

MINUTES

CARBONDALE PLANNING AND ZONING COMMISSION

Thursday February 8, 2018

Commissioners Present:

Michael Durant, Chair
Marina Skiles
Jeff Davlyn
Ken Harrington
Jennifer Gee DiCuollo
Jay Engstrom, 1st Alternate
Nick Miscione, 2nd Alternate

Staff Present:

John Leybourne, Planner
Mary Sikes, Planning Assistant

Commissioners Absent:

Yuani Ruiz, Chair Pro Tem
Gavin Brooke

Other Persons Present

Ian Oeser, 850 Garfield Avenue
Ann and Mark Gianinetti, 611 Cowen Drive
Mark Chain, 811 Garfield Avenue

The meeting was called to order at 7:00 p.m. by Michael Durant.

January 25, 2018 Minutes:

Ken made a motion to approve the January 25, 2018 minutes with two changes of attendees. Marina seconded the motion and they were approved unanimously with Nick and Jen abstaining.

Jen arrived at 7:02

Jeff arrived at 7:03

Other Persons Present

There was no public comment.

PUBLIC HEARING – 689 Main Street Rezoning

Applicant: AMG Properties LLC

Location: 689 Main Street

John said that he was filling in for Janet tonight. He said that before you tonight is an application for the rezoning of a parcel from the Seventh Street PUD zone district to the Historic Commercial Core (HCC) zone district. He stated that the Planning Commission is required to hold a public hearing and recommend approval of the application, recommend denial or continue the public hearing.

John stated that there is an existing historic building on the lot which was constructed in 1913 and there is a historic survey in your packet that outlines some of the history of the building. He said that the property was originally zoned the Historic Commercial Core in 1973 when we originally started to have zoning. John said that the property was rezoned to the Seventh Street PUD in 1986. He outlined the goals of the PUD as follows:

- Preserve the existing brick house
- Maintain the open front yard and large spruce trees
- Add residential and bed and breakfast uses
- Maintain more open space than was required in the HCC zone district
- Allow the use of the Seventh Street and Colorado rights-of-way as parking

John stated that the building was used as a restaurant until several years ago and that it has been empty since then. He said that no changes to the property are planned as part of the rezoning application. He continued by saying that the applicants have short-term and long-term goals for the property. He stated that the short-term goal is to have the restaurant reestablished and that the Building Official has walked through the building with the applicant. John said that the long-term plan of the applicants is to develop the northerly portion of the property and add a bed and breakfast or rooms upstairs.

John noted that the Weaver Leonardy Ditch runs along the east side of 7th Street adjacent to this property. He said that a portion of the ditch has already been piped and a portion of it is open. He stated that the applicants have offered to pipe the rest of the ditch. Staff had some concerns about irrigation irrigation for the trees close to the ditch. He said that the applicant has indicated that there is irrigation available to water the trees. John said that the applicant has been working with the Public Works Director and that he is supportive of piping the ditch.

John explained that off-street parking needs to be provided for all residential dwelling units and for all lodging uses in the HCC zone district but not for other commercial uses. He said that the applicant is requesting that, in conjunction with the piping of the ditch and street improvements along 7th Street, they receive some credit toward required off-street parking. He stated that this is allowed by Section 5.7.7.H.3 of the UDC and that Staff is supportive of the request. John stated that it is a Board decision but that the Commission can make a recommendation to the Board for this request.

John said that the applicants propose to preserve the existing brick portion of the house, the spruce trees and the landscaping to the south of the structure with a 20 year deed restriction or covenant. He stated that in return, the Gianinetti's would request some fee waivers for building permit and related fees in the future. John suggested that the applicant should submit a letter with an estimate of the fees which would be applicable. He stated that Staff would suggest that there be a time limit on a fee waiver, i.e., 24 months.

John said that Staff would recommend that there be a condition that the rezoning be contingent upon approval of a deed restriction and that the restriction be recorded prior to establishment of the HCC zone district for this property.

John stated that the Comprehensive Plan calls this out as the Downtown area, which a restaurant and bed and breakfast or hotel/motel lodging is allowed as noted in the Comprehensive Plan.

John said that the HCC district is designed to accommodate intense development of individually owned businesses in an attractive, pedestrian-oriented setting, following the design character and patterns of the historic downtown area.

John stated that Staff feels that the criteria of 1-6 in the packet have been met.

Marina asked why twenty years for a deed restriction.

John said that he wasn't part of that conversation so he was not sure.

Michael asked for clarification of not waiving tap fees is due to the TABOR issue.

John said that it is and that if the fees were waived that they would have to come out of the general fund because of TABOR.

Mark Chain explained that it is an enterprise fund where water and waste water is supposed to pay for itself. He said that it is all under the Town umbrella with different types of funds.

Mark Chain introduced the applicants Ann and Mark Gianinetti, AMG properties. He said that this is a straight forward application. He gave some history of the PUD and said that the reason for the PUD was to ensure allowing a bed and breakfast as well as future parking requirements when the property was developed.

Mark Chain said that if the ditch were covered that anyone could park there even if the building was not in use just like in any public right of way.

Mark Chain said that the applicants do not have plans for more development any time soon. He said that their goal is to get the restaurant up and running again as well as remodel the upstairs for two short term rentals.

Mark Chain requested that the deed restriction get recorded with the other documents for the rezoning. He also asked that the fee waiver be good for longer than two years so that they don't have to be renegotiated when the applicants do decide to develop the property.

Mark Chain said that the twenty years was proposed because it was a generation of development. He said it achieves the goal of saving the front yard and the existing

landscaping as well as the house itself. He said that it was a good way to have some preservation but that it wouldn't be in concrete forever.

Ann Gianinetti said that they are excited and that they liked the charm of the house and the old trees. She said that it is part of Carbondale and that it's been there forever. She said that it is what they want too and that they want to get the property working as well as having some flexibility.

Michael asked for clarification of where the southern lot line starts for the northern half of the property.

Mark Chain explained that it was all one lot and that the development possibility might be for a small lodging facility in the back, which will require parking.

Michael said that the back part of the building on the north side of the building is not part of the historical inventory. He said that the small front rectangle is the historical section.

Marina asked Mark Chain to show the ditch proposal on the monitor.

Mark Chain pointed to the location of the ditch and where the culverts will be added to accommodate more diagonal parking.

Marina asked if adding the parking over the ditch will fulfill the needed parking for the development requirements.

Mark Chain stated that it will help and he gave the historical requirements for parking and their fees for the HCC zone district. He said that the goal is to have an agreement in case things change so the applicants can be protected for a while.

Marina asked if the twenty year deed restriction only applied to the historic portion of the building.

Mark Chain answered yes to the two story brick portion of the building.

Marina asked if the back portion could be subject to redevelopment in the next twenty years.

Mark Chain answered yes it could.

Jay said that he didn't realize how far over the ditch was from the property line. He asked if the trees were near the property line.

Mark Gianinetti answered that they are 5-10 feet from the property line.

Nick asked if the property was on a Carbondale historic survey recently done.

John answered yes and the 2006 survey forms are in the packet.

Nick asked if the property was eligible to be listed on the State or local historic registry.

John stated that it is not eligible due to the addition on the back of the building.

Marina asked why the addition disqualifies it.

John said it would be eligible if it were brought to its original condition without the addition.

Ann said that she thought it was the front porch that stopped it, which is what the previous owner had told her.

Jay was concerned about the location of the added parking over the ditch because of how close it would be to the trees. This could damage the trees.

Mark Gianinetti said that a perforated pipe could be used to water the trees and he explained the separation of the trees from the ditch.

Ann said that they did have the trees checked and that they are very old trees. She said that they will continue checking them to make sure that they are healthy.

Michael asked if the Town arborist had looked at these trees.

John stated not to his knowledge.

Mark Chain stated that there is an arborist report and that he would make sure the Board gets to see the report.

Jay asked if this area could be where the Town might want to put a sidewalk.

John stated that it could be but that it is not currently on the list for this area.

Jay said that if this area were used for a sidewalk that it would be easier to remove four parking spots rather than the proposed seventeen.

Jen said that it is a benefit to the Town to have more parking and that the parking will benefit the entire community.

Ken asked what sets the numbers for the twenty year deed restriction and the twenty-four month fee waiver.

John said that the Commission could comment and make recommendations but that the Board would be the deciding body.

Marina asked if the Board could change the recommendations.

John stated yes that they could be changed.

Ken said that the applicant is not agreeing to the twenty-four month fee waiver and he asked for clarification of condition #4.

Michael suggested working on the conditions after the public hearing.

Jeff asked if there were any agreements attached to the north.

Mark Chain said that there were no agreements.

Jeff asked if the parking lot was being used.

Ann said that during Mountain Fair the lot has been used and on occasion a car might be parked in the lot.

Ian Oeser, **850 Garfield Avenue** said that it doesn't seem like it's a big change to the zoning. He commented that with the new zoning and being able to go another story higher is it appropriate for this location. He did say that he did not have a problem with the height possibility.

Motion to close the Public Hearing

A motion was made by Jen to close the Public Hearing. Nick seconded the motion and it was approved unanimously.

Marina gave the applicants applause for rezoning from a PUD to underlying zoning. She said that she doesn't want the twenty year deed restriction as a historical preservationist but that it's not the purview of this application. She said that she does not want to see the building go. Marina said that with this application that we have vested rights for twenty years and then we will reevaluate in twenty years. She said that if this historical structure were demolished that it would be a blight on Main Street.

Michael said that Carbondale's historic preservation policy is strictly voluntary.

Nick said that the structure has local significance and it is surveyed as such. He said that it has historic components but that it is not eligible for any kind of designation beyond its local significance. He said that if this property is added to the HCC zone district that we could talk about the HCC becoming a historic zone.

The Commission agreed that this was a broader discussion and not part of this application.

Ken said that this was the appropriate underlying zoning.

Jeff asked what the value of the fees being waived for the building permit was.

John said that this was one of the challenges because we do not know that number.

Mark Chain said that across the street at 711 Main Street that their fee waivers were between \$24,000 and \$26,000.

John stated that the timeline for the fee waiver in the Staff report can be changed but that it would be a Board decision.

Jeff asked if there have been fee waivers previously.

John said that the only other case that he knows of was for 711 Main Street across the street.

Michael suggested taking the gray portion of the building on the north side to estimate what the building permit and plan review fees would be to develop that portion of the property at its maximum, which would be the highest number.

Mark Chain said that he could bring several development options to the Board.

Further discussion ensued regarding the fee waiver.

Mark Chain thought that a ten year minimum on the timeline for the fee waiver would be a good plan.

Marina said that waivers are usually for hardships and that preserving the historic building would be an advantage for a bed and breakfast business.

Michael stated that this wasn't a business development discussion. He said that they have a large lot and that we are telling them that they cannot develop a third of their lot to the current zoning. He said that this sounds like a hardship as well as maintaining a small building that is highly inefficient compared to a new building that could be built.

Jen said that it would be an encumbrance on the property because they could not sell the property and have it be fully developed.

The Commission agreed that the fee waiver could be good for ten years.

Jen said that ten years is a full economic cycle.

The Commission agreed on the recommendation that the applicant shall submit a proposal for fee waivers for the Board's consideration of twenty years for the deed restriction and the fee waivers shall be time limited to ten years from the date of the approval of the rezoning, for the revision of condition #4.

Further discussion ensued regarding the deed restriction and historic preservation.

The Commission agreed on the recommendation that the applicant shall submit a Deed Restriction preserving the historic structure for the Town's review and that the deed restriction and rezoning ordinance be recorded simultaneously. In addition, wording

finessed and added by the Town Attorney, that the deed restriction does not preclude the applicants from restoring the building to a point where it may qualify for historic registry, for the revision of condition #5.

Jay wanted to clarify that the fee waiver would apply for multiple permits and that it wouldn't get canceled.

Michael suggested to Mark Chain that the fee waiver amount be decided ahead of time and then the applicant could spend it however they like whether it be for a remodel or reroof etc. and then pay out of pocket for the development on the north side of the property.

Mark Chain thanked Michael for his comments.

Motion

Jeff made a motion to approve the rezoning from PUD to HCC zone district with the revisions of the recommended conditions and findings. Marina seconded the motion and it was approved unanimously.

No: none

Yes: Jeff, Michael, Ken, Jen, Marina

Staff Update

John said that the SIA agreement for City Market goes to the Board next week.

John said that Staff has been receiving a lot of inquires of infill possibilities.

Commissioner Comments

Marina said that she is in the show Green is the New Black and that the tickets are on sale.

Motion

A motion was made by Ken to adjourn. Nick seconded the motion and the meeting was adjourned at 8:41p.m.