

**MINUTES**  
CARBONDALE PLANNING AND ZONING COMMISSION  
Thursday January 12, 2023

**Commissioners Present:**

Jay Engstrom, Chair  
Nicholas DiFrank  
Jerrett Mork  
Kim Magee  
Kade Gianinetti (1<sup>st</sup> Alternate)  
Jess Robison (2<sup>nd</sup> Alternate)

**Staff Present:**

Jared Barnes, Planning Director  
Kae McDonald, Planning Technician

**Commissioners Absent:**

Jeff Davlyn  
Nick Miscione  
Marina Skiles

**Guests:**

Walter Burger (570 Redstone Avenue, Applicant)

The meeting was called to order at 7:04 p.m. by Jay Engstrom.

**August 25, 2022; September 8, 2022; October 13, 2022; December 8, 2022 Minutes:**  
Nicholas *moved* to approve the August 25<sup>th</sup>, September 8<sup>th</sup>, October 13<sup>th</sup>, and December 8<sup>th</sup> meeting minutes. Kade *seconded the motion*, and it was *unanimously approved*.

Yes: Jay, Nicholas, Jerrett, Kim, Kade, Jess

No: none

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

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

**CONTINUED PUBLIC HEARING: Minor Site Plan Review/Conditional Use Permit**

**Applicant: Walter and Susan Burger**

**Location: 570 Redstone Avenue**

Jared noted that this was an application for a Minor Site Plan Review and Conditional Use Permit to construct an accessory dwelling unit (ADU) in the basement of an existing single-family residence, pointing out that the Conditional Use Permit is a staff action but will follow direction based on the Commission's decision on the Minor Site Plan Review. Jared described the applicant's proposal to remodel the basement of an existing single-family residence, add windows and doors, a new stairwell, and a new driveway for the ADU. He added that the application was publicly noticed in the November 24, 2022 Sopris Sun and a mailed notice was sent to all property owners within 300 feet on November 22, 2022 with the public hearing scheduled for the December 8, 2022, Planning & Zoning Commission meeting. Jared explained that due to a lack of quorum, the Commission

opened the meeting and continued the public hearing to the January 12, 2023, meeting. He continued that this is a noticed public hearing and complies with the Unified Development Code.

Jared summarized the application details included in the meeting packet:

- The subject property is zoned Residential/Low Density, which permits a single-family detached unit as a use by right and an ADU as a conditional use. The proposed uses comply with zoning.
- The application was submitted and found complete prior to the approval of the 2022 Comprehensive Plan Update, therefore the 2013 Plan is applicable for review. The property is designated as Developed Neighborhoods in the Future Land Use Plan; one of the top priorities for this land use area is to encourage ADU's. In staff review this proposal does comply with the goals and policies of the Comprehensive Plan.
- Staff noted that the property is located within the Colorado Meadows subdivision and the Protective Covenants state "All lots and parcels within the Subdivision, except as hereinafter identified for use as parks, green belt, and roadway easement, shall be used for no other purpose than single family residences. To this end no building shall be erected, altered, placed, or permitted to remain on any lot, other than one detached single-family dwelling and appurtenant structures such as garage, carport, storage structure, or house workshop, as may be approved by the Architectural Control Committee." Jared pointed out that:
  1. Typically, covenants are private agreements between the property owners in a subdivision which the Town is not a party to. Therefore, the Town has no obligation to enforce private covenants. Some recent developments have approved covenants which allow the Town to enforce certain items, but a similar clause is not included in the Colorado Meadows subdivision covenants.
  2. Historically, Town staff has discouraged property owners in this and other similar neighborhood from pursuing approvals for ADUs because a ADU may violate the neighborhood's protective covenants.
  3. The covenants discuss a "detached single family dwelling". While the intent for the restriction is unclear, the proposed ADU is attached and contained within the existing single-family dwelling building footprint. The limited proposed exterior alterations will continue to external appearance of the structure as a "detached single-family residence". The potential impacts of this type of an ADU will have no greater effect than a single-family dwelling. As such Staff has concluded, in this situation, that the R/LD zone district allows ADUs as a conditional use and should be applied to the subject application.
- Jared noted that the subject property complies with all setbacks as stated in UDC §3.2.4.B, with one exception -- The existing structure extends into the side yard setback on the west side of the property, by approximately 0.5'. Some of the proposed improvements, specifically the stairwell and driveway, are located within the western setback, but are permitted as setback projections pursuant to UDC

§3.8.3.F, Projections. The structure is considered nonconforming and is permitted to continue pursuant to UDC §7.4. In addition, this section permits internal remodeling and external expansion so long as the alternation does not create a new or increase the intensity of the nonconformity. The proposed ADU and site improvements do not increase an existing or create a new nonconformity. Therefore, the proposal meets the minimum setback requirements of the R/LD zone district.

- The maximum building height permitted in the R/LD zone district is 27 feet. The proposed improvements do not alter the height of the structure.
- The subject property is 6,678 square feet in size and is permitted a maximum of 52% (3,473 square feet) of the lot to be covered with impervious surfaces. The property has an existing impervious area of 2,215 square feet (33%). The proposed improvement adds an additional 615 square feet of impervious area, which brings the total proposed impervious area to 2,830 square feet or 42%. The proposed improvements comply with the maximum impervious lot coverage.
- The ADU standards as defined in UDC §4.4.4 are found on page 25 of the meeting packet. At 365 square feet, accessed by a separate door and containing one bedroom, one bathroom and a cooking facility, the ADU as proposed meets all standards.
- The proposed modifications, specifically the stairwell and driveway, will reduce the amount of landscaped and irrigated area, but do not impact the property's compliance with this section.
- The proposed changes have minimal impact on the exterior of the structure. A below grade door and window well are proposed, but generally conform with the design of the structure.
- UDC §5.8.3. requires 2.5 parking spaces for the primary dwelling and 2 spaces for the proposed ADU. UDC §5.8.3.F.1 allows all fractional space requirements of 0.5 or less to be rounded down, therefore the total parking requirement for the proposal is 4 spaces. The primary dwelling has one space in the garage and one space in the driveway. The application is proposing a new driveway on the west side of the lot which measures 18 feet wide by 32 feet long. This area will accommodate 2 parking spaces. Thus, the proposal complies with the required 4 parking spaces.
- There are no proposed above-grade improvements, so solar access requirements as stated in UDC §5.12 do not apply.

Jared listed the four review criteria for site plan approval as enumerated in UDC §2.5.3.C:

1. The site plan meets the purposes of the zoning district in which it will be located and is consistent with the Comprehensive Plan;
2. The site plan is consistent with any previously approved subdivision plat, planned unit development, or any other precedent plan or land use approval as applicable;
3. The site plan complies with all applicable development and design standards set forth in this Code; and,

4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale, or the decision-making body finds that such traffic impacts will be sufficiently mitigated.

Staff recommends that the following motion be approved:

**Move to approve a Minor Site Plan Review for an Accessory Dwelling Unit to be located at 570 Redstone Ave, Carbondale, Colorado, with the following conditions and findings:**

Conditions

1. The Accessory Dwelling Unit's ownership shall not be legally severed from ownership of the associated lot and any other structures on such lot.
2. The Accessory Dwelling Unit shall not have separate water or sewer service.
3. All other representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.
4. The Applicant shall also pay and reimburse the town for all other applicable professional and Staff fees pursuant to the Carbondale Municipal Code.
5. The applicant shall apply for and receive a building permit as required.

Findings for Approval - Site Plan Review Criteria

1. The site plan meets the purposes of the R/LD zone district and is consistent with the 2013 Comprehensive Plan.
2. The site plan is consistent with any previously approved subdivision plat, planned unit development, or any other precedent plan or land use approval as applicable.
3. The site plan complies with all applicable development and design standards set forth in the Unified Development Code.
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale.

**Questions for Staff**

Jarrett asked about the terminology describing the ADU, noting that he couldn't find an adequate explanation for the distinction between an absorbed versus and attached ADU.

Jared acknowledged that was an item to consider for future discussions, noting that there currently is an assumption that the ADU attached however that may occur and it is contained within the primary structure regardless. He thought it might be helpful to add clarification whether that attachment is internal versus external.

Jay asked that since the size of the ADU is governed by the size of the house in some zoning districts, does that affect the square footage requirement of the existing structure when an ADU is proposed.

Nicholas asked for clarification regarding the encroachment of the building envelope into the easement.

Jared answered in the affirmative, noting that that portion of the house does extend into the setback, but the addition doesn't increase the nonconformity of the existing building envelope.

Nicholas requested that for future applications, a realistic portrayal of the proposed changes from street view be encouraged because it was difficult to interpret what was being planned based on the provided drawing in this application.

Jared thought that certainly could be requested as a requirement at the Town's discretion. He explained that they do try to right-size requirements based on the application's complexity.

Nicholas asked if the driveway had a positive or negative grade slope.

Jared explained that the house sits above grade, so the driveway is sloping up.

Nicholas pointed out that if there will be an increase in creative housing solutions such as the application before them tonight, he would like to see a more rigorous list of required attachments so commission members can fully understand the proposal.

Jay agreed, noting that the additional work may help the applicant and protect the Commission if there is stiff opposition from neighbors or the community. He added that in reviewing the situation of the windows and stairwell within the setback, he was concerned that there wasn't a signed declaration from the easement holder.

Jared replied that while there isn't anything in writing from the easement holder, the Public Works Director did review the application and didn't think there would be an issue.

Jay asked that a condition requiring a signed agreement from the easement holder be added to the approval.

Nicholas noted that if a problem is noted with the easement, the stairs could be moved, so that wouldn't stop the project.

Jay asked that a discussion regarding curb cuts also be considered for a future meeting, noting that he would like to see more stringent requirements in the Unified Development Code so street-side parking is protected.

Jared replied that the Public Works Director also reviewed the currently proposed curb cut and didn't have any concerns in this situation because Redstone Avenue doesn't experience a high level of on-street parking and given the location of proposed driveway and the neighboring existing driveway, there is limited impact, and any on-street parking would most likely be utilized by the applicant.

Nicholas asked if there was a specific policy on multiple curb cuts, noting that there are locations around town where multiple curb cuts are actively discouraged.

Jared pointed out that the code as currently written allows curb cuts at the Town's discretion.

Nicholas commented that while these seem like small details, in the arc of the town's development at some point there will be a threshold where things get pushed too far.

Kade added that in some neighborhoods without a high threshold of parking, the added curb cuts eliminate landscaping and visibility, and he wondered if that is something Carbondale will accept.

### **Questions for Applicant**

Nicholas asked Walter to explain how much of the foundation would be exposed. He asked if the window well would alter the surrounding landform.

Walter replied that they will be exposing a couple feet, explaining that the window will be at grade with the driveway to ensure there is adequate light in the apartment. He explained that the driveway is steep on the other side and doesn't want the driveway on the other side to be as steep.

Nicholas asked if the staircase railing will meet code. He also asked if the applicant had some sense of who owns the utility easement.

Walter explained that the electricity is in the backyard and water is located on the east side. He was sure there wasn't anything on the west side because he has dug in that area without finding anything.

### **Motion to close the public hearing**

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

### **Commissioner Discussion**

Jarrett noted his surprise at the lack of public comment, given the number of Colorado Meadows property owners at other public hearings.

Jess asked if the covenants are still enforced.

Jared didn't know if there was an active Architectural Control Committee or how long it has been since there was.

Nicholas commented that someone did try to revive the design review committee in the recent past.

Jay explained that if the association is defunct, they will need to restructure and reinstate as a formal entity with formal, regular meetings. He noted that until then, the covenants aren't enforceable.

Jared pointed out that any homeowner can bring a lawsuit, but it would be up to the judge to decide if there is merit and whether the ACC is perceived as active or not.

Nicholas thought the Commission should anticipate more conflicts in the coming years, despite encouraging homeowners to come up with creative housing solutions.

Jared agreed that that is a good reason to consider the types of restrictions the Town would want to place and where they would want to place them, and then place those restrictions in documents enforceable by the Town.

Jay proposed Condition #6: Verification from easement holders for approval of proposed conditions within the easement.

### **Motion**

***Motion Passed:*** Nicholas ***moved*** to approve a Minor Site Plan Review for an Accessory Dwelling Unit to be located at 570 Redstone Ave, Carbondale, Colorado, with the following conditions and findings:

### **Conditions**

1. The Accessory Dwelling Unit's ownership shall not be legally severed from ownership of the associated lot and any other structures on such lot.
2. The Accessory Dwelling Unit shall not have separate water or sewer service.
3. All other representations of the Applicant in written submittals to the Town or in public hearings concerning this project shall also be binding as conditions of approval.
4. The Applicant shall also pay and reimburse the town for all other applicable professional and Staff fees pursuant to the Carbondale Municipal Code.
5. The applicant shall apply for and receive a building permit as required.
6. Verification from easement holders for approval of proposed conditions within the easement.

### **Findings for Approval - Site Plan Review Criteria**

1. The site plan meets the purposes of the R/LD zone district and is consistent with the 2013 Comprehensive Plan.
2. The site plan is consistent with any previously approved subdivision plat, planned unit development, or any other precedent plan or land use approval as applicable.
3. The site plan complies with all applicable development and design standards set forth in the Unified Development Code.
4. Traffic generated by the proposed development will be adequately served by existing streets within Carbondale.

Jarett ***seconded the motion***, and it was ***unanimously approved***.

Yes: Jay, Nicholas, Jerrett, Kim, Kade, Jess

No: none

### **Staff Update**

Jared commented that they have interviewed several candidates for the Planner position. He noted that two Major Site Plan applications have been submitted in the last few weeks – one is for the Roaring Fork School District Employee Housing on Meadowood Drive and the other is for a mixed-use building the will house ANB Bank. He added that both applications are currently in a completeness review.

Nicholas asked why ANB Bank's original application was denied.

Jared replied that at the Board of Trustee level there was concern about the drive through, there were questions regarding the applicant's desire to relocate just a few blocks down the road and the lack of a definitive mixed-use component.

Jay added there was the added concern of the abandonment of an existing bank.

Nicholas noted the struggle to address the Highway 133 corridor in the Comprehensive Plan update process. He pointed to community members' concern with the sea of asphalt at the City Market and how it occupies space and juxtaposed that with the Builder's First Choice design.

Kade commented that the Highway 133 corridor does divide the community but thought that that feature should be embraced and even embellished as the entrance to not only Carbondale, but Redstone, Marble, McClure Pass, and the North Fork Valley. He reminded the commission members that the development of a transportation master plan has been endorsed by the BOT with the Bike, Pedestrian and Trails Commission developing some of the topics like Complete Streets. He thought it was a good idea to hire consultants to solve very specific problems.

Discussion ensued regarding the Highway 133 corridor, its character, design guidelines, and infrastructure.

Jared reminded the commission members that Town staff is currently at capacity and there isn't funding earmarked in the 2023 budget for this endeavor. He noted that the Transportation Master Plan will include a portion of Highway 133 and safety improvements, but he wasn't sure how in-depth that topic will be covered. Jared added that there has been some conversation with the Colorado Department of Transportation regarding Main Street revitalization as well as Highway 133, but there is some circularity when it comes to addressing these corridors.

### **Commissioner Comments**

There were no Commissioner comments.

### **Motion to Adjourn**

A motion was made by Nicholas to adjourn, Kade seconded the motion, and the meeting was adjourned at 8:03 p.m.