing Guidelines, with 3 units to be located on each of the 3 floors of the building, to include the following:

- Level 1 – 3 units (one each from Category 1, 2 and 3)
- Level 2 – 3 units (one each from Category 1, 2 and 3)
- Level 3 – 3 units (one each from Category 1, 2 and 3)

The south building will have a total of six deed restricted units to be administered as part of the Town's affordable housing program in order to remain affordable to the area median income categories set forth in the Town's Community Housing Guidelines, with 3 units to be located on the second floor, and 3 units to be located on the third floor, to include the following:

- Level 2 – 3 units (one each from Category 1, 2 and 3)
- Level 3 – 3 units (one each from Category 1, 2 and 3)

- i. All project lighting shall be in compliance with Chapter 17.05, Section 5.10 of the Municipal Code (Exterior Lighting). The final

lighting plan shall be subject to review and approval of Town Staff prior to issuance of any building permits.

- j. No more than 21,787 square feet of landscaped areas may be irrigated upon Lot 1.
- k. The Developer shall construct and maintain four electric vehicle charging stations upon Lot 1. The charging stations shall be ready for use on or before issuance of a certificate of occupancy for either of the new buildings on Lot 1.

6. **Other representations.** Except to the extent inconsistent with this Ordinance, the Rezoning Ordinance, the Subdivision Exemption Ordinance, or the Subdivision Improvements Agreement, all representations of the Applicant to the Town in its land use applications, any related written submittals to the Town, or during public hearings concerning this project, shall also be binding as conditions of approval.


7. **Effectiveness.** This Ordinance shall not become effective until after posting and publication in accordance with the Town's Home Rule Charter. The effectiveness of this Ordinance shall also be contingent upon the satisfaction of all conditions precedent to the effectiveness of the Rezoning Ordinance, including that the Rezoning Ordinance, the Subdivision Exemption Ordinance, this Ordinance, and the site plan approval ordinance for Lot 2 (Ordinance No. 3, Series of 2021) all become fully effective in accordance with the Home Rule Charter and the additional conditions set forth in each ordinance related to delayed effectiveness (including finalization and recordation of the Final Plat and related subdivision improvements agreements and conveyance to the Town of all required public easements). If all of these related Ordinances are not fully effective on or before September 30, 2021, then each of these related Ordinances shall be of no further force and effect (provided that the Board of Trustees shall also have discretion to extend this deadline by Resolution for up to an additional 180 days for good cause shown).

8. **Recording.** A copy of this Ordinance shall be recorded the Garfield County real property records contemporaneously with the other approval documentation contemplated hereby.

INTRODUCED, READ AND PASSED this 23rd day of March, 2021.

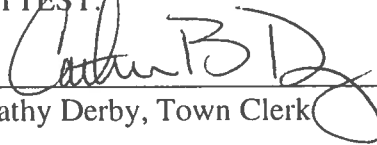
THE TOWN OF CARBONDALE

By:



Dan Richardson, Mayor

ATTEST:



Cathy Derby, Town Clerk



EXHIBITS:

A. Approved Site Plan

