

**ORDINANCE NO. 1
SERIES OF 2021**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING THE CARBONDALE CENTER PLACE
SUBDIVISION EXEMPTION**

WHEREAS, Stein Properties, LP and Carbondale Center Place LLC (collectively the “Applicants”) have jointly applied to the Town of Carbondale for approval of a Subdivision Exemption for property located at 958 State Highway 133, Town of Carbondale, Garfield County Tax I.D. No. 239333400014, consisting of approximately 4.151 acres, which property is presently owned by Stein Properties, L.P. and legally described on *Exhibit A* (“the Property”), pursuant to Chapter 17.02 Section 2.066 of the Carbondale Municipal Code (Chapter 17 of the Municipal Code is alternatively referred to as the Town’s “Unified Development Code”); and

WHEREAS, pursuant to Ordinance No. 10, Series of 2020, adopted by on August 25, 2020 (the “Rezoning Ordinance”), the Town has previously conditionally approved the rezoning of the Subject Property so that the western portion of the Property (to be known as Lot 1) will become part of the Mixed-Use (MU) zone district, and the eastern portion of the Property (to be known as Lot 2) will become part of the Commercial/Transitional (C/T) zone district, with such rezoning approvals become effective upon: (1) future subdivision of the Property into Lots 1 and 2; (2) future major site plan review approval for both Lots 1 and 2; and (3) execution and recordation of subdivision improvements agreement(s) that serve to guarantee and secure the demolition and removal of all existing Sopris Shopping Center buildings and that no buildings will overlap the new zoning boundary between Lots 1 and 2;

WHEREAS, in furtherance of the approvals set forth in the Rezoning Ordinance, the Applicants now seek to subdivide the Property into two lots, to be known as Lots 1 and 2, Carbondale Center Place Subdivision Exemption; and

WHEREAS, after required public notices, the Planning and Zoning Commission of the Town of Carbondale (P&Z) reviewed these requests at a public hearing that commenced on December 10, 2020 and continued on January 14, 2021, after which the P&Z recommended approval of the requested subdivision exemption; and

WHEREAS, after required public notices, the Board of Trustees conducted a public hearing on the proposed rezoning and subdivision exemption on February 9, 2021, during which public hearing the Board of Trustees heard and considered the statements of Town staff, the Applicant’s representatives, and members of the public, and reviewed and considered all other relevant documents and information presented at such hearing, all as required by law; and

WHEREAS, in accordance with Chapter 17.02 Sections 2.6.6.B and 2.6.6.C.3.a of the Carbondale Municipal Code, the Board also finds and determines as follows:

- (1) The Property is suitable for subdivision within the meaning of Chapter 17.06: Subdivision;
- (2) All public utilities are in place on, or immediately adjacent to, the Property;
- (3) Both proposed new lots will have the necessary dedicated public access required by the Unified Development Code;
- (4) The proposed subdivision exemption plat comprises and describes not more than three lots and involves a parcel that is less than five acres in size; and
- (5) All engineered design data and specifications have been completed and, after subdivision, the Property will meet the design specifications in Chapter 17.06: Subdivision.

WHEREAS, the Board of Trustees also finds that certain conditions of approval should be imposed so that the Property will be developed consistent with the purposes of the Unified Development Code.

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

A. Approval of the Final Subdivision Exemption Plat for the Carbondale Center Place Subdivision Exemption.

The Final Subdivision Exemption Plat “Subdivision Exemption Plat” shall be in a form acceptable to and approved by Town Staff and the Town Attorney prior to recording. Except as otherwise set forth below in Section C, the Applicants shall execute and record the Subdivision Exemption Plat within six months (180) days of the date that this Ordinance is adopted.. Prior to recordation, the Subdivision Exemption Plat shall be revised to reflect: (1) inclusion of all of the easements shown on the “Easement Map” dated March 16, 2021 provided to the Town by the Applicants; and (2) addition of a plat note confirming that the 15’ wide area reserved for a future shared driveway access or street along the north boundary of Lot 1 has been included on the plat to satisfy Condition #7 in CDOT access permit number 320124, and that the area reserved for this future easement shall not be developed for any other purpose without prior approval of the Town and CDOT.

B. Other Conditions of Approval and Fee Requirements.

- (1) All representations of the Applicants and the Applicants’ representatives in written submittals and during public hearings on this matter shall be

considered conditions of approval unless otherwise required by this Ordinance or its attachments.

- (2) The Applicants shall submit final engineered construction drawings for review and approval by Town staff prior to recordation of the Subdivision Exemption Plat. Two separate engineers' cost estimates for the cost of all public improvements, one for Lot 1 and one for Lot 2, shall also be provided to the Town by the Applicants. Should the Applicants desire to proceed to record the Subdivision Exemption Plat prior to demolition and removal of all of the existing Sopris Shopping Center buildings from the Property, each cost estimate shall also include the estimated cost of demolition and removal of the portions of the Sopris Shopping Center buildings that are on each Lot.
- (3) Each Applicant shall be required to enter into a separate Subdivision Improvements Agreement (SIA) with the Town, one for Lot 1 and one for Lot 2, with both to be recorded contemporaneously with the Subdivision Exemption Plat. These SIAs shall serve to require, guaranty and secure all public improvements required to serve the Property, after redevelopment. Both SIAs shall also ensure and guarantee that the all Sopris Shopping Center buildings shall be demolished and removed, and that no buildings shall overlap the lot line between Lots 1 and 2, prior to any further development of Lots 1 or 2 as proposed by the Applicants. The form of the final SIAs shall be subject to review and approval by the Town Attorney. All required public improvements shall be completed at the Applicants' expense on or before September 30, 2022, provided that the Board of Trustees shall have discretion to extend this deadline for up to 180 days by Resolution for good cause shown.
- (4) The public access and utility easement benefitting the Town and depicted on Sheet 2 of the Subdivision Exemption Plat shall be dedicated to the Town by Stein Properties, LP, free and clear of all financial encumbrances, and subject only to specific title exceptions approved by the Town Attorney after review of a current owner's title insurance commitment to be provided to the Town at Applicants' expense. Stein Properties, LP shall also grant such public easement to the Town via General Warranty Deed, again subject only to permitted title exceptions approved by the Town Attorney after review of a current title commitment. The General Warranty Deed shall be contemporaneously recorded with the Subdivision Exemption Plat. After recordation, the Applicants shall also pay all premiums and take such other actions as may be required to cause the title company to issue the Town an owner's policy of title insurance insuring the Town's ownership of the easement, with all "standard" title exceptions deleted and with a coverage amount of not less than \$250,000.00.

- (5) Prior to recordation of the Subdivision Exemption Plat, a fee in lieu of water rights in the amount of \$5,917.50 shall be paid to the Town with regard to the increase in water service levels anticipated to serve future development upon Lot 1. The base water service levels allowable to Lot 1 after payment of this fee with regard to water rights dedication requirements shall be 35.9 EQRs (consisting of pre-existing service of 33.27 EQRs and 2.63 additional EQRs associated with re-development of Lot 1), and the base water service level allowable to Lot 2 after re-development shall be 5.29 EQRs (the prior historic level of service, which will not be exceeded due to the proposed additional development upon Lot 2). The Town may charge additional fees in lieu of water rights dedication at the time of any future redevelopment of Lot 1 or Lot 2 inconsistent with the plans and specification being approved for development in connection with recordation of the Subdivision Exemption Plat. Water and sewer tap fees shall be separately assessed against each Lot at the time of building permit(s).

C. Recording.

The Rezoning Ordinance, this Ordinance, the General Warranty Deed conveying easements to the Town, the Subdivision Exemption Plat, Ordinance Nos. 2 and 3, Series of 2021 (the separate ordinances which set forth the site plan approvals for Lots 1 and 2) shall all be contemporaneously recorded in the Garfield County real property records at the Applicants' expense after posting and publication of each ordinance in accordance with the Town's Home Rule Charter but no later than 180 days following the Board of Trustees' approval of this Ordinance (except to the extent that the Board of Trustees determines in its discretion to extend such deadline for good cause shown, which may be done by Resolution). After recordation, the terms and conditions set forth in these recorded documents shall run with title to the Property and be binding upon Applicants and each of their respective successor(s)-in-interest.


D. 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, this Ordinance, and the site-specific approval Ordinances for Lots 1 and 2 (Ordinance Nos. 2 and 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 Subdivision Exemption 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 by up to an additional 180 days for good cause shown).

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

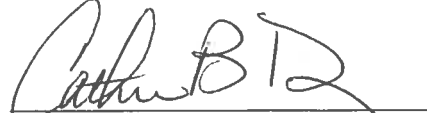
THE TOWN OF CARBONDALE

By:



Dan Richardson, Mayor

ATTEST:



Cathy Derby, Town Clerk



EXHIBITS:

- A. Legal description of the Property

EXHIBIT A: Legal description of the Property

PARCEL A:

PARCEL OF LAND IN THE TOWN OF CARBONDALE, COUNTY OF GARFIELD, STATE OF COLORADO, SITUATED IN LOT 9 OF SECTION 33, AND IN LOT 12 OF SECTION 34, ALL IN TOWNSHIP 7 SOUTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHENCE THE SURVEY MONUMENT LOCATED AT THE INTERSECTION OF EIGHTH STREET AND MAIN STREET IN THE TOWN OF CARBONDALE, COLORADO BEARS: SOUTH 00 DEGREES 03'00" WEST 598.17 FEET AND SOUTH 89 DEGREES 57'00" EAST 858.35 FEET; THENCE NORTH 80 DEGREES 09'00" WEST 119.67 FEET ALONG A FENCE AS CONSTRUCTED AND IN PLACE; THENCE NORTH 06 DEGREES 15'00" EAST 88.16 FEET; THENCE SOUTH 89 DEGREES 15'35" WEST 171.98 FEET; THENCE NORTH 02 DEGREES 52'30" EAST 145.93 FEET; THENCE SOUTH 87 DEGREES 13'11" EAST 261.58 FEET; THENCE SOUTH 02 DEGREES 48'00" EAST 239.23 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL OF LAND IN THE TOWN OF CARBONDALE, COUNTY OF GARFIELD, STATE OF COLORADO, SITUATED IN LOT 9 OF SECTION 33, AND IN LOT 12 OF SECTION 34, ALL IN TOWNSHIP 7 SOUTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN, LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE THE COLORADO STATE HIGHWAY NO. 133 AND NORTHERLY OF THE STREET KNOWN AS COLORADO AVENUE (EXTENDED) IN THE TOWN OF CARBONDALE, SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SAID HIGHWAY WHENCE THE SURVEY MONUMENT LOCATED AT THE INTERSECTION OF EIGHTH STREET AND MAIN STREET IN THE TOWN OF CARBONDALE, COLORADO BEARS: SOUTH 00 DEGREES 03'00" WEST 466.27 FEET AND SOUTH 89 DEGREES 57'00" EAST 1231.69 FEET; THENCE NORTH 21 DEGREES 10'20" WEST 119.68 FEET ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID HIGHWAY; THENCE NORTH 19 DEGREES 35'00" WEST 138.70 FEET ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID HIGHWAY; THENCE NORTH 17 DEGREES 21'30" WEST 186.63 FEET ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID HIGHWAY; THENCE SOUTH 86 DEGREES 24'00" EAST 507.29 FEET; THENCE SOUTH 02 DEGREES 48'00" EAST 18.06 FEET; THENCE NORTH 87 DEGREES 13'11" WEST 261.58 FEET; THENCE SOUTH 02 DEGREES 52'30" WEST 145.93 FEET; THENCE NORTH 89 DEGREES 15'35" EAST 171.98 FEET; THENCE SOUTH 06 DEGREES 15'00" WEST 88.16 FEET; THENCE SOUTH 80 DEGREES 09'00" EAST 119.67 FEET; THENCE SOUTH 02 DEGREES 48'00" EAST 34.87 FEET; THENCE SOUTH 02 DEGREES 02'00" WEST 110.00 FEET TO A POINT ON THE NORTHERLY LINE OF COLORADO AVENUE (EXTENDED); THENCE NORTH 87 DEGREES 58'00" WEST 371.49 FEET ALONG THE NORTHERLY RIGHT OF WAY LINE OF COLORADO AVENUE (EXTENDED) TO THE POINT OF BEGINNING.