

**ORDINANCE NO. 11
SERIES OF 2017**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO
APPROVING A SIXTH EXTENSION OF THE DEADLINE TO RECORD
A FINAL SUBDIVISION PLAT FOR
THE CARBONDALE MARKETPLACE SUBDIVISION**

WHEREAS, Crystal River Marketplace LLC ("Applicant"), previously submitted an application to the Town of Carbondale ("Town") for the approval of a final subdivision plat ("Final Plat") for a five-lot subdivision to be known as the Carbondale Marketplace Subdivision;

WHEREAS, on March 16, 2016, the Board of Trustees adopted Ordinance No. 5, Series of 2016, which ordinance included approval of the proposed subdivision and ancillary requests for a special use permit to authorize a fueling station upon proposed Lot 3 of the subdivision, for site plan approval to authorize the location and development of an approximately 60,000 s.f. grocery store upon proposed Lot 2, a fueling station upon Lot 3, and a 9,600 s.f. (net leasable space) retail building upon proposed Lot 4, and for a conditional use permit to authorize a drive-through pharmacy as part of the grocery store operation upon proposed Lot 2; and

WHEREAS, pursuant to Section 3 of said Ordinance No. 5, the deadline to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016) was 90 days following adoption of Ordinance No. 5, or June 14, 2016; and

WHEREAS, the Applicant subsequently requested that the deadline of June 14, 2016 be extended to allow additional time for preparation, execution, and recording of final documents, and the Board of Trustees approved Ordinance No. 10, Series of 2016, to provide the Applicant until August 12, 2016 to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016); and

WHEREAS, the Applicant subsequently requested that the deadline of August 12, 2016 be extended to allow additional time for preparation, execution, and recording of final documents, and the Board of Trustees approved Ordinance No. 14, Series of 2016, to provide the Applicant until October 11, 2016 to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016); and

WHEREAS, the Applicant subsequently requested that the deadline of October 11, 2016 be extended to allow additional time for preparation, execution, and recording of final documents, and the Board of Trustees approved Ordinance No. 19, Series of

2016, to provide the Applicant until February 28, 2017 to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016) and

WHEREAS, the Applicant subsequently requested that the deadline of February 28, 2017 be extended to allow additional time for preparation, execution, and recording of final documents, and the Board of Trustees approved Ordinance No. 5, Series of 2017, to provide the Applicant until April 28, 2017 to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016) and

WHEREAS, the Applicant subsequently requested that the deadline of April 28, 2017 be extended to allow additional time for preparation, execution, and recording of final documents, and the Board of Trustees approved Ordinance No. 8, Series of 2017, to provide the Applicant until June 28, 2017 to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016) and

WHEREAS, citing unforeseen capital reallocation by the Kroger Co., the Applicant has now requested another extension of the deadline to execute and record a final subdivision plat (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016) for an additional 90 days through Thursday, September 28, 2017; and

WHEREAS, the Board of Trustees finds and determines to extend the deadline through Thursday, September 28, 2017, in order for the Applicant to determine whether this development will go forward as approved.

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

1. The Applicant's request for an extension of the deadline to execute and record the final subdivision plat is hereby granted, upon the conditions set forth below. The Applicant shall have through and including Thursday, September 28, 2017 to execute and record a final subdivision plat for the Carbondale Marketplace Subdivision (and complete such other obligations prior to or contemporaneous with recordation of the final subdivision plat, as set forth in Ordinance No. 5, Series of 2016).
2. On or before Monday, August 28, 2017, the Applicant shall deliver final drafts of the following documents to the Town for review and processing in advance of the September 28, 2017 final plat recordation deadline:

- a. Final Plat of Carbondale Marketplace Subdivision;
- b. First Amended Plat of Lots 2 & 4, Carbondale Marketplace Subdivision;
- c. Subdivision Improvements Agreement (SIA), as approved by the Board of Trustees on October 6, 2016 (with Exhibits A through D, including engineer's cost estimate);
- d. Declaration of Restrictive Covenants with cost-sharing mechanism for Carbondale Marketplace Subdivision;
- e. Warranty Deed(s) to the Town for Shorty Pabst Way, Hendrick Drive, and Nieslanik Avenue;
- f. Easement Deeds to the Town (including title warranty) for all public utility, bicycle/pedestrian trails, and drainage easements;
- g. Quit Claim Deed for all appurtenant water rights;
- h. Final drafts of two irrevocable letters of credit required by SIA;
- i. Updated title commitments for all street right-of-way and easement dedications;
- j. All documents required to submit for an amendment to the Highway 133 Access Control Plan to the Colorado Department of Transportation (CDOT); and
- k. A copy of an executed agreement with the Rockford Ditch Association authorizing the applicant to relocate a portion of the Rockford Ditch and to deliver irrigation water from the Ditch for irrigation of all landscaped areas within the Carbondale Marketplace Subdivision.

If any lender(s) holds a lien on the subject property, all documents to be recorded shall include a consent and lien subordination to be executed by the lender(s).

3. Except as amended herein, all terms and conditions of Ordinance No. 5, Series of 2016, shall remain in full force and effect.

INTRODUCED, READ AND PASSED this 27th day of June, 2017.

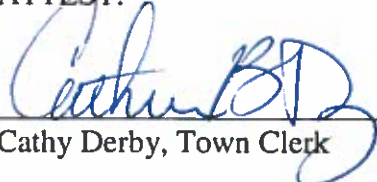
THE TOWN OF CARBONDALE

By:



Dan Richardson, Mayor

ATTEST:



Cathy Derby, Town Clerk

