

MINUTES

CARBONDALE PLANNING AND ZONING COMMISSION

Thursday June 24, 2021

Commissioners Present:

Jay Engstrom, Vice-Chair
Nicholas DiFrank
Kim Magee (1st Alternate)
Jeff Davlyn

Staff Present:

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

Commissioners Absent:

Marina Skiles
Michael Durant, Chair
Jarrett Mork (2nd Alternate)
Erica Stahl Golden
Nick Miscione

Other Persons Present Virtually

Ryan Lee, architect/Forum Phi
Damon Roth, 520 Mesa Verde Avenue
Laura Sugaski, 487 Mancos Street
Anne Krimmer, 501 Mesa Verde
Ron Baar, 508 Mesa Verde

The meeting was called to order at 7:14 p.m. by Jay Engstrom

June 10, 2021 Minutes:

Nicholas made a motion to approve the June 10, 2021 minutes. Kim seconded the motion, and they were approved unanimously.

Public Comment – Persons Present Not on the Agenda

Patrick Hunter, **1131 County Road 106** said that he's on the Environmental Board and it's a good thing we got a quorum. He said in terms of the weather, he's from Seattle and he grew up there, what you are seeing out there we might call a mist and a serious rain would be most welcome.

Patrick said that he happened to read the letter from Ron Baar on 520 Mesa Verde application and he agrees with his letter.

Patrick said that the reason he is calling tonight is because he has a little joke, which would be useful in your deliberation.

It's called the planet joke; are you guys ok with that? He said I've got my three minutes, right? Two planets walk into a bar, one planet says to the other, how are your doin'?

The other planet says, oh my god I can't believe it, he says what? He says I've got people, and the other planet says, listen I had people awhile back, don't worry they don't last very long.

Nicholas said motion to approve that joke.

Patrick said trying to put things in perspective right, the human race has been around a couple of hundred thousand years, the planet is four and half billion years old and we've done most of the damage in the last hundred years and we are accelerating that damage right now. By the way, on hybrid meetings if you could keep the Zoom meeting available for people like me, outliers like myself who can drop into a meeting and not have to get dressed up and drive to the meeting, it is a huge advantage, you'll get more participation in the long run and Zoom is here, I think. He said those are my comments and have a good evening and catch ya later.

VIRTUAL HEARING – Major Plat Amendment

Location: 520 Mesa Verde

Applicant: Ryan Lee, Forum Phi

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

John stated that the proposal is to subdivide Lot 10 of the Colorado Meadows Subdivision into two lots, Lot 10A and Lot 10B. John said that Lot 10A would remain as it is currently developed with a single-family residence and is not proposed to have any changes. He said that a single-family residence is proposed for Lot 10B that will utilize the existing garage on the proposed lot.

John continued by saying that this application requires approval of a Preliminary and Final Subdivision Plat to divide Lot 10 into two lots because this is in an existing, established subdivision. He explained that in the Unified Development Code (UDC) Section 2.6.7 Plat Amendments, it states that any modification of an approved final plat shall require a new application that is submitted and reviewed in accordance with the full procedure applicable to final plats.

John said that the Planning Commission is the approving authority for a Preliminary Plat and the Board of Trustees is the approving authority for a Final Plat.

John stated that the property is designated as Developed Neighborhoods in the Future Land Use Map in the 2013 Comprehensive Plan and Developed Neighborhoods consist of residential subdivisions. He said that they are unlikely to change significantly and are almost entirely built out with few vacant lots. He stated that the designation calls for a continuation of the uses allowed under the zoning and subdivision approvals and that the intent of this designation is to protect existing zoning approvals and the quality of life.

John stated that the lots meet the minimum lot size and that setbacks have also been met.

John said that access appears to be via an access road over Lot 10A to Lot 10B. He said that this access road is not indicated on the site plan as being an easement or other type of agreement between the property owners, if one were to be conveyed. John stated that

an easement is not requested in the application and the lot does not have direct access to the right of way.

John explained that Section 6.2.4.C of the UDC, Lot and Block Design, states that the use of an easement for the principal access to a lot shall not be allowed unless the approving authority allows the use of an easement for access. He stated that in this case the approving authority would be the Board of Trustees at Final Plat, if the preliminary plat were approved with the Planning Commission.

John said that Colorado Meadows was approved by the Town and platted in 1975 with sixty single family lots. He stated of those sixty lots, fourteen could potentially be platted into two separate lots with a development potential of twenty-eight units not including an ADU. He stated that this could potentially increase the density of the subdivision to be much greater than what the original subdivision was approved for.

John stated that when larger subdivisions are approved items such as water rights, public park dedication, road systems, adequacy of utilities are analyzed. John said that if lots in Colorado Meadows begin to be subdivided in a piecemeal fashion it would result in a cumulative impact on the neighborhood.

Commission Questions and Discussion

- There are letters to the Commission referencing the existing covenants, which governs the covenants or the code.
- The covenants are an agreement between the property owners within the subdivision and the Town does not enforce covenants.
- The access is an issue and there is no easement currently and the access goes across both lots.
- The final approving authority is the Board of Trustees for an easement.
- Easements across lots are discouraged for planning applications.
- Is the lot already non-conforming or does it need to be sixty feet wide at one point?
- Approval of this application would not increase the non-conformity.
- By creating a new lot, it would also be non-conforming.

Jay disclosed that Ryan Lee is a friend and that it wouldn't affect his judgement on this decision.

Ryan Lee, the architect from Forum Phi, introduced himself. He gave a slide presentation outlining the following for 520 Mesa Verde Avenue;

- He explained the proposed lot split and the surrounding area.
- The current zoning of Residential/Low Density (R/LD).
- The 2013 Comprehensive Plan key notes;
 - Infill was advised.
 - Accessory Dwelling Units (ADU's) were considered infill.
 - Diversity in housing types, encouraging multi-family housing and higher density housing.
 - Developed neighborhoods that encourage ADU's.

- Use intensity that encourages ADU's within established neighborhoods.
- Our application for a Minor Site Plan Review pre-application took place on September 8, 2020.
- We submitted an application for a Minor Site Plan Review in early November, for an ADU.
- The ADU that we were proposing was approximately 1200 square feet, which would require variances.
- The current residence is 1200 square feet, which would cap the ADU at 500 square feet.
- We would need three variances and the following were our options;
 - Convert the current residence in the front to an ADU, partially demolishing the existing structure to meet the minimum square footage requirements.
 - Construct a new single-family home in the rear of the existing property.
 - Increase the square footage of the current home to increase the allowable floor area of the ADU, with the maximum of 800 square feet as per the UDC.
 - Demolish the single-family residence and construct a new single-family home with an ADU that meets all of the requirements.
- After meeting with the Town of Carbondale in December the development team decided a lot-split would be more appropriate.
- Lot split on 26 Maroon Drive, which required variances, which is the same zone district as our proposal.
- R/LD minimum lot area is 6000 square feet, depth of 100 feet, width of 60 feet.
- After the lot split, Lot 10A, the front lot, would be 7300 square feet and Lot 10B, in the rear, would be 7400 square feet.
- Maximum impervious area for lots less than 7500 square feet is fifty two percent, which we have met.
- Parking for Lot 10A would remain the same and the proposed structure in back will have a two-car garage with two parking spots outside.
- He gave a few examples of neighboring parcels with ADU's, that are acting as high density.
- Comparisons of their application and impact were shown, with the proposed design.
- The goal is for the owner, Damon Roth, to live in the back structure.

Commission Discussion

- The location of the access for the back lot.
- Proposed easement for the access to the back lot, for utilities and any existing utilities, for permanent access.
- Next steps would be to figure out the easement.
- The new unit would need its own taps for both water and sewer, separate from the existing home.
- Variances needed to build this new home as an ADU and not subdivide.
- The patio would be concrete.

- The design was thought out to protect privacy.

Damon said that his wife and him have been here fourteen years and that he has a small business here. He said that if we sold either of these properties where are we going to go. He said that we love Carbondale, and we aren't planning on going anywhere. He said that we believe people living and participating in our community should have a good place to live. He said that we are trying to provide a second home on a large lot that we do not use, which is our intent.

Damon said that we did discuss this concept with our direct neighbors, and they seemed to support it. He said we had an objection from one person. He said that we encourage the P&Z to be agile and creative in ways to continue to add adequate housing for our town and our friends.

Anne Krimmer, **501 Mesa Verde Avenue** said that we didn't know about this until we got into town on Monday night and saw the public notice sign in the front yard. She said that no one has talked to us about it. She said that of the four homes that they used as examples of homes with ADU's, only two are legal ADU's. She said one is so old it might as well be grandfathered and that she moved to the valley in 1996 and that she had dropped someone off there. She said that 516 Mesa Verde has always had people living in her house, in the nineteen and half years that I have lived in my home. She said that it is a fallacy to say that it is surrounded by higher density. She said that two people live in her house, and we do not Airbnb it and we do not have roommates. She said that it is two with illegal ADU's that they are referring to as precedent. She said that she has multiple issues with this being a lot split. She said that if you truly want an ADU, build an ADU. She said that if you truly want an ADU, make your bedroom that you are renting a conforming ADU. She said that just because it doesn't have a kitchen doesn't mean it doesn't affect everyone else. She said that we have a house that already has a short-term rental in it and now they want to do a lot split to add another home, which means that home could have an ADU, and the original home can have an ADU. She said that she will have two duplexes across the street from her. She said that she doesn't think that is fitting with an established neighborhood or quality of life. She said that this was platted as a single-family home and bought it as a single-family home lot. She said that you have run a commercial business out of it for Airstream trailer rentals for years. She said that no one has said boo and that you can go live in one of those if you can't afford to stay in the neighborhood. She said that she is tired of a single-family neighborhood getting destroyed with people and their sob stories. She said that we all have sob stories, and everyone works really hard to stay here. She said that doesn't give you entitlement to a lot split. She said that the lot that they want to create has no street footage and no off-street parking. She said that the existing home only has one spot on the street that someone can park in. She said that without a survey she doesn't know how they can fit two cars stacked in front of the home right now. She said that compiled with the fact that there is already a parking issue in our neighborhood, Eighth Street is going to change in terms of parking availability. She said that she is going to have everyone in her front yard because she parks in her driveway. She said the impact of more ADU's being potential and if this one goes through that every single neighborhood is at risk for a non-conforming land-locked lot if it's big enough. She said we have

thirteen other lots that can be affected in our little neighborhood. She said that Staff recommends to deny and that she agrees.

Ron Baar, **508 Mesa Verde Avenue** said that Ryan from Forum Phi had a very nice presentation and that he understands all that you are trying to do. He said that Damon is a very good neighbor when we've talked a little bit. He said that he is opposed to lot splits as per say and spot zoning. He said as we have a Comprehensive Plan about to be revisited in the Town of Carbondale, this may not be the right time to be looking at this. He said that they are talking about offering higher density in lower density areas, he hopes but that is not the case here. He said that you can only fit so many sardines in a can. He said that Anne touched on this parking issue, and it is true that there are a lot of Airbnb's around here that he has come to recognize. He said that the Commission is sure to have driven around here and if you haven't you should. He said that two wrongs do not make a right. He said that there is precedent that is set, even though he understands that on the south end of town there was a lot split. He said that he sees other things going on, on Eighth Avenue around Colorado and Eighth and that he's not sure went on there. He said that as the valley increases in people, they are going to have to figure what direction you do want to go, if you do want these subdivisions within subdivisions. He said that he would prefer not to as he resides alone and that he has neighbors that have a number of people and on the other side just two people. He said that the Planning Commission are being asked to decide the direction, as he has stated and that you could be opening up a whole can of worms every time you approve a lot split. He said that another issue is if there isn't an easement back there and the back lot is sold, what if the front lot doesn't want the person to come through there anymore. He said that he is going to rely on everyone to look into this and that you are going to pass it on to the Board of Trustees. He said with all the change going on that in Aspen he remembers when they left the fireplaces intact on the lots and there's many ways to get around. He said leave the fireplace and build a big structure. He said that there's a lot going on and that your planning goes deep, and he hopes the rational if you would go with a lot split is understandable but he has a hard time understanding why we would ever start splitting lots. He said that this will go on throughout the whole town, with the exception of Old Town Carbondale.

Motion to close the comment portion of the public hearing

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

Commissioner Comments

Jeff said that he wishes we were looking at an ADU application with variances, it is a large lot with infill potential. He said that he understands where the applicant is coming from and if presented with a different application that he could be convinced to help them get where they want to get, despite what some of the neighborhood might think. He said that the density would be the result of an ADU. He said that it would give the opportunity to update the existing home and reside there and be part of the fabric of the town, which are all good ideals for this property. He said that a lot split doesn't seem like the right way to do it for a number of reasons and that he agrees with Staff on their analysis. He said that he thinks there are some creative solutions with regards to an ADU.

Nicholas said that he appreciates a lot of what Jeff said. He said that when he looks at this lot it is definitely funky, like our little town. He said that the numbers work, and that Ryan gave a very clean presentation, which he appreciated. He said that how taps (utilities) are coming in wouldn't be a real brain bust and it would be one hurdle that we do every day. He said that his questions lie with the easement and the access. He said that not knowing how that would shake out is where he gets stuck. He thanked Damon for speaking and that he appreciates where him and his wife are at and your appreciation for our town. He said looking at the future of your property and how access is maintained through an easement that is out of our hands, which will function with Town Staff and the Board. He thanked Anne and Ron for their honest shares tonight. He said that parking continues to be a question for all of us in our town as does density. He said that we are growing and that is not going to change anytime soon. He said that he is compassionate to the idea of how change is coming. He said that the idea of us being creative to allow for more folks to be here in a reasonable manner needs to be discussed. He said that we are about to have a new Comp Plan and he's eager to see how parking and density will shake out, in the next six months. He said he's wavering on the fence currently.

Kim said that she agrees with a lot of what Nicholas and Jeff said. She said that there is a compelling argument and that the design is great looking. She said that she could see why living on that funky enormous lot would make you want to build the other structure. She said that she has had so much experience in the past with problems with easements. She said her number one issue is the easement and the access issue. She said that someone else will be living there eventually and so that is really important. She said that it is so great to have people from the neighborhood weigh in and help us see their perspective. She said that parking is a huge issue. She said that she doesn't have anything fresh to say and that her issue is with the access. She said that she feels very sensitive to the fact that we need to be careful what precedence we are setting right now for this new Comp Plan. She said that a lot split is kind of a scary thought in an existing subdivision. She said that she feels torn and that she feels really strong that the access issue is high on her list. She thanked the applicant for his great presentation.

Jay said told Damon and Ryan that they have been creative in trying to figure out the best solution. He said that he understands that with this idea that you are avoiding having to ask for a bunch of variances. He said that he is in agreement with the access/easement and in the UDC 6.2.4 it says *that the use of an easement for principal access to a lot shall not be allowed, unless allowed by the approving authority during the subdivision process.* He said that means that the Board of Trustees would look at this and that he thinks that they would also deny this. He said that it is not a situation where it is a hardship of trying to get access to an already existing lot. He said that he is struggling with this and that he agrees with Staff on this one. He said that he would like the applicant to come back with a proposal for an ADU. He said that he knows it is a hot topic in this subdivision but that it is a good alternative to this situation.

Further discussion ensued regarding an easement.

Janet explained that if the subdivision plat is approved, with an easement shown on the plat, it can be an easement for access and utilities. She said that the Commission can recommend to the Board that the plat that is recorded show an easement. She said that when a lot is burdened with an easement, with two different owners, it can lead to

arguments down the road. She said that it needs to be carefully done and that the Commission can make a recommendation regarding the plat.

Ryan stated that regarding precedents fourteen lots meet the minimum area to do a lot split and twelve have steep slopes that face the dog park, which won't be doing a lot split. He said that the other forty-six lots in the neighborhood do not have the area to do the lot split. He said that the precedent isn't really a precedent, maybe it's precedent for the Town but not for the neighborhood. He said that we tried to do an ADU and that we couldn't do a detached ADU so now we are here doing a lot split. He said that if the direction is an ADU above a garage and we can get more square footage, we would be happy to peruse that. He said that we have been directed that we can't do an ADU, that is detached that is over the square footage. He said that we are in a tough spot because we have spent eleven months at this point, coming up with multiple iterations and going back and forth with the Town. He said that we've been pushed into a lot split because it meets all of the code requirements.

Janet said that she wanted to clarify because you are talking about precedent, the property at 26 Maroon Drive was not one lot that was divided into two lots. She said that it was already two lots, Lot 6 and Lot 7. She said that one lot was sub-standard because a property owner in the 1980's had quit-claimed part of the lot to the property owner to the west. She said that there was one lot that met the code and one lot that was deficient in the square footage. She said that it was a lot line adjustment, where they shifted a lot line between two lots.

Jeff said that he understands what the applicant wants to do and that he is in support of their vision for the property. He said that if you met all of the code requirements that Staff would be recommending approval. He said that there are issues with the street frontage and easement with the lot split. He said that he has not been convinced that this is the best strategy to get where you are going. He said that an ADU is a challenge and variances are never easy but that he's not sure a lot split is something he can get behind at this stage.

Jay stated that this was not the intent of this lot, when they were initially subdividing. He said that it was an awkward space within their subdivision that they didn't know what to do with, so they ended up with one large lot. He said that we have been dealing with ADU's in this neighborhood recently and that they are already pushing the limits. He said that this is taking it one step further that is one step a little too far. He said that he hopes that something can be figured out works really well with an ADU, with some variances. He said that is the direction he thinks we should go with this.

Further discussion ensued regarding an ADU.

Janet said that she wanted to clarify that we never received a land use application for an ADU. She said that it never went through any type of planning process. She said that it would be the first application for an ADU. She explained that even if there were a continuance and they came back with a proposal for an ADU that the Commission could not take any action on that because the public notice is for a subdivision. She said that it would have to be noticed as a Minor Site Plan Review and a Conditional Use Permit. She said that a continuance doesn't buy anything.

Further discussion ensued about the process for ADU's.

Janet explained that we discourage variances because in order to approve a variance you have to prove you have a hardship and that you didn't create the hardship.

Further discussion ensued regarding a motion.

Motion For Continuance to July 15, 2021

Nicholas made a motion to continue this application to July 15, 2021, to allow Staff to draft conditions for a preliminary plat approval. Kim seconded the motion.

Yes: Jay, Kim, Nicholas

No: Jeff

Update from Meeting #1 From June 10, 2021 - Comp Plan Update 2021

Janet apologized for the wording on the agenda, Cushing Terrell is not attending this meeting. She said that she wanted to update the Commission on what happened at the last meeting with CT on June 10, 2021.

She outlined the following;

- 1) CT did introductions.
- 2) P&Z and CT went through the Community Engagement Plan. P&Z wanted them to focus one of the outreach efforts with the Latino community.
- 3) They talked about the existing goals in the Comp Plan and the need to update them. CT was asked to provide recommendations on the goals, which Janet included in the packet for a future discussion with CT. P&Z noted there needs to be input from the public over the next months ahead.

Janet said that since that meeting that the Bang the Table process has been getting set up and that survey questions are being drafted with preparations made for the kick-off at the July 2nd First Friday event. She said that she will get the list of questions drafted and sent out to the Commission, which she will email tomorrow. She said that she'll give the Commission a deadline of next Tuesday to look over them and provide any input. She said to contact her independently to let her know if you have thoughts to be incorporated.

Janet said that CT will be participating at the Environmental Board meeting on 6-28-21. She said that even though it's a little early in the process we wanted to accommodate them.

Janet said that Kenya Pinela that works with Valley Settlement will help us supplement the Latino outreach for the Latino community event in August. She'll help us translate items into Spanish and written appropriately.

Kim asked about CT meeting with the Historic Preservation Commission.

Janet said that she would put that on the list that CHPC want to be involved as well other community groups.

Staff Update

Janet said that 1201 Main Street and Sopris Lodge are getting close to getting their Temporary Certificates of Occupancy or TCO.

Janet said that we have the ten target items for the Comp Plan and one of the items is the High Density Zone District. She said that is her item that was included because of the zoning parameters in the R/HD district are very liberal. She said that you could have a thirty-five foot building five feet from a property line. She explained that we have a lot of under-developed lots in the R/HD and if someone were to assemble a number of those lots and demolish the existing buildings and build one big building, it would be a huge building. She said that was her goal and that it was not to increase density but to look at the zone district itself and design standards to make sure we are reducing the mass and scale.

John said that he received a study with a lot of good information in it, although it doesn't include Garfield County. He said that he would email it out to the P&Z. He said that Carbondale is living this study right now, housing issues, short-term rentals, long-term rentals and that it's all happening.

John said that we have been doing a lot enforcement issues lately. He said that everyone loves to use the government against their neighbors.

Commissioner Comments

There were no Commissioner comments.

Motion to Adjourn

A motion was made by Jeff to adjourn, Nicholas seconded the motion, and the meeting was adjourned at 9:00 p.m.