

## MINUTES

### CARBONDALE PLANNING AND ZONING COMMISSION

Thursday April 15, 2021

#### **Commissioners Present:**

Michael Durant, Chair  
Marina Skiles  
Jay Engstrom, Vice-Chair  
Erica Stahl Golden  
Kim Magee (1<sup>st</sup> Alternate)  
Jeff Davlyn

#### **Staff Present:**

Janet Buck, Planning Director  
John Leybourne, Planner  
Mary Sikes, Planning Assistant

#### **Commissioners Absent:**

Jarrett Mork (2<sup>nd</sup> Alternate)  
Nicholas DiFrank  
Nick Miscione

#### **Other Persons Present Virtually**

Rob Classen, architect  
Cari Kaplan, 488 Morrison Street  
Laura Sugaski, 487 Mancos Street  
Anne Krimmer, 501 Mesa Verde  
Bob Kaplan, 104 Cornwall Road, Rehoboth Beach, Delaware  
Travis Newcomb, 485 Mancos Street  
John Ward, ANB  
Tony Spires, ANB  
Will Coffield, ANB  
Doug Pratte, Land Studio  
Roman Gershkovich, Architect  
Kyle Sanderson, Engineer at Sopris Engineering  
Chad Lee, Attorney at Balcomb and Green

The meeting was called to order at 7:00 p.m. by Michael Durant

#### **March 11, 2021 Minutes:**

Jeff made a motion to approve the March 11, 2021 minutes. Jay seconded the motion, and they were approved unanimously.

#### **Public Comment – Persons Present Not on the Agenda**

There were no persons present to speak on a non-agenda item.

#### **VIRTUAL HEARING – Rezoning, Administrative Site Plan Review, Preliminary Plat, Special Use Permit**

**Location: Hendrick Drive and Highway 133**

**Applicant: ANB Bank**

Michael disclosed that he is a real estate appraiser and that ANB is one of his clients. He said that he does not have any conflict of interest or any financial interest in the bank moving its location.

Janet said that the Planning Commission reviewed this application on March 11th. She said that at that meeting, Staff went through the technical aspects of the proposed development, noting that the subdivision and development generally complied with the UDC.

Janet stated that the development team did a presentation.

Janet said that the discussion then focused on whether New Urban character was defined by the site and building design rather than defined by a specific use. She continued by saying that at the end of the hearing, the Commission said they thought that the proposal may work on the parcel, particularly with the City Market/retail development as the backdrop. She stated that in addition, it was noted that having a single story building would break things up at this intersection and to preserve the views to the west and south.

Janet stated that the Commission requested some clarification on some specific items from the development team. She said that the Commission also directed Staff to prepare conditions and findings of approval. She said that the hearing was then continued to tonight.

Janet stated that she included the list of items requested by the Commission in the staff report. She said that the applicant submitted material in response to those items and they will be addressing those in their presentation.

Janet said that she included a list of conditions in the Staff report and that one of the conditions should be removed. She noted that the dumpster needs to be set back twenty feet from the street right-of-way. She stated that this is incorrect and that there is no setback in the Mixed-Use zone district.

Janet stated that the other is that the current ANB location on Dolores is to prohibit use of the drive-through in the future, which the applicant stated they were willing to do. She said that way, there is no increase in the number of drive-throughs in Town.

### **Commission Questions and Discussion**

There were no questions from the Commission.

Doug shared his screen stating that for the most part this presentation is a response to things we heard at the March 11 hearing and he introduced his team. He outlined the following;

- Additional neighboring projects.

- The entry drive was narrowed into the drive-through and that it is still wide enough for two vehicles.
- Extension of the sidewalk running by the entrance to the building, which is on the civil plans.
- Added additional landscaping around the trash enclosure with the materials for the trash enclosure matching the architecture of the bank building.
- Overall landscape plan showing the amendments above.
- Signage at the drive-through showing that it was an entrance only.

Roman Gershkovich, Architect with Open Studio outlined the following;

- Details of how the bank exceeds the green building code and energy requirements for the Town of Carbondale;
  - The EPI or net performance of the building, which is 15% lower than the required forty-seven, with a score of thirty-nine.
  - The interior and exterior lighting is exceeding requirements by over 45%.
  - Reductions in heating, cooling and ban use from the interior.
  - On-site renewal energy of 5200 kilowatt hours per year by solar array.
  - Electric vehicle charging station.
  - Materials on the bank will be indigenous or recycled, sourced within a 500 mile radius of the bank.
  - Insulation exceeded the energy code by more than 10%.
  - Shading devices along the fenestrations for an even distribution of day light.
  - Mechanical sensors for conditioned air for energy efficiency.
  - Low flow plumbing fixtures.
  - Views heading north from the round-about.

### **Commissioner Comments**

- Were there comparisons done with the 2018 IGCC Green Building Code.
- Lighting for the walkway to the south of the building.
- The applicant was thanked for all of the revisions that were requested from the last meeting.
- The applicant has taken the Commissions' suggestions to heart.
- Condition for the SUP might include removal of drive-through at previous location.
- Repurposing the drive-through could be adapted to another use as it does add visual and architectural interest to the back of the building.
- Use of the lot for a bank with the other bank to the north gives pause.
- Not sure we would get a better application for the experience of the Highway 133 corridor with the zoning.
- The application fits this site very well and the design looks great.
- With this application there will be an acceleration lane added on Highway 133.
- Pedestrian lights could be helpful as many cars currently do not stop as they are entering from the City Market exit.

- The intersection of Hendrick Drive and Main Street has a big transformer and for safety a four-way stop might be needed.
- Suggestion to compare the 2012 and 2018 IGCC codes for the Board, with some bar graphs.

Kyle Sanderson, Engineer at Sopris Engineering said that in the traffic study that there has been discussion of the intersection at Hendrick Drive and Main Street being a four-way stop in the future. He said that it would be up to the Town to have a four-way stop at that location in the future. He said that it would be a CDOT application for the pedestrian light at Highway 133.

Further discussion ensued regarding drive-through banks.

There were no members of the public to comment.

### **Motion to close the comment portion of the public hearing**

Jay made the motion to close the comment portion of the public hearing. Jeff seconded the motion, and it was approved unanimously.

### **Motion**

Marina recommended approval of the Rezoning, Preliminary/Final Plat, Site Plan Review, Special Use Permit and Alternative Compliance (Landscape) with the conditions and findings in the Staff report with the amendments of the trash enclosure and the old drive-through be deed restricted. Jeff seconded the motion, and it was recommended unanimously.

Yes: Michael, Jay, Marina, Jeff, Kim, Erica

No: none

### **VIRTUAL HEARING – Minor Site Plan Review/ADU**

**Location: 485 Mancos Street**

**Applicant: Jennifer Newcomb**

There were eleven letters entered into the record that were sent to the Commission.

John stated that this is a continued public hearing for a Minor Site Plan Review and Conditional Use Permit. He said that the Commission is required to hold a public hearing and approve the application, deny it or continue the public hearing.

John stated that the applicant is proposing to remove an existing garage structure and construct a new attached garage with an accessory dwelling unit (ADU).

John continued by saying that at the March 11, 2021 meeting the Commission closed the public hearing and requested the following information be provided at the next meeting;

- A solar access plan.

- That the applicant looks into revising the private outdoor space.
- Provide more detail on the garage/ADU building height.

John said that the requested information was provided by the applicant and is included in the packet and noted in the report.

John stated that an ADU is allowed to be up to 850 square feet and a minimum of 300 square feet and that the proposed ADU is 596 square feet in size. He said that the proposed structure is 20 feet 8 inches in height and the maximum allowed height is 27 feet.

John stated that Section 5.8.3. of the Unified Development Code (UDC) requires 2.5 parking spaces for the main dwelling, and 2 spaces for an ADU. He said that the applicant has indicated there will be four spaces, three located in the driveway and one located in the new proposed garage.

John stated that the proposed garage is setback fourteen feet from the front of the existing house with a stucco finish and accent siding. He said that the existing home is to be painted and or receive stucco to match the proposed garage. He stated that the applicant has indicated changes to the private deck railing, raising it 6" to 42" with lattice screening and extending the posts for the inclusion of a solar shade/curtain for privacy. He stated that it should be noted that the private outdoor space is to be accessible directly from the dwelling unit and be an extension of the dwelling unit.

John said that Section 5.12 of the UDC, Solar Access, discusses the provision of adequate light to allow solar access on adjacent properties. He said that the applicant has provided a solar access/fence diagram that indicates a shading height of 9' 4" on the 16 ft allowed solar fence.

John said that Section 5.12.5 of the UDC states that a structure or vegetation would not shade any higher than a theoretical 16-foot high solar fence on the building envelope of the adjoining property. He said that the provided diagram shows compliance with this section.

John said that there has been a large amount of public comment for and against this application.

Marina asked if this ADU requires that the elm tree be taken down.

John said that this is a question for the owner and the applicant as the Town does not have purview over any tree on private property.

Marina asked for clarification if this application was it in compliance with the code and did any of the letters trigger any questions of non-compliance.

John said no they did not.

Rob Classen, 818 Colorado Avenue, Suite 101, Glenwood Springs, the architect said that we have done some extensive work on this and we've try to comply or address the items that were mentioned at the last meeting. He said that the heights on the building address the questions as far the scale and how it relates to the existing house. He said that the ridgeline of the new ADU is one foot eight higher than the existing ridge on the house, which is well below what is allowable. He said that you could actually almost add an additional story to the house if the owners wanted to.

Rob said that we tried to address the accessibility of the private outdoor space and that there was discussion of moving the outdoor space to the ground level. He said that after discussions with the owner and after looking at it that it's very important to keep it on the second floor. He said who wants to go down a set of stairs and outside to BBQ as well as haul food with accessories. He said that it just didn't make much sense. He said that we tried to address the screening with raising the handrail and adding some semi-enclosed railing with lattice work with the proposed post and beam so a solar curtain could be added to further screen.

Rob said hopefully you can see the pictures that were submitted. He said that he took a ladder over to the site and placed it at the outer-most western limit of the deck to take the pictures both west, south and north to give you an idea of what the actual views were. He said that you can see where the trees are, and that the existing elm tree is very overgrown. He said that most municipalities are desiring to remove the elm trees rather than prune them because they are easily diseased. He said that in this case it would be beneficial to go ahead and remove that tree as it is so close to the pine trees on the north property line. He said that we are planning on planting a new blue spruce tree inside of the fence, centered on the deck to provide further privacy for both the ADU deck and for the neighbor to the west.

Rob said that in summary that is what we have tried to do to address the issues that came to light and that he would be happy to answer any further questions.

Michael asked if Elm trees were on the Tree Boards' bad list.

John said that the Elm, Dutch Elm and Valley Forge are on the recommended trees.

Jeff said that it might be a Siberian Elm, which could be on the bad list.

John said that if it is a Siberian, it is on the bad list.

### **Commission Questions and Discussion**

- From the diagrams it looks as though the tree is on the neighboring property.
- It is a civil matter when the tree is on private property.
- Did the applicant consider moving the ADU closer rather than jogging it back?
- The pictures of the lattice are part of the existing house currently.
- Clarification of the location of the deck for the ADU.

- It is not the Town's position to enforce the covenants and the neighbors need to re-organize an active homeowner's association as the covenants are between homeowners.

Further discussion ensued regarding private outdoor space.

The public comment portion of the public hearing was re-opened by the Commission.

Michael explained the process for the public comments.

Anne Krimmer, **501 Mesa Verde** said that she has been in the neighborhood for eighteen plus years and that Travis is a good guy. She said that she feels that they are a single family neighborhood. She said that some of the discussion with the board has been about ownership of the property and that there is no guarantee of who will own this property. She said that she doesn't want to see an arms race of everyone building to their property lines because it doesn't matter anymore. She said that we need to think about mass and scale and that the neighborhood character is single family. She said that she appreciates that there were some changes made but that the balcony is a big deal to a lot of people. She said that maybe it could be moved to the front of the house. She said that she would like to see the neighborhood get together with Travis about what we would like to see and what we think would work. She said that she is against ADU's in the neighborhood because we are low density residential and the majority of us bought when we thought it was single family residential, but that zoning has changed over the years. She said that she thinks it's workable to make everyone happy. She said unfortunately with the one-sided discussion of having a P&Z meeting she doesn't know if it can happen. She said that she is disappointed that there were not any significant changes to provide privacy to the neighbors. She said that the tree will take years to grow. She said that she understands that Travis doesn't want to lose part of his yard because they are small lots but that she would hope that we could find a workable solution that makes everyone happy.

Bob Kaplan, **104 Cornwall Road, Rehoboth Beach, Delaware** said that he is a retired architect and that he is Cari Kaplan's father. He said that Cari is the owner of the house directly to the west of this property. He said that after the first meeting he had submitted, based on his own curiosity, how this project could be reduced in both mass and details such as fenestration to mitigate the problems of the neighbors, yet totally comply and satisfy with the owner's program. He said that you should have those drawings. He said that it is four feet narrower, which produces a much more compatible scale from the streetscape point of view. He said that it is ten feet shorter and therefore only a six or seven foot projection from the rear of the existing house rather than seventeen. He said that he also showed it because he strongly believes that the number one thing is the deck upstairs and that he agrees with Travis that making it smaller doesn't really accomplish anything. He said that the details that Rob had put in are minimal, helpful but they don't really accomplish very much in terms of the thing. He said that he made his plan as a suggestion, essentially a flip of the plan, whereby the stairway going up is on the north side and therefore there is no walking across the driveway to get around and be much more convenient to the rear property. He said the second floor deck as he

understands it from third hand is the only second floor ADU deck that has been approved. He said please keep in mind that this deck is a full story above ground, rather than a half of a story of the existing deck. He said having it on the lower grade and having it a little more accessible by design is one of the most important things. He said that he is somewhat perplexed by the fact that he sees what the mission of what an ADU supposed to be and in that mission, it is also stating that it should make the best possible efforts to be as comfortable with the neighbors and the neighborhood as possible. He said that an ADU is not a variance, a variance is for hardship. He said that an ADU is not a hardship and an ADU is at the pleasure and use in anyway by the owner and that he doesn't have to do it.

Cari Kaplan, **488 Morrison Street** said that she has been overstoking on writing lots of letters you guys. She said that this has been a passionate issue for her and that she is super affected because she lives in the west of this house. She said touching on what her father said that she sort of feels like this is an accessory dwelling unit not an additional dwelling unit. She said that she understands completely that they want to provide the best possible experience for their tenants, their renters whoever they may be. She said that she's sure they will be as good of people that they can possibly find, however she feels that their happiness and their convenience to BBQ etc., to hang out and have a big table for four people or whatever comes at the expense of the neighbors. She said that it's not just her but the neighbors that surround Travis' back yard and that there is actually five homes. She said that all of us are concerned and that we have written in as far as she knows and that she doesn't know about the new people that just moved in next to Travis. She said that it's not just about who is going to live in this ADU, it's simply just sitting there with their windows wide open, with our lights on and in the summer, we don't have air conditioning you guys, we sleep with our windows open. She said that they may not be bad folks and that they are probably just going to be hanging out and talking and maybe they will be playing video games inside, but she doesn't know. She said it these things like this that are going to be very problematic that she thinks for all of us even though are structures are further away, but our outdoor space is very important to us. She said that she does want to touch on the tree and that she appreciates them wanting to put the spruce tree in. She said that she talked to the Town arborist and that he was going to stop by and have a look, but she doesn't know if he had time because they were starting the ditches today. She said that Mike said that saving the tree is worthwhile and worth looking at, especially with the age that it's probably quite old and there is a question of whether is encroaches on Laura Sugaski's property so she's not sure if there's a right to just tear it down. She said that we feel that if he doesn't put the deck in and uses a ground level patio instead that the tree could be partially saved if not all saved and not nearly as disfigured. She said that the tree is a big deal and that she knows Travis really likes it a lot and that it provides a huge amount of shade for us, his family and without that tree there will be no shade. She said that quite honestly the second story deck will be pretty hot without any shading there. She said like you guys saw in my letters and my pictures, that the trees that she has on her side are basically not going to accomplish anything as far as sound and privacy, light pollution etc., they are dying, and they really don't have any canopy. She said that she has written a lot and that she hopes you've read it and that she apologizes that it's so much but that she had a lot to say about this and thanks for hearing me out.



Laura Sugaski, **487 Mancos Street** said that she's not sure what more she can say at this point that everyone else hasn't already said. She said that she hopes that you have read my letters. She said that what she wants to say mostly is that she really wished that this building could be moved closer to the street. She said that even when Travis approached her many months ago talking about adding this ADU, she didn't think a whole lot of it because she imagined it right on the side of his house. She said that even John, the Planner, had mentioned that they didn't ask for an exception for the one extra parking spot but that they could have. She said what she is wondering is can she or somebody say let's forgo one of those parking spots because there's only three and we can push it back up to the front and get this out of the backyard. She said that it stinks you know that she would have to look at a two-story building on my south side of her lot now. She said that it is very upsetting actually. She said that Bob Kaplan had written up that alternative site plan and that she thought that was really interesting because he kind of switched around the door, the entrance to the ADU and in that case you know it would be more accessible to the outdoor space on the patio if it was kind of flipped around. She said that she thinks that Cari already said the same thing that she was thinking is there's all this emphasis on how they care so much about the tenant and not so much the care about the neighbors. She said who is more important apparently to them it's their new tenants and doesn't matter whether the patio is on the ground floor or on the second floor, they are still going to get about two thousand dollars a month for this ADU. She said that she doesn't know what they are complaining about and that's all she has to say now, thank you.

### **Motion to close the comment portion of the public hearing**

Jeff made the motion to close the comment portion of the public hearing. Erica seconded the motion, and it was approved unanimously.

### **Commissioner Comments**

- Overall, it's a thoughtful application, trying to understand it from both sides.
- There are private property rights to consider on what is allowed by the code.
- There are covenants in place and that it's not our role to adjudicate based on those covenants.
- It is a strange precedent to set if those covenants were to change to have the Town act before those covenants change one way or the other.
- It would be great to see the neighbors get together and say that ADU's are a good idea for this neighborhood because this is the kind of infill that is appropriate for Carbondale.
- It is a shame that the Town is being put in a position to act with the code and the covenants be in conflict is very challenging.
- The Town has made a conscious decision that ADU's be allowed in low density neighborhoods.
- The applicant had done everything that they have been asked to do by the Town to comply with the code.
- Quality of life is important to renters as well as purchasing a home.
- An architect has been brought on to design this project and that they have done as much as they can.

- We read all of the public comments and thank you to all that commented and that's what Carbondale is about. It's a struggle with code over neighbor complaints. By code standards it's hard to find fault with the application.
- To the neighbors, these are your covenants and that it takes an active homeowners association to enforce the covenants.
- There are lots of low density neighborhoods in the Town that have ADU's that function well, that don't affect property rights, that don't affect property values.
- There are sections is RVR where ADU's are required inside of a single family home, which seems to work well in other neighborhoods.
- There is an opportunity to appeal to the Board of Trustees.
- The code has been properly applied and complied with in a reasonable manner.
- The ADU could be much larger than it is, the deck would be much larger than it is and the ADU could be much higher than it is.
- It's challenging when there are fifteen people against it even when it meets code.
- If this was just an addition to the house it would go straight to building permit.
- A deck off of an addition on the second level would be a building permit too.

Further discussion ensued about other neighborhoods and their covenants.

### **Motion**

Erica made a motion to approve a Minor Site Plan Review and Conditional Use Permit for an Accessory Dwelling Unit to be located at 485 Mancos Street with the four conditions in the Staff report. Marina seconded the motion.

Yes: Michael, Marina, Jeff, Erica, Kim

No: Jay

Michael thanked the neighbors for their participation and stated that we did read your letters.

John said at last count we had thirty-seven letters, which was outstanding.

### **Recommendation on selection of consultant for Comp Plan Update 2021**

Michael said that Janet completed an RFP and sent it out for bid. He said that we had five consultants who responded and Marina, Jay and I were part of a sub committee who screened all five applications, interviewing three of the applicants.

Janet thanked the three Commissioners and said that it took an incredible amount of time going through the five proposals, to make the short list of three. She said that the group was really thoughtful for the three interviews. She said the three on the short list were all good proposals and they didn't make it easy for us. She said that after the interviews Cushing Terrell rose to the top. She said that they put a lot of effort into creating a team that responded to our ten points, in our RFP that we wanted them to look at. She said that they knocked it out of the park with their presentation at the interview. She said that we didn't give the teams clues as to what we wanted them to

talk about, we wanted to see what they came up with. She said that this group took the time to get to know Carbondale, the population, the Comp Plan and their presentation was all about Carbondale as well as what they could do for us.

Janet said that the public outreach was really big. She said that we wanted to call references and that she talked to Chaffee County, whose Planner had great things to say about Cushing Terrell and that they specialize in mountain communities. She said that she also talked to Susan, a Planner in Basalt, and that they had done work with Connect One. She said that they were so happy with them that they rehired them again to do some more work in Basalt.

Marina said that she was honored to be part of the process and that it was a huge time commitment. She said that she thought that Jay, Michael and she had a great dynamic with the interviews. She said that this decision that they have come to is incredibly well informed and thought out. She said that if anyone has any questions, she would be more than happy to answer it. She said that the last interview was also great, and we had a lot of debate about this.

John said that CT was engaged, especially with their on-the-fly answers.

Jay said that their entire team was impressive and every single one had a contribution to the team. He said that there is a reason why they rose to the top. He said that it was a really hard choice because all three were good. He said that this was a big decision for the Town of Carbondale. He said that he feels very strongly that what we decided was the right answer.

Further discussion ensued regarding the choice of the consultant for the Comp Plan.

Michael said what is next in the process is to make a recommendation to the Board. He said that all of the applications are part of the public record so any Commissioner can go through the five proposals and see if you agree with us.

Janet said that it is on the agenda and if you want to move forward on this and form a recommendation to the Board than she can move it on to the Board, rather than waiting another couple of weeks. She said that we are trying to hit the summer/fall months for the public outreach.

### **Motion**

Jay made a motion to recommend Cushing Terrell to the Board of Trustees. Marina seconded the motion, and they were recommended unanimously.

Janet said that she did let the other consultants know already.

Michaels thanked the Commissioners that are here tonight and that there were really tough decisions for an especially trying meeting.

## **Staff Update**

Janet said that Thompson Park went to the Board on Tuesday night. She said that the same sense of lack of trust came through very clearly. She said that it was more about doing the affordable housing before the free market. She said that Dan suggested that we not issue any building permits for the free market units on Parcels three and four until the affordable housing units were CO'd. She said the Board received comparisons of what was approved in 2018 and what was in the ground, which she will send out to the Commission as well. She said that they did bring a material board and that she will get that out on the site. She said that she thinks they got the clear message. She said that they are going to let them go ahead with building permits because there are shared driveways. She said that they were approved but that it did not go easy for the developer. She said that they are going to be putting up a cedar fence along the highway.

Janet said that Eastwood, the self-storage facility, are really close with their documents.

John shared his screen showing the current real estate data for Carbondale.

John said that we have been having more marijuana and sign inquiries.

John said that we are still working with the owners of the Boundary properties on getting everything fixed. He said so far four of the five owners are on board, one owner is digging his heels in.

John said that inquires are off the charts. He said that we have people inquiring on Donna's building, which is the little lot next to the RFTA trail, where it crosses between Village and the RFTA parking lot. He said that we have received two or three inquiries a week. He said that half of that building is located within the RFTA right-of-way, but the owner is trying to sell the entire property.

John said that they have had numerous conversations with a realtor over having a drive-through restaurant, which is not allowed in Carbondale.

Janet said that the President of the Chamber has been trying to throw out ideas to the owner of the old City Market property, trying to spark ideas.

Further discussion ensued regarding the old City Market property.

Mary said that the building department has been crazy, especially with solar permits.

## **Commissioner Comments**

Mariana said look out for your second vaccine and that she's been really ill today.

Janet thanked Marina for hanging in tonight.

**Motion to Adjourn**

A motion was made by Jeff to adjourn, Marina seconded the motion, and the meeting was adjourned at 9:46 p.m.