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**ORDINANCE NO. 13
SERIES OF 2020**

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, PROVIDING FOR THE ANNEXATION TO THE TOWN OF CARBONDALE, COLORADO, OF PROPERTY LYING OUTSIDE OF BUT ADJACENT TO THE TOWN OF CARBONDALE, IN THE COUNTY OF GARFIELD, COLORADO.

WHEREAS, Eastwood 133, LLC, a Colorado limited liability company (“Petitioner”) has requested the annexation of the territory lying outside of but adjacent to the Town of Carbondale, Garfield County, Colorado described in Exhibit A (the “Property”) attached hereto and incorporated herein by this reference; and

WHEREAS, the Board of Trustees of the Town of Carbondale has resolved to annex by ordinance the Property; and

WHEREAS, the Petitioner has 100% ownership of the Property; and

WHEREAS, the applicable requirements of law, including the requirements of the Municipal Annexation Act of 1965, C.R.S. 31-12-101, *et. seq.*, as amended, have been met; and

WHEREAS, no election is required; and

WHEREAS, the Town finds that the proposed annexation meets the following annexation criteria in the 2013 Comprehensive Plan:

Town Periphery (Section 4.12 and Figure 4.34 of the Comprehensive Plan)

- a. The Property is in the Phase 1 Potential Annexation Infill area and is contiguous to the Town. This is an area that already functions as a part of the Town. Infill and redevelopment in these areas would maintain the Town’s compact footprint while promoting walking and biking.
- b. Annexation of this Property would provide contiguity allow the opportunity for the properties to the north to be annexed into the Town. This would allow any development or re-development to proceed under the Town’s standards.
- c. The landscape, artwork and trail associated with the Petitioner’s proposed development would enhance the gateway into Town. The development also would help screen the electrical substation.
- d. There would be retail sales associated with the use. A monthly rental fee for the units is proposed.

Annexation Criteria (Section 4.12 of the Comprehensive Plan)



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- a. An application for Major Site Plan Review has been submitted concurrently with the annexation request.
- b. The development proposed by the Petitioner would promotes multi-modal transportation by providing a trail extending along State Highway 133 from the RFTA park-and-ride to the Cowen Center crosswalk. This would add to the length of continuous trail along the west side of Highway 133 from the north side of Town and extending south by River Valley Ranch. In addition, a public trail is proposed along the north side of the property from Highway 133 to the mobile home park property to serve as a new east/west bicycle and pedestrian connection.
- c. Annexation/development would not adversely affect the Town’s fiscal conditions as a Fiscal Impact Report prepared by the Petitioner finds that the proposed development will be “fiscal-positive” with a new annual surplus of \$23,180. In addition, a monthly rental fee for the storage units is proposed in order to generate additional revenue for the Town.
- d. The annexation/development does not degrade public infrastructure or level of service as any required infrastructure to serve the development will be the responsibility of the developer and fees in lieu of water rights will be required.
- e. The annexation/development provides would provide public trails exceeding the minimum requirements of the municipal code.

WHEREAS, Petitioner has agreed to comply with all of the terms and conditions of the Annexation Agreement between Petitioner and the Town of Carbondale dated March 26, 2021, ~~2020~~ and therefore the area described in Exhibit A (the Property) shall be annexed upon the terms and conditions set forth in said Annexation Agreement.

BE IT THEREFORE ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, that the territory described in Exhibit A (the Property) is hereby annexed into and made a part of the Town of Carbondale, Colorado, subject to the terms and conditions of said Annexation Agreement dated March 26, 2021, ~~2020~~, which is incorporated herein by this reference as if set forth herein verbatim.

IT IS FURTHER ORDAINED that the following are additional conditions of approval of annexation:

- 1. Petitioner shall provide an Annexation Map that shall be reviewed and approved by Town staff prior to recording.

2. Any development of the Property shall occur according to the applicable provisions of the Carbondale Municipal Code, including in particular all provisions of Chapter 17 thereof (the Unified Development Code).

3. Petitioner also contemporaneously submitted a land use application for Zoning, Major Site Plan Review, a Conditional Use Permit and Statutory Vested Rights for the Property (collectively the Application”) that has been processed contemporaneously with the annexation petition. As such, this Ordinance and the Annexation Agreement and Annexation Map shall not be recorded unless and until the Application is approved and the ordinance approving the same (the “Approval Ordinance”) and the related Site Plan and Development Improvements Agreement (DIA) are available for recording contemporaneously with the applicable annexation documents.

4. All of the provisions of the Annexation Agreement for the Property dated March 24, 2021 shall be deemed conditions of approval of annexation.

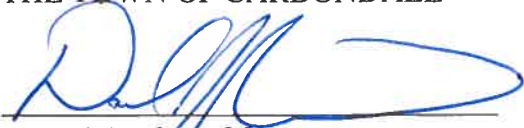
5. Petitioner shall submit a deed transferring easements to the Town for all public pedestrian and bicycle trails, emergency access and the Public Art Area shown on the Site Plan prior to recordation of the Annexation Map. The deed shall be in a form and with title assurances acceptable to the Town Attorney.

6. If the Colorado Department of Transportation requires an access permit, the permit shall be submitted to the Town prior to issuance of any building permit for the Property.

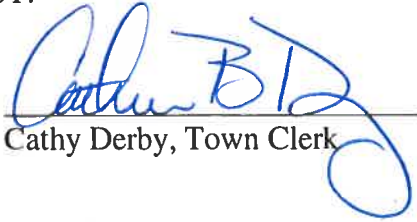
7. The foregoing conditions and those set forth in the Annexation Agreement shall run with the Property and be binding upon the Petitioner and/or any other future owners or any other party claiming an interest in the Property.

INTRODUCED, READ AND PASSED this 10th day of November, 2020.

THE TOWN OF CARBONDALE

By: 
Dan Richardson, Mayor

ATTEST:

By: 
Cathy Derby, Town Clerk





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EXHIBITS:

- A. Property description.



EXHIBIT "A"
Attached to and forming a part of
WARRANTY DEED
between

GRANTOR: 133 LIMITED PARTNERSHIP, A COLORADO LIMITED PARTNERSHIP

GRANTEE: EASTWOOD 133, LLC, A COLORADO LIMITED LIABILITY COMPANY

LEGAL DESCRIPTION

A parcel of land situated in Lot 16 of Section 28 and Lot 2 of Section 33, all in Township 7 South, Range 88 West of the Sixth Principal Meridian, being more particularly described as follows:

**Beginning at a point on the Westerly right-of-way line of Colorado State Highway No. 133, whence the East Quarter corner of said Section 28 bears North 24° 37' 53" East, 2379.58 feet;
thence South 01° 16' 00" East, 611.10 feet along said Westerly right-of-way line;
thence South 81° 31' 30" West, 156.10 feet to a point on the Northeasterly right-of-way line of the Denver and Rio Grande Western Railroad;
thence North 33° 07' 25" West, 123.47 feet along said Northeasterly right-of-way line;
thence North 01° 16' 00" West, 525.80 feet;
thence North 88° 44' 00" East, 220.00 feet to the Point of Beginning.**

EXCEPTING THEREFROM that portion conveyed by Mary Anne Hyde to Public Service Company of Colorado in Deed recorded June 8, 1982 in Book 600 at Page 844.

County of Garfield, State of Colorado.

also known by street and number as: **TBD Highway 133, Carbondale, CO 81623**