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06/27/2017 01:11:44 PM Jean Alberico  
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**ORDINANCE NO. 9  
SERIES OF 2017**

**AN ORDINANCE OF THE BOARD OF TRUSTEES  
OF THE TOWN OF CARBONDALE, COLORADO  
APPROVING THE APPLICATION TO REZONE 76 S. 2<sup>ND</sup> STREET  
AS PART OF THE HISTORIC COMMERCIAL CORE (HCC) ZONE DISTRICT**

WHEREAS, Carbondale Community Access Radio, d/b/a KDNK, submitted an application to rezone 76 S. 2<sup>nd</sup> Street (the "Property") from Residential/High Density (R/HD) to Historic Commercial Core (HCC); the Property is located on the northeast corner of Garfield Avenue and 2<sup>nd</sup> Street and is legally described as Lots 13 through 16, Block 2, Town of Carbondale; and

WHEREAS, the application also included a request to amend the 2013 Comprehensive Plan to remove the property from the "Downtown-Old Town Periphery" designation and place it in the "Downtown" designation; and

WHEREAS, after all required notices, the Planning and Zoning Commission (P&Z) conducted a public hearing at 7:00 p.m. on Thursday, April 27, 2017, at which time the P&Z heard and considered the statements of town staff and the public and reviewed and considered all relevant documents and information presented at such hearing, all as required by law discussion; and

WHEREAS, at that public hearing, much discussion concerned the fact that the KDNK's present use of the Property for a public radio station is a non-conforming commercial use within the R/HD zone district such that KDNK could not change or expand its uses, or host special events; and

WHEREAS, at that public hearing, there was also discussion of the fact that KDNK had purchased the property from a consortium of non-profits in January of 2012, and that group had purchased the Property from the Town of Carbondale in 1997, and prior to which time it was used as Town Hall; and

WHEREAS, because the Property has been used as a commercial use since the 1980's, if not earlier, it could have been included in the "Downtown" area during the development of the 2013 Comprehensive Plan; and

WHEREAS, KDNK's operation of a public radio station on the Property builds on Carbondale's economic strengths to cultivate a unique role in the regional economy, enhances the Town as a destination for arts, performance, festivals, and performance events, and meets the goals in the Comprehensive Plan; and

WHEREAS, the P&Z subsequently recommended to the Town's Board of Trustees that the request be approved as the rezoning would fulfill the purpose statement

in Section 1.3 of Chapter 17 of the Carbondale Municipal Code (referred to herein as the “Unified Development Code” or “UDC”), and an amendment to the Town’s 2013 Comprehensive Plan to change the designation to the “Downtown” designation would enhance the existing use of the Property by a public radio station; and

WHEREAS, after all required notices, the Town’s Board of Trustees conducted a public hearing on Tuesday, June 13, 2017, 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 hearing, all as required by law; and

WHEREAS, with regard to the requested amendment to the 2013 Comprehensive, Plan, the Board of Trustees finds and determines that it is appropriate to accept the recommendation of the P&Z and to approve the requested amendment, with the following findings:

1. KDNK’s public radio station builds on Carbondale’s economic strengths and cultivates a unique role in the regional economy;
2. KDNK enhances the Town as a destination for arts, performance, festivals, and performance events;
3. KDNK’s public radio station supports and contributes to public art in its current downtown location;
4. Public radio enriches the arts and culture, special events, and performances that inspire civic pride, volunteerism and unity; and
5. The Property has been used for commercial purposes since the 1980’s, if not earlier, and as such could have been included in the “Downtown” area during the development of the Future Land Use Map in the 2013 Comprehensive Plan; and

WHEREAS, with regard to the requested zoning change, the Board of Trustees finds and determines that it is also appropriate to accept the recommendation of the P&Z and to rezone the Property, as the requested rezoning is consistent with the overall purpose statements described in Chapter 17.01, Section 1.3, of the Municipal Code and the 2013 Comprehensive Plan, and that the application also complies with the specific rezoning criteria set forth in Chapter 17.02, sub-sections 2.4.2.C.3.b.i through –vi, inclusive, of the Municipal Code, as follows:

1. The rezoning will promote the public health, safety, and general welfare;
2. The amendment will be consistent with the proposed Comprehensive Plan amendment as this area is the historic center of commerce, culture, civic life, and celebrations-the heart of the community. The designation calls for downtown

commercial and institutional uses, including offices and entertainment. The purposes stated in this Unified Development Code have been met;

3. The amendment is consistent with the stated purpose of the proposed zoning district, specifically, public radio contributes to the unique commercial area and provides complimentary commercial to the downtown;
4. The rezoning will not result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
5. The rezoning will not result in material adverse impacts to other property adjacent to or in the vicinity of the subject property; and
6. Facilities and services (including roads and transportation, water, gas, electricity, police and fire protection, and sewage and waste disposal, as applicable) are available to serve the subject property while maintaining adequate levels of service to existing development.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Carbondale as follows:

1. The 2013 Comprehensive Plan is hereby amended to remove the Property from the "Downtown-Old Town Periphery" designation and to instead place the Property in the "Downtown" designation.
2. The Property is also hereby removed from the R/HD zone district and placed within the HCC zone district.
3. Any future special events on the Property shall comply with all applicable Town permitting standards (e.g. for liquor service, street closures, noise and lighting requirements, etc.) according to Town requirements in effect at the time of the event.
4. All representations of the Applicant in written submittals to the Town or in public hearings concerning this application shall also be binding as conditions of approval.
5. The Applicant shall pay and reimburse the town for all other applicable professional and staff fees pursuant to the Carbondale Municipal Code.
6. A copy of this ordinance shall be recorded in the Garfield County real property records at the expense of the Applicant.

This Ordinance shall not be effective until posting and publication in accordance with the Town's Home Rule Charter. Upon this Ordinance becoming effective, the



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Town's Zone District Map shall be amended in accordance with Chapter 17.03, Section 3.1.2, of the Municipal Code.

INTRODUCED, READ AND PASSED this 13<sup>th</sup> day of JUNE, 2017.

THE TOWN OF CARBONDALE

By:   
 Dan Richardson, Mayor

ATTEST:

  
 Cathy Derby, Town Clerk



Posted: 6/14/17  
 Published: 6/22/17  
 Effective: 7/22/17

TOWN OF CARBONDALE  
 137 W. CARBONDALE  
 CARBONDALE, CO 81615