

**ORDINANCE NO. 17
SERIES OF 2018**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING THE APPLICATION TO REZONE
THE 689 MAIN STREET PROPERTY
AS PART OF THE HISTORIC COMMERCIAL CORE (HCC) ZONE DISTRICT**

WHEREAS, AMG Properties, LLC (the principal owners of which are Ann and Mark Gianinetti) submitted an application to rezone 689 Main Street (the "Property") from the Seventh Street Planned Unit Development to Historic Commercial Core (HCC); the Property is located on the northeast corner of Main Street and 7th Street and is legally described as Parcel 1, Seventh Street P.U.D., as shown on the final plat recorded as Reception No. 373265; and

WHEREAS, the application included a request for certain fee waivers in consideration of the Applicant's intent to continue to historically preserve the existing building on the Property for at least twenty years following the Town's approval of this application; and

WHEREAS, the application also included a request for an off-street parking credit due to applicant's creation of fourteen (14) angled parking spaces when a portion of the Weaver Leonhardy Ditch adjacent to the Property was recently piped; and

WHEREAS, after all required notices, the Planning and Zoning Commission (P&Z) conducted a public hearing on February 8, 2018, 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; and

WHEREAS, the P&Z subsequently recommended to the Town's Board of Trustees that these requests be approved; and

WHEREAS, after all required notices, the Town's Board of Trustees conducted a public hearing on September 11, 2018, 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 zoning change, the Board of Trustees finds and determines that it is 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 proposed rezoning will be consistent with the 2013 Comprehensive Plan as this area is the historic center of commerce, culture, civic life, and celebrations- the heart of the community;
3. The proposed rezoning will be consistent with the stated purpose of the proposed zoning district, specifically, the restaurant, tavern, lodging and other allowed uses proposed all will add to commercial activity in the downtown area;
4. The proposed 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 proposed rezoning will not result in material adverse impacts to other property adjacent to or in the vicinity of the 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 Property while maintaining adequate levels of service to existing development; and

WHEREAS, with regard to the requested fee waivers, the Board of Trustees finds and determines that, in consideration of Applicant's commitment to continue to historically preserve the existing historic brick building on the Property for at least twenty years following the date of this approval, it is appropriate for the Board of Trustees to exercise its discretion to grant the Applicant a fee waiver in the amount of 75% of the then-applicable building permit and plan check fees for future development on the Property, if such application(s) are filed within seven (7) years of the date of this approval; and

WHEREAS, with regard to the requested off-street parking credit, the Board of Trustees finds that, under the circumstances presented by this application, which include preservation of a prominent historic building that will be used as a restaurant, tavern and/or lodging facility, or other allowed uses, and other unique attributes of the subject Property, it is appropriate for the Board of Trustees to exercise its discretion pursuant to Chapter 17.05, Section 5.7.7.H of the Municipal Code, to award a parking credit of fourteen (14) off-street parking spaces to the Applicant toward future off-street parking requirements applicable to future development on the north side of the Property;

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

1. The Property is hereby removed from the Seventh Street P.U.D. and placed within the HCC zone district.

2. In order to assure the continued historic preservation of the existing historic brick building on the Property for at least twenty (20) years following the date of this approval, the Applicant shall execute a deed restriction agreement with the Town in a form approved by the Town Attorney, which agreement shall be recorded contemporaneously with and as a condition of the effectiveness of this Ordinance.

3. In consideration of historic preservation of the existing brick building on the Property for at least another twenty (20) years, and conditioned upon Applicant's continued compliance with the terms of this Ordinance and the related deed restriction agreement, the Applicant is hereby awarded a prospective building permit and plan check fee waiver in the amount of seventy five percent (75%) of the applicable fees at the time of future building permit application(s) for additional development of the north side of the Property, provided that such waiver shall expire to the extent not utilized by the Applicant within seven (7) years from the date of this Ordinance. The Applicant may request an extension of this seven-year period, provided that any requested extension may be granted, denied or conditioned in the reasonable discretion of the Board of Trustees, which discretion shall not be unreasonably exercised. The fee waivers approved herein may not be assigned to any other party or property (other than by written assignment(s) to successor owner(s) of the Property). The Applicant shall not be obligated to pursue any historic preservation approvals or designation for the building from any governmental agency, and compliance with the deed restriction agreement shall meet the historic preservation requirements hereunder.

4. The Applicant is hereby awarded an off-street parking credit in the amount of fourteen (14) parking spaces, again conditioned upon Applicant's continued compliance with the terms of this Ordinance and the related deed restriction, which credit may be applied toward off-street parking requirements associated with future development upon the north side of the Property. At the time of such future development, off-street parking requirements for the existing brick building on the Property shall be reconsidered according to the Municipal Code in effect at that time, at which point portions of the fourteen (14) parking spaces may be allocated toward satisfaction of then-applicable parking requirements for the existing building on the Property. The parking credit approved herein may not be assigned to any other party or property (other than by written assignment(s) to successor owner(s) of the Property). The parking credits approved herein shall not expire, and shall continue to be available to Applicant or to the successor property owner(s) until development of the north side of the property.

5. Unless otherwise provided herein or in the deed restriction agreement to be entered into by the Town and the Applicant, all representations of the Applicant in written submittals or during public hearings concerning this project shall be considered additional conditions of approval.



Reception#: 915061
12/10/2018 03:09:34 PM Jean Alberico
4 of 4 Rec Fee: \$28.00 Doc Fee: 0.00 GARFIELD COUNTY CO

*Town of Carbondale
Ordinance No. 2018- 17
Page 4 of 4*

6. The Applicant shall pay and reimburse the town for all other applicable professional and staff fees pursuant to the Carbondale Municipal Code.

7. A copy of this ordinance and the deed restriction agreement 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 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 27th day of November, 2018.

THE TOWN OF CARBONDALE

By: 
Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk

