

**ORDINANCE NO. 10
SERIES OF 2020**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING THE APPLICATION TO REZONE
PROPERTY LOCATED AT 958 STATE HIGHWAY 133 TO THE MIXED USE
(MU) AND COMMERCIAL/TRANSITIONAL (C/T) ZONE DISTRICTS**

WHEREAS, Stein Properties, L.P. and Carbondale Center Place, LLC (collectively “Applicants”) have jointly submitted an application to rezone a property located at 958 State Highway 133, Town of Carbondale, Garfield County Tax I.D. No. 239333400014, consisting of approximately 4.151 acres, legally described on Exhibit A (the “Property”); and

WHEREAS, the Property is currently split by a zone district boundary (but there is no property boundary line associated with this zone district boundary)--the portion of the Property on the west side of the zone district boundary line is currently zoned Planned Community Commercial (PC) and the portion of the Property on the east of this zone district boundary line is presently zoned Stein Planned Unit Development (Stein PUD), as depicted on Exhibit B; and

WHEREAS, the Applicants have applied to rezone the west side of the Property lot (approx. 87,060 sq. ft.) to the Mixed-Use (MU) zone district, and to rezone the east side of the Property (approx. 93,742 sq. ft.) to the Commercial/Transitional (C/T) zone district, also as depicted on Exhibit B; and

WHEREAS, after all required notices, the Planning and Zoning Commission (P&Z) conducted a public hearing on June 11, 2020, 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 the request be approved, with conditions; and

WHEREAS, after all required notices, the Town’s Board of Trustees conducted a public hearing on July 14, 2020, which hearing continued on August 11, 2020, at which times 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, with conditions, 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 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 is consistent with the Comprehensive Plan as the Property is within an area designated New Urban which envisions a flexible mix of retail, restaurants, service commercial and multi-story mixed use buildings and buildings being the focal point of the site by locating them close to the street. The development would also provide a good mix of rental housing units near shopping areas along Highway 133 and near downtown while providing some commercial uses.
3. These amendments are consistent with the stated purposes of the proposed new zoning districts. The portion of the Property to be rezoned to M/U will have a compact, mixed-use development pattern that will provide residents with the ability to work, recreate and shop in a pedestrian friendly environment--there will also be direct connections from housing to commercial and employment areas. Likewise, the portion of the Property that is being rezoned to C/T district will appropriately accommodate the transition of neighborhoods from residential to mixed-use, commercial, and other non-residential uses.
4. The rezoning will not result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation.
5. The rezoning will not result in material adverse impacts to other property adjacent to or in the vicinity of the Property.
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 Board of Trustees approves the removal of the Property from the PC and the Stein PUD zone districts, and the rezoning of the Property as part of the MU and C/T zone districts, as depicted on **Exhibit B**, subject to all terms and conditions of this Ordinance.

2. This Ordinance will be adopted now but will not become effective or be recorded until:

(a) a future subdivision or subdivision exemption application is approved by the Town and a plat is recorded that serves to match the lot/property boundaries with the requested new zone district boundaries shown on **Exhibit B**;

(b) a future major site plan review application, based on the applicable new zone districts, is approved by the Town that provides for all buildings to be wholly located within either of the proposed new zone district boundaries on the Property shown on **Exhibit B**; and

(c) the then-owners of all portions of the Property where the Sopris Shopping Center is currently located execute and record a subdivision improvements agreement with the Town that serves to guarantee and secure the demolition and removal of all existing portions of the Sopris Shopping Center that presently straddles the proposed new boundary between the MU and C/T zone districts on the Property, so that the existing shopping center buildings will not overlap the new zoning boundary between the MU and C/T zone districts shown on **Exhibit B** in the future.

3. A copy of this Ordinance shall be recorded in the Garfield County real property records by the Town at the expense of the Applicants upon satisfaction of the conditions precedent listed above in preceding Section 2. In the event that all of the conditions precedent listed above in Section 2 are not satisfied on or before two (2) years following the Board of Trustees' adoption of this Ordinance, unless an extension of such two-year period is granted by the Board of Trustees in its discretion, the requested rezoning approval shall lapse pursuant to Chapter 17.02, Section 2.3.9 of the Carbondale Municipal Code ("Lapse of Approval"), at which point this Ordinance shall be of no further force and effect, and the Property shall continue to be zoned as it is today.

4. All representations of the Applicants in written submittals or during public hearings concerning this project shall be considered additional conditions of approval.

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

This Ordinance shall not be effective until posting and publication in accordance with the Town's Home Rule Charter, and satisfaction of each of the conditions listed above in Section 2. 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 25th day of August, 2020.

THE TOWN OF CARBONDALE

By:


Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk

15245214_1



EXHIBIT "A"

PARCEL 1:

Parcel A:

A parcel of land in the Town of Carbondale, County of Garfield, State of Colorado, situated in Lot 9 of Section 33, and in Lot 12 of Section 34, all in Township 7 South, Range 88 West of the Sixth Principal Meridian said parcel of land is described as follows:

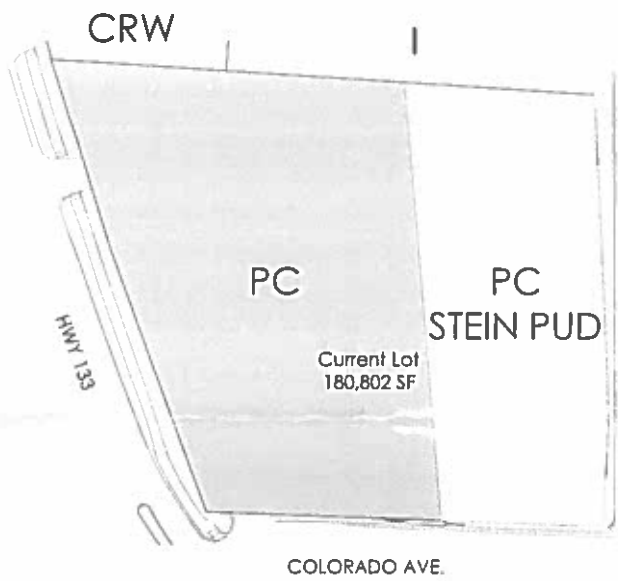
Beginning at a point whence the Survey Monument located at the Intersection of Eighth Street and Main Street in the Town of Carbondale, Colorado bears: S. $00^{\circ} 03' 00''$ W. 598.17 feet and S. $89^{\circ} 57' 00''$ E. 858.35 feet;
thence N. $80^{\circ} 09' 00''$ W. 119.67 feet along a fence as constructed and in place;
thence N. $06^{\circ} 15' 00''$ E. 88.16 feet;
thence S. $89^{\circ} 15' 35''$ W. 171.98 feet;
thence N. $02^{\circ} 52' 30''$ E. 145.93 feet;
thence S. $87^{\circ} 13' 11''$ E. 261.58 feet;
thence S. $02^{\circ} 48' 00''$ East 239.23 feet to the point of beginning.

Parcel B:

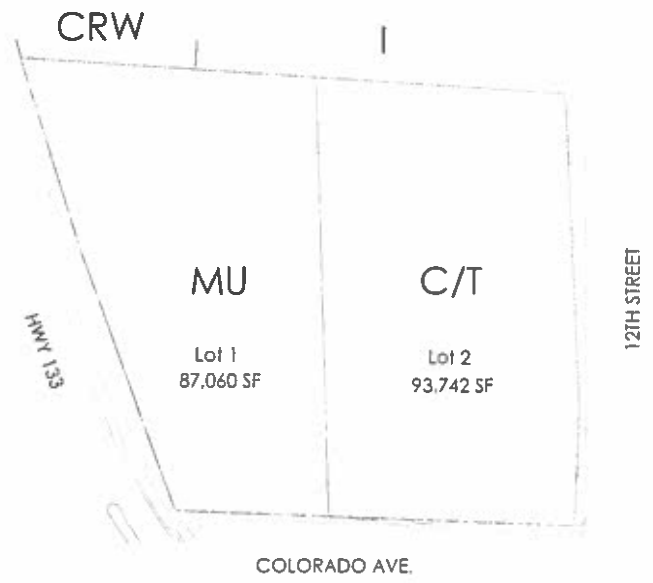
A parcel of land in the Town of Carbondale, County of Garfield, State of Colorado, situated in Lot 9 of Section 33 and in Lot 12 of Section 34, all in Township 7 South Range 88 West of the Sixth Principal Meridian, lying Easterly of the Easterly right of way line of Colorado State Highway No. 133 and Northerly of a street known as Colorado Ave. (Extended) in the Town of Carbondale, said parcel of land is described as follows:

Beginning at a point on the Easterly right of way line of said highway whence the Survey Monument located at the intersection of 8th Street and Main Street in the Town of Carbondale, Colorado bears: S. $00^{\circ} 03' 00''$ W. 466.27 feet and S. $89^{\circ} 57' 00''$ E. 1231.69 feet;
thence N. $21^{\circ} 10' 20''$ W. 119.68 feet along the Easterly right of way line of said highway;
thence N. $19^{\circ} 35' 00''$ W. 138.70 feet along the Easterly right of way line of said highway;
thence N. $17^{\circ} 21' 30''$ W. 186.63 feet along the Easterly right of way line of said highway;
thence S. $86^{\circ} 24' 00''$ E. 507.29 feet;
thence S. $02^{\circ} 48' 00''$ E. 18.06 feet;
thence N. $87^{\circ} 13' 11''$ W. 261.58 feet;
thence S. $02^{\circ} 52' 30''$ W. 145.93 feet;
thence N. $89^{\circ} 15' 35''$ E. 171.98 feet;
thence S. $06^{\circ} 15' 00''$ W. 88.16 feet;
thence S. $80^{\circ} 09' 00''$ E. 119.67 feet;
thence S. $02^{\circ} 48' 00''$ E. 34.87 feet;
thence S. $02^{\circ} 02' 00''$ W. 110.00 feet to a point on the Northerly line of Colorado Ave. (Extended);
thence N. $87^{\circ} 58' 00''$ W. 371.49 feet along the Northerly right of way line of Colorado Ave. (Extended) to the point of beginning.

RS
JS



EXISTING ZONING



PROPOSED ZONING

- C/T COMMERCIAL/TRANSITIONAL
- CRW COMMERCIAL/RETAIL/WHOLESALE
- I GENERAL INDUSTRIAL
- MU MIXED USE
- PC PLANNED COMMUNITY COMMERCIAL
- PUD PLANNED URBAN DEVELOPMENT