

MINUTES

CARBONDALE PLANNING AND ZONING COMMISSION

Thursday April 28, 2022

Commissioners Present:

Marina Skiles
Jeff Davlyn
Nick Miscione
Jarrett Mork
Kade Gianinetti (1st Alternate)

Staff Present:

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

Commissioners Absent:

Jay Engstrom, Chair
Nicholas DiFrank, Vice-Chair
Kim Magee
Elizabeth Cammack (2nd Alternate)

Other Persons Present

Lisa Paige, Chair of the Tree Board
Patty Lecht, 102 Main Street
Mark Chain, Mark Chain Consulting
Ramsey Fulton, bldg seed architects
Angela Bruno, Director of the Clay Center

The meeting was called to order at 7:00 p.m. by Janet Buck. She said that Nicholas had planned to chair the meeting, but he is unable to attend.

Motion

Jeff nominated Marina to chair the meeting, Kade seconded the motion and she was nominated unanimously.

Public Comment – Persons Present Not on the Agenda

Lisa Paige, Chair of the Tree Board said that she wanted to make sure that this board was aware of some changes that they are recommending to the Board of Trustees. She said that it is the Tree Board Ordinance, which she said that the Commission should have a copy in their email. She said that it was put in place in 2002 and that we wanted to update, she said that it would allow developers to submit plans electronically instead of eight paper copies. She said that under Section 7.10.60, trees on public property, was rearranged to emphasize the enforcement parts of this ordinance. She said that this is based upon our observation along with the Town Arborist regarding situations with trees on the public right-of-way that don't always receive the kind of care that we think is needed. She said that we also added some language to the penalty section so that if there were trees that were damaged or not cared for as indicated in the ordinance that the developer would be held accountable for the replacement value of the particular tree.

She said in addition, we made some specifications to the size of the tree.

Nick asked who would be responsible for enforcement and penalties?

Lisa said that it is spelled out in the ordinance, and it is under Public Works.
Marina asked if the Board would vote on this?

Lisa stated yes that we are an advisory board. She explained that Public Works would be the enforcement department for this ordinance.

Patty Lecht, **102 Main Street** said that the two items that she wanted to comment on are on the agenda and that she is doing a fly-by endorsement for the Clay Center. She said that she wanted to say how wonderful they are and that she lives across the street from them and that it is such an incredible endeavor. She said that it is so inspiring for the community.

Patty said that Laura Bartel is doing an ADU on her property and that she is an amazing builder.

April 14, 2022 Minutes:

Jeff made a motion to approve the April 14, 2022 minutes. Jarrett seconded the motion, and they were approved unanimously.

Resolution 3, Series of 2022 – Minor Site Plan Review/Special Use Permit – 728 Euclid Avenue

Jeff made a motion to approve Resolution 3, Series of 2022, approving the minor site plan review/special use permit at 728 Euclid Avenue. Marina seconded the motion, and it was approved unanimously.

PUBLIC HEARING – Rezoning

Owners: Carbondale Clay Center/Stephen Zlotnick

Applicant: Carbondale Clay Center

Location: 135 Main Street/66 N. Second Street

John stated that this is an application for Rezoning, the Planning Commission is required to hold a public hearing and make a recommendation to the Board of Trustees to approve the application or deny it. He said that the Commission may also continue the public hearing.

John stated that 135 Main Street is located on the 100 block of Main Street in between the Rio Grande Trail corridor and Main Street. He said that 66 N 2nd Street is located to the south of the Rio Grande Trail corridor along the east side of 2nd Street. He stated that each of the properties are currently zoned Commercial Transitional (CT) and each of the properties is surrounded by Commercial Transitional (CT), Historical Commercial Core (HCC) and Transit zoning.

John continued by saying that the current zone district for these properties is Commercial Transitional (CT). He stated that the proposed zone district is Historic Commercial Core (HCC). He said that the rezoning would only apply to the two parcels, 135 E. Main Street and 66 N. 2nd Street. He stated that no subdivision or development of the parcels is proposed at this time and the three remaining CT parcels are not included in this application and would remain CT. He explained that the south side of Main Street was rezoned in 2014 to HCC to better align with the Future Land Use Map in the 2013 Comprehensive Plan as being designated as Downtown.

John stated that in order to approve a rezoning, the Town would need to find that the rezoning will promote public health, safety and welfare; is consistent with the Comprehensive Plan; is consistent with the purpose section of the UDC and the proposed zone district; does not have adverse impacts on the natural environment and adjacent or nearby properties; and that facilities are available to serve the development.

John stated that the Parcels are designated as Downtown by the 2013 comprehensive plan and the 2013 Future land use Map.

John outlined the following;

- Chapter 4 of the adopted 2013 Comprehensive Plan describes the Downtown designation as follows: Downtown is the thriving, historic, identifiable center of commerce, town culture, civic life, and celebrations and is the heart of the community.”
- The most important priority for the future of Downtown is to maintain and enhance the characteristics that have proven so successful in the past. The Historic Commercial Core has a finite area, so it is important to make the best use of the land available to continue to build on the vitality to the community.
- One of the criteria which must be met in order to approve the rezoning is as follows: “The amendment is consistent with the Comprehensive Plan and the purposes stated in this Unified Development Code.”
- The “Downtown” designation calls for the preservation of existing historic buildings and to allow for a variety of design while honoring the historic nature in the design of new buildings. This designation is also the historic center of commerce, culture, civic life, and celebrations, the heart of the community.

John said that The Clay Center has long been a center of culture and civic life on the eastern end of Main Street. He said that the new designation will allow for a possible future expansion of the use to provide more services to the community.

John stated that 66 N 2nd Street is currently being utilized as a single-family residence and it will become a non-conforming use. He said that non-conforming uses are governed by the Unified Development Code (UDC) Section 7.3., an expansion of the

use would not be allowed. He said that the owner of the property is aware of the change from an allowed use to a nonconforming use.

John said that 66 N 2nd Street was constructed 1888 and has not been surveyed as a Structure of Merit but would fall under Chapter 16, Historic Preservation of the Municipal code.

John stated that the proposed rezoning of the parcel provides a level of protection for the historic structure in keeping with the Purpose of Chapter 16, and the purpose of the Comprehensive Plan Designation, Downtown.

John said that Staff is supportive of the rezoning of each of the parcels. He stated that while it is not ideal to rezone only two of the five parcels along the northern 100 block of Main Street that the rezoning is keeping with the goals of the adopted 2013 Comprehensive Plan and to align with the Future Land Use Map.

Jeff asked why these two properties are paired.

John said that they did approach all five of the property owners and only two wanted to go forward with the rezoning.

Jarrett asked if any other parcels qualify for rezoning in this area or are these the only two that want to?

John explained that these are the only two that want to but that the entire 100 block, as designated by the Comp Plan could be rezoned to HCC.

Jeff asked if it had to be a voluntary process to kick it off or could the Commission take it under their purview to rezone the whole block?

John said that we would rather have the owners come forward with rezonings.

Jarrett asked if it would be more difficult for future parcels to rezone?

John answered no.

Marina said that she was here in 2014 when the other side of Main Street was rezoned, and we rezoned the entire block. She asked if the other owners are averse to this change or have, we received any comments against the rezoning.

John stated that we have not received any negative comments.

Mark Chain introduced himself and said that he is helping with the rezoning. He said that Ramsey Fulton of bldg seed architects and Angela Bruno, the Director of the Clay Center and some Board members and supporters present tonight.

Mark said that the entire block has been talked about going to HCC since 1990. He said that historically that there have been concerns about parking. He said that the code has been confusing at times. He said that if it were up to him that he would rezone the whole block HCC. He said that what has changed since the 1990's is that the unknown demand in the future for brick and mortar commercial that he can understand why some might want to retain their single-family home designation. He said one option might be to make the single homes a conforming use if they already exist.

Mark recalled when Diane Kenney the founder of the Clay Center came into his office, twenty some years ago, proposing to have this organization. He said that it is great to see this property blossoming over the years and that right now they are bursting at the seams. He said that is why the Clay Center would like to go with the HCC zone district. He said that we conform with the Comprehensive Plan and all of the other guidelines in the Town code.

Mark said that we did meet with everyone on that block and asked if they would like to join in this rezoning application, either virtually or in person. He said that Mr. Zltnick did decide to join with the rezoning application.

Mark said that we support the Town's recommendation for HCC designation for both properties. He said that we did reach out to some of the property owners outside of that block.

Commissioner Questions

- Clarification of ownership of the two addresses with this application and alley access not possible with this side of Main Street, Block 100.
- Reasons other owners were not wanting to rezone.

Public Comment

Buck Dean, owns property next door, said that he is in favor of doing this and he thought that they were going to be involved in this and that he was surprised today to find out that we are not. He asked if the rezoning was for the whole block, we they be bound to commercial use.

Mark Chain said that he could develop a portion of the property residentially and that the first twenty-five off the right-of-way would need to stay commercial, on the first floor. He said that parking for residential uses would need to be provided. He said that if you want commercial that you could be lot line to lot line, but with residential you would have to have space for parking.

Further discussion ensued regarding HCC parking for residential.

Buck said that he was in favor of it and to have a good time.

Carey Shanks, **Marble Distilling Co 150 Main Street** said that it sounds like there has been a turn of events. He said that he supports everything that they are doing and that they get granted this change. He said that he doesn't think their business would thrive as much as it does without the Clay Center and that we would like to see it continue to grow. He said that to reiterate a part of the history from 2014, we came forward with a proposal that was under the current zoning. He said that he asked the Town like ten or fifteen times, are you sure we shouldn't look at what the Comp Plan is saying and look to a rezoning. He said that the answer came back to harm no foul and go ahead and submit. He said at the last minute he was asked to come before the P&Z and he was asked if we would rezone to HCC. He said that we went back and redid our plans and that he lost a lot of money on the original plan close to one hundred thousand dollars. He said that it may not seem appropriate to some to rezone the whole area and incentivizing people through the rezoning for the downtown to grow and be vibrant. He said that it is something to think about with Highway 133 that it is a valuable thing to look at before making the decision on spot zoning, which we would support.

Amy Kimberly, **Carbondale Creative District/Carbondale Arts** said that this is an entrance to our downtown, which is a creative district and historic core. She said that the gateways to our town gets discussed quite a bit and that the Clay Center has been such a strong part of this community for so long. She said that it makes sense to do the whole block, if possible, because it is a part of our downtown. She said that she feels that Marble feels that it's far away and that it is going to get less faraway. She said that she supports the Clay Center and thank you for listening.

Rosemary Burkholder, **111 Main Street** said that she is to the east of the Clay Center and the entrance to Carbondale. She said that her sister and her have owned this property since 2000, love it and it's been a little gem and that we have received many compliments from people. She said that it is up for sale and the reason why we decided not to go HCC is that she wanted the next owners to make that decision. She said that after twenty-three years that she is tired of making those decisions. She said that she is happy for the Clay Center, she said that when they say they are busting at the scene what is that going to do with parking. She said that is her main issue, our parking was taken away when the pavement moved out to the street so 111 Main Street does not have parking at this time. She said that it has been rented out for the last year and a half and that there have been complaints that they did not have a place to park when they came home. She said that she is happy for the Clay Center but when they are bursting at the seams what does that mean for people on the street.

Hillary Brock, **480 Settlement Lane** said that she is a member of the Clay Center and that part of what drew her to Carbondale was the art. She said that her kids have been taking clay classes since they moved here and that she just started taking classes too. She said that it is a fantastic place and that it is so welcoming for all ages. She said that she hopes they can expand to make it bigger and better.

Motion to close the comment portion of the public hearing

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

Commissioner Comments

Jeff said that he appreciates how it was all pulled together and the questions of how it all came together were answered. He said that it was interesting to know about Harmony's plans, knowing that HCC was exempted the effective moratorium on STR's. He said that he appreciates the Town/Staff's approach to this and that it is meaningful that it is voluntary. He said that if those landowners get there over time, then the block would see a benefit and that he sees it as an upzone with more opportunity for those landowners. He said that he is supportive and excited for the Clay Centers' plans.

Kade said that as Carbondale grows that our Main Street it is going to have to lend itself that way and that it is an entry point and that it makes sense.

Nick asked if Harmony Scott would be further securing her STR eligibility and entitlements by becoming a part of HCC.

John said yes.

Janet said because HCC is exempt from the STR licensing.

John said that they still have to get the lodging tax license but not the permit process that the Town is currently working on.

Nick asked if it was true that those licenses are going to be going for a very good price at least initially?

Janet said that the Board decided to keep the prices low at this time to encourage people to go ahead and get licensed. She said that right now it is low and that we are only in the first phase of the STR regulations. She said that the Commission will be talking a lot about it as time goes.

Nick asked for clarification regarding the parking on the Burkholder lot and what happened there?

John said that the lot is definitely eligible for parking and that the property owner did speak to the Public Works Director about how she could provide a driveway and a rollover curb to have parking on her lot. He said that he did not know the history of the Main Street expansion.

Marina thanked the applicant for his presentation and to everyone that spoke. She said that when she was part of the rezoning on this block when Marble Distillery was affected. She said that she thought that the intent that both sides of the street would up zone. She said that she understands that this would connect the Clay Center to the heart of downtown and making it an entrance to Aspen. She said that Carbondale Arts has a huge role in this because of the sculptures and the gardens that are put there. She said that parking is a concern to her but that is probably a question for another day. She said that the rezoning seems cut and dried to her.

Motion

Nick made a motion to recommend to the Board of Trustees approval of the rezoning of 135 E. Main Street and 66 N. 2nd Street with the recommended conditions and findings, in the Staff report. Jarrett seconded the motion, and it was approved unanimously.

Yes: Marina, Nick, Jeff, Jarrett, Kade

No: None

PUBLIC HEARING – Subdivision Exemption, Minor Site Plan Review, Conditional Use Permit, Variance - ADU

Applicant: Laura Bartels

Location: 340 S. Second Street

Janet stated that this is an application for:

1. A Subdivision Exemption to amend the Kiernan Subdivision Exemption Plat to vacate the plat notes on that recorded plat and instead adhere to the Town's Unified Development Code (UDC).
2. Minor Site Plan Review and Conditional Use Permit in order to construct an Accessory Dwelling Unit (ADU) behind the existing single-family home.
3. Variance to exceed the allowed square footage of an ADU in order to provide necessary wheelchair access and turning radius in the one-bedroom unit.

Janet said that the Commission is required to hold a public hearing and approve the application, deny it, or continue the public hearing.

Janet stated that this property is Lot 2 of the Kiernan Subdivision. She said that this two-lot subdivision was approved by the Town in 2003. She said that Lot 1 of the Subdivision is located just to the north of this property.

Janet said that the land use application in 2003 included a request for a number of plat notes on the Kiernan plat. She explained that the then-property owner at that time indicated that the purpose of the plat notes was to restrict future development on Lot 2 to lessen any impacts on Lot 1. She said that the restrictions affected setbacks, building height, roof angle, and square footage of development on Lot 2. She stated that the Kiernan Subdivision Exemption plat was approved, and Lot 2 was eventually sold.

Janet continued by saying that the current applicant constructed a single-family home, which was constructed on Lot 2 which was in compliance with the plat notes and restrictions on the Kiernan Subdivision plat. She said that the applicant would now like to build an ADU toward the rear of the lot. She stated that the plat notes on the recorded plat would prohibit construction of the ADU, specifically the 20 ft. rear yard setback and limitation on allowed square footage. She said that the applicant submitted a Subdivision Exemption in conjunction with the ADU request to vacate the plat notes

and instead adhere to the UDC. She said that the patio easement, fence easement, landscape, utility, and irrigation easements would remain in place.

Janet stated that Staff is supportive of the request for a Subdivision Exemption to remove the plat notes.

Janet said that the proposed ADU is in compliance with the standards in the UDC, with the exception of the allowed square footage. She stated that the code would allow a 504 sq. ft. ADU, and that the proposal is for a 599 sq. ft. ADU. She said that the applicant explains that they are proposing to build an accessible housing unit for an elder family member with increasing physical needs and that the ADU is designed to provide necessary wheelchair access and turning radius.

Janet stated that one of the variance criteria provides flexibility from the strict application of the code if there are exceptional circumstances, including “a physically or mentally impaired occupant.”

Janet said that she recommends approval of the variance to allow increased square footage to provide an accessible ADU. She stated that the request of an additional 95 sq. ft. is not excessive and appears to be the minimum necessary. She said that we have used this in the code previously.

Janet said that the code requires four parking spaces. She stated that the proposal is to construct three parking spaces on the northwest corner of the lot, one of which is tandem. She said that a fourth space is located on the southwest corner of the lot. She explained that the location of the parking spaces is driven by the desire to preserve the tree located in the front yard.

Janet stated that the UDC allows the Planning Commission to reduce the requirement of two spaces per ADU to one space when there is space reserved to construct the space in the future. She said that there is a reserved space on the southwest corner of the lot.

Commissioner Questions

- ADA accessible ADU, snow melt for the path to the ADU?
- ADA compliance?
- Condition that it is accessible but not ADA.
- Clarification that ninety-five square feet will meet accessible design desired.
- Fourth parking space is not needed.
- Striking language on the subdivision plat.

Laura Bartels gave her slide presentation, she explained the original fence easement, along with the history. She explained the changes to the fence easement, eliminating it through the parking area and recording it properly. She said that her neighbor is supportive of this reconfiguration to the fence easement.

Public Comment

There were no public comments.

Motion to close the comment portion of the public hearing

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

Nick explained the ADA compliance is prohibitive, ninety-five square feet more is enabling accessibility. He said that to go further to make it ADA would be a lot. He said that he was concerned about precedent.

Further discussion ensued regarding accessible verses ADA.

Jeff asked what the building materials were for the existing house?

Laura said that the existing house is a straw bale home. She said that there isn't enough square footage to do strawbale for the ADU.

Further discussion ensued regarding design and flexibility of materials.

The Commission agreed that there were no conditions of approval that relate to the design.

Janet stated that they have to build to what is approved and that if they make a substantial change, it will come back to the Commission. She said that plaster verses wood siding would not be substantial.

Further discussion ensued regarding the Commission being the final approval for this application.

Laura stated that what was important to her was durability, longevity and low carbon. She said that there is a carbon estimating tool that is coming out May 3, 2022, which she will be implementing. She wanted to clarify that she had flexibility with regards to her materials.

The Commission agreed that she had flexibility with regard to the materials.

Motion

Jarrett made a motion to approve the subdivision exemption to vacate plat notes on the Kiernan Subdivision Exemption Plat, Minor Site Plan Review and Conditional Use Permit to construct an Accessory Dwelling Unit and a Variance to exceed the allowed square footages to provide an accessible unit with the findings in the Staff report and to note reconfiguration of the fence easement. Jeff seconded the motion, and it was approved unanimously.

Yes: Marina, Nick, Jeff, Jarrett, Kade
No: None

The Commission thanked the applicant and Staff for the presentation.

Staff Update

Janet said that CT has been sorting through the comments from the Comp Plan Update. She said that she has another meeting with them next week and some items may be brought back before the Commission to weigh in on some of the more challenging comments.

Janet said that she may be asking the Commission for their opinion to a change for the Carbondale Center Place and if it is a substantial change, at the next meeting.

Janet said that she did reach out to Elizabeth and that she hasn't heard back from her.

John said that the documents were recorded for the purchase of the Coop property, Argento building, by the Town of Carbondale. He said that it will be a great addition for the Public Works Department.

Commissioner Comments

There were no further Commissioner comments.

Motion to Adjourn

A motion was made by Jeff to adjourn, Jarrett seconded the motion, and the meeting was adjourned at 8:26 p.m.