

**ORDINANCE NO. 6
SERIES OF 2020**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING A COMBINED PRELIMINARY AND FINAL PLAT
TO RE-SUBDIVIDE LOT 5A OF THE CARBONDALE MARKETPLACE
SUBDIVISION INTO TWO LOTS, MAJOR SITE PLAN REVIEW FOR 29,240 S.F.
OF COMMERCIAL DEVELOPMENT UPON LOT 5A, AND ALTERNATIVE
COMPLIANCE RELATED TO LANDSCAPING/SCREENING, FENCE HEIGHT
AND COMMERCIAL BUILDING DESIGN UPON LOT 5A**

WHEREAS, on behalf of Crystal River Marketplace, LLC (“Owner”), Builders FirstSource (“Applicant”) submitted an application to the Town of Carbondale (“Town”) for the approval of a preliminary plat and a final subdivision plat (“Amended Plat”) to re-subdivide Lot 5A of the Carbondale Marketplace Subdivision (the “subject property”) as described on the First Amended Plat of Lot 5, Carbondale Marketplace Subdivision, recorded in the Garfield County real property records on May 25, 2018 at Reception No. 907183, into two lots to be known as Lot 5A (as amended) and Lot 5C, for Major Site Plan Review approval to develop a lumber and building supply business on Lot 5A (as amended), and for approval of alternative compliance related to landscaping/screening, fence height and commercial building design upon Lot 5A (as amended); and

WHEREAS, after required public notices, the Town’s Planning and Zoning Commission reviewed these requests at a noticed public hearing on May 28, 2020 and recommended approval with conditions; and

WHEREAS, after required public notices, the Town’s Board of Trustees conducted a public hearing on these requests on June 23, 2020 during which public hearing the Board of Trustees heard and considered the statements of Town staff, the Applicant’s and Owner’s representatives, and members of the public, and reviewed and considered all other relevant documents and information presented at such hearing, all as required by law; and

WHEREAS, the Board of Trustees finds and determines that preliminary and final subdivision plat approval should be granted, with conditions, pursuant to Sections 2.6.4 and 2.6.5 of the Town’s Unified Development Code (Chapter 17 of the Municipal Code, the “UDC”) for the following reasons:

- a. The proposed subdivision complies with all applicable use, density, development, and design standards set forth in the Carbondale Municipal Code;
- b. The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to minimize land disturbance and maximize the amount of open space in the

development and accomplishes the purposes and intent of this Code. No critical wildlife, tree/vegetation or riparian areas are present on-site;

- c. Evidence has been presented that that provision has been made to connect to the Town's public water supply system;
- d. Evidence has been presented that provision has been made for a public sewage disposal system;
- e. The application includes evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed use of these areas are compatible with such conditions;
- f. There are no identified natural hazards including flood and wildfire present on the site;
- g. The application provides a clear assumption of responsibility for maintaining all roads, open spaces, and other public and common facilities in the subdivision;
- h. The proposed phasing of development is rational in terms of available infrastructure capacity and financing;
- i. The proposed subdivision is consistent with the subdivision conceptual plan as approved with the Carbondale Marketplace Subdivision;
- j. The proposed subdivision is consistent with Comprehensive Plan and other adopted Town policies and plans, including all adopted transportation plans or streets/roadway plans;
- k. The proposed final plat conforms to the approved preliminary plat and incorporates all recommended changes, modifications, and conditions attached to the approval of the preliminary plat;
- l. The development will substantially comply with all requirements of the Carbondale Municipal Code; and
- m. The development will comply with the applicable technical standards and specifications adopted by the Town; and

WHEREAS, the Board of Trustees also finds and determines that Major Site Plan Review Approval should be approved pursuant to Section 2.5.3 of the UDC to allow development of a lumberyard and construction supply business upon Lot 5A (as amended), with conditions, for the following reasons:

- a. The proposed major site plan is consistent with the Comprehensive Plan as the building is the focal point by being located closer to Highway 133, and there is a pedestrian/bike friendly feel while accommodating automobile access. The parking lot will be screened from Highway 133 by enhanced landscaping;
- b. The proposed site plan is consistent with the approved Carbondale Marketplace Final Subdivision Plat;
- c. The proposed site plan complies with all applicable development and design standards set forth in this Code; and
- d. Traffic generated by the proposed development is adequately served by existing streets within Carbondale; and

WHEREAS, the Board of Trustees also finds and determines that alternative compliance approvals should issue pursuant to Section 5.1.3 of the UDC in order to (1) allow the dedication of a trail and a smaller landscape easement along the trail in lieu of providing a full 20% of landscape area upon Lot 5A; (2) exceed the normal fence height limit of eight (8) feet by up to 12 feet; and (3) deviate from building design standards related to transparent glazing, for the following reasons:

- a. Applicant's proposed alternatives for landscaping/fencing, fence height, and commercial building design will achieve the purposes of the CRW zone district and all of the criteria and regulations specified for such use in that zone district, better than the ordinarily applicable standards;
- b. Applicant's proposed alternatives also advance the goals and policies of the Comprehensive Plan and this Code to a better degree than the ordinarily applicable standards;
- c. Applicant's proposed alternatives will result in benefits to the community that exceed the benefits associated with the ordinarily applicable standards, specifically provision of a new public trail, provisions of adequate screening of the building materials, and a structure that provides visual interest;
- d. Applicant's proposed alternatives impose no greater impacts on adjacent properties than would occur though compliance with the ordinarily applicable standards; and

WHEREAS, the Board of Trustees also finds and determines that certain conditions of approval should be imposed so that the project will be developed consistent with the purposes of Chapter 17 of the Carbondale Municipal Code. All of those

conditions shall be met by making certain changes to the draft Amended Plat and other documents submitted as part of the application and by virtue of the terms and conditions of a Subdivision Improvements Agreement to be entered into between the Town and the Owner and recorded contemporaneously with the revised Amended Plat.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO that:

1. The Applicant's and Owner's requests for preliminary and final subdivision plat approval to re-subdivide Lot 5A of the Carbondale Marketplace Subdivision into two lots, Lots 5A (as amended) and 5C, major site plan review and alternative compliance approval to authorize development of a new commercial lumberyard and building supply facility upon Lot 5A (as amended), are hereby approved, subject to the conditions set forth below.

2. All development shall be consistent with the final site plan and architectural renderings approved by the Town concurrent with this application, or pursuant to such plans approved by the Town in a subsequent site plan application for future development of Lot 5A (as amended).

3. The Amended Plat shall be in a form acceptable to and approved by Town staff and the Town Attorney prior to recording. The Amended Plat shall be revised to more clearly visually delineate between types of easements (such as with shading and/or cross-hatching), and the 30 ft. wide utility easement proposed on Parker Drive shall be replaced with a 50' wide public street dedication. Lot 5C shall be marked on the plat as "RESERVED FOR FUTURE DEVELOPMENT." The following plat notes shall be included on the Amended Plat:

a. A plat note shall cross-reference: Ordinance No. 5, Series of 2016 approving the Carbondale Marketplace Subdivision recorded on February 28, 2018 at Reception No. 903650; the Carbondale Marketplace Subdivision Improvements Agreement recorded on February 28, 2018 at Reception No. 903695; the Reciprocal Easement Agreement recorded on February 28, 2018 at Reception No. 903701 that includes a common assessment mechanism for maintenance of the private irrigation system to be shared by Lot 5A (as amended), as well as Lots 2, 3, 4, and 5B; Ordinance No. 7, Series of 2017 approving the resubdivision of Lot 5 recorded on May 25, 2018 at Reception No. 907185; the Subdivision Improvements Agreement approving the resubdivision of Lot 5 recorded on May 25, 2018 at Reception No. 907187; and the Subdivision Improvements Agreement for the Re-Subdivision of Lot 5A to be approved and recorded in connection with the approvals set forth in this Ordinance.

b. A plat note shall indicate that no development may occur upon Lot 5C until a site plan is approved or that lot, at which time the Town may require

additional public improvements and/or water right dedications as required to serve the scope of development shown on such future site plan(s).

c. A plat note indicating that no more than 24,443 sq. ft. of land area may be irrigated upon Lot 5A, that an irrigated area limitation will be established for Lot 5C at the time of future site plan approval, and that all irrigation shall be served by non-potable irrigation systems supplied by the Rockford Ditch and that no treated water from the Town's municipal system shall be used for outdoor irrigation.

Upon approval by Town staff, the Applicant shall execute and record the updated Amended Plat within ninety (90) days of the effective date of this Ordinance.

4. Owner's request for alternative compliance for development of Lot 5A is approved: as follows:

a. Alternative Compliance from Section 5.4 Landscaping and Screening to provide less than the 20% required landscape in order to instead construct a trail along the west and north sides of the lot which would be dedicated to the Town for public use. This will provide a last link to allow pedestrians and bicyclists to travel from West Main Street to the Highway 133 trail just north of the newly created Lot 5C without encountering driveways or vehicle access points.

b. Alternative Compliance from Section 5.4. Landscaping and Screening to allow a fence to exceed the height allowance of 8 ft. to allow a fence up to 12 ft. high in order to provide adequate screening of the material storage area.

c. Alternative Compliance from Section 5.7 Commercial Site and Building Design, specifically, relief from the glazing and articulation requirements for portions of the building.

5. Approval of the application shall also be subject to the following additional conditions of approval:

a. All conditions of Ordinance No. 21, Series of 1997, recorded in the Office of the Garfield County Clerk & Recorder on March 13, 1998 at Reception No. 521822 shall remain in full force and effect unless otherwise expressly approved by the Board of Trustees by subsequent ordinance.

b. The Owner shall submit final engineering and construction drawings to the Town prior to recordation of the Amended Plat. Included in this information shall be final drainage calculations and details prepared and stamped by a Colorado-registered professional engineer. All development of Lot 5A shall be subject to the Drainage Report prepared by Sopris Engineering, LLC dated

May 13, 2020, as amended by the additional calculations and details required to be provided pursuant to this paragraph.

c. Contemporaneous with recordation of the Amended Plat, the Owner and the Town shall enter into a Subdivision Improvements Agreement ("SIA") acceptable to the Town setting forth all terms and conditions approved by the Board of Trustees. Said SIA shall also generally set forth all of the obligations of the Owner in connection with this development, including, without limitation, obligations relating to installation of utilities and construction of other improvements on the subject property and off site. All required public improvements shall be completed within two years of the date of recordation of the Amended Plat. The Owner shall record the SIA with the Garfield County Clerk and Recorder contemporaneously with recording of the Amended Plat. The Owner shall also submit an irrevocable standby letter of credit in a form acceptable to the Town Attorney securing the public improvements described in this Ordinance and the SIA for a period extending at least 30 days following the deadline for completion of the public improvements.

d. The Owner shall be responsible for the construction and cost of all infrastructure improvements. The construction of the infrastructure shall be completed within two years of recordation of the Amended Plat, unless such timeline is extended by the Board of Trustees in its discretion for good cause shown. If no construction has started by this deadline, the Town may revoke or amend these approvals.

e. The Owner's engineer's estimate of the anticipated cost of public improvements shall be updated to reflect all required public improvements, subject to Town review and approval, prior to recordation of the Amended Plat. A final estimate stamped by a Colorado-registered professional engineer shall be attached to and incorporated in the SIA.

f. Engineered construction plans for utilities shall be subject to review and approval by the Town's Utilities and Public Works Directors prior to issuance of any building permit. The Owner shall repair Town streets after utility lines are installed as per the Public Works Manual. Upon completion of construction, as-builts of all public and private utility locations shall be provided to the Town in accordance with the SIA.

g. A construction management plan must be included in the SIA to minimize the effects of construction upon the environment. The construction management plan shall include reclamation requirements, including re-grading and re-seeding, in the event that ongoing construction ceases prior to completion, and that the security held by the Town pursuant to the SIA may be applied to perform reclamation if the Owner fails to do so.

h. Contemporaneous with recordation of the Amended Plat, the Owner shall dedicate all public streets, public sidewalks, and any other public right-of-way areas or easements depicted on the Amended Plat, to the Town of Carbondale by General Warranty Deed free and clear of all encumbrances except any which may be expressly accepted by the Town after reviewing a title insurance commitment. Owner shall also provide title insurance coverage to the Town evidencing that such dedications and conveyances are free and clear of all encumbrances except any which may be expressly accepted by the Town after reviewing a title insurance commitment. The final title policy shall issue to the Town with coverage in the amount of at least \$250,000.00. Any title insurance premiums, including any additional premium(s) necessary to delete the "standard" title exceptions from the final title policy, shall be paid by the Owner. Any security interest in such property or easements in favor of Owner's lender shall be released or subordinated prior to or contemporaneous with dedication on the Amended Plat. A current title insurance commitment shall be provided to the Town for review no later than ten (10) days prior to dedication to the Town and recordation of the Amended Plat. The Owner shall also pay all property taxes assessed against the dedicated property for periods through date of conveyance to the Town, even if such charges are billed by Garfield County after the date of conveyance to the Town.

i. A fee-in-lieu of highway improvements in the amount of \$34,400 shall be paid prior to issuance of any building permits for the improvements to be located upon Lot 5A (as amended). Additional fees-in-lieu of highway improvements may be assessed against Lot 5C at the time of site plan approval for Lot 5C.

j. All irrigation shall be from non-potable water sources supplied by the Rockford Ditch through a private non-potable irrigation system, the construction, operation, maintenance and replacement of which shall be paid for by a commercial owner's association that levies assessments against all properties within the Carbondale Marketplace Subdivision. The Colorado Rocky Mountain School (CRMS), which originally annexed these properties, has already dedicated sufficient Rockford Ditch shares to cover these uses upon Lot 5A. Future water requirements for Lot 5C shall be considered at the time of site plan approval for Lot 5C, and additional water rights dedication requirements and/or irrigation limitations may be imposed at that time.

k. All development upon Lot 5A shall conform with the approved landscape plan that will be attached to the SIA.

l. The Owner shall be perpetually responsible for maintenance of landscaping and irrigation on the west and north sides of Lot 5A (as amended).

m. If a roundabout is constructed at the intersection of Highway 133 and Industry Place in the future, all truck traffic shall be required to use Industry Place to enter and exit Lots 5A (as amended) and 5C.

n. All rooftop equipment shall be screened in accordance with Section 5.4 of the UDC, as amended from time to time.

o. All lighting shall comply with Section 5.10 of the UDC, as amended from time to time.

p. A "Knox" box shall be installed prior to issuance of a Certificate of Occupancy. The installation of the "Knox" box shall be subject to review and approval of the Fire District.

q. The Owner shall enter into an agreement with the Carbondale & Rural Fire Protection District that addresses payment of any impact fees prior to the issuance of any building permits for this project.

r. All applicable water and sewer system development fees shall be paid for Lot 5A (as amended) prior to issuance of building permits.

s. The approvals in this Ordinance do not include approval of signage. Separate sign permits are required to be obtained prior to installation of signage pursuant to Section 2.5.4 of the UDC, as amended from time to time.

6. All other representations of the Owner and its respective representatives made before the Board of Trustees during public hearings shall be considered additional conditions of approval of the Amended Plat.

7. The Owner shall be required to pay and reimburse the Town for all professional and staff fees as set forth in the SIA.

8. This Ordinance shall be effective upon posting and publication of the same in accordance with the Carbondale Home Rule Charter.

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09/03/2020 10:44:52 AM Jean Alberico
9 of 9 Rec Fee: \$53.00 Doc Fee: 0.00 GARFIELD COUNTY CO

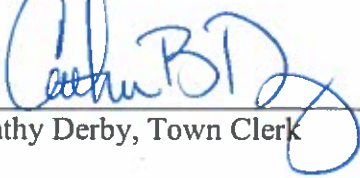
Town of Carbondale
Ordinance No. 6--2020
Resubdivision of Lot 5A,
Carbondale Marketplace Subdivision

INTRODUCED, READ AND PASSED this 23rd day of June, 2020.

THE TOWN OF CARBONDALE

By: 
Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk

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