

**TOWN OF LYONS, COLORADO
ORDINANCE NO. 1065**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING THE 2ND AND PARK
SUBDIVISION PLANNED UNIT DEVELOPMENT – FINAL PUD DEVELOPMENT PLAN**

WHEREAS, pursuant to C.R.S. § 31-23-301 the Town of Lyons ("the Town") has the authority to zone, rezone, change, supplement and revise zoning classifications or designation of property and regulate land uses within the Town; and

WHEREAS, pursuant to that authority the Town previously approved the 2nd & PARK Subdivision and Planned Unit Development – Final PUD Development Plan ("the Final PUD Plan") pursuant to Ordinance number 1000 ("PUD Ordinance") adopted July 5, 2016; and

WHEREAS, as part of the Final PUD Plan the Town approved a Site Development Plan for the Development pursuant to Lyons Municipal Code Sec. 16-4-50; and

WHEREAS, JM Associates, Inc. (the "Applicant") requires minor modifications to the Site Development Plan as reflected substantially in the form attached hereto as **Exhibit A** and incorporated by reference; and

WHEREAS, pursuant to 16-4-80(a) of the LMC, the amended Site Development Plan has been reviewed by the Town of Lyons Planning and Community Development Commission ("PCDC") at a public hearing and has been conditionally approved; and

WHEREAS, as required by law, duly noticed public hearings were held before the PCDC, which heard testimony and considered other evidence before making certain findings of fact, concluding that the amendment to the Final PUD Plan met and satisfied all of the applicable criteria set forth in Lyons Municipal Code, and

WHEREAS, PCDC recommended approval of the amendment subject to the condition that the Board of Trustees also adopt an amendment to allow for administrative review of future minor modifications to the site plan and Final PUD Plan; and

WHEREAS, the administrative record for this case includes, but is not limited to, the Lyons Municipal Code, the Lyons Comprehensive Plan, the Lyons Disaster Recovery Program and all other applicable ordinances, resolutions and regulations together with all Town of Lyons land use application processing policies that relate to the subject matter of the public hearing, the land use application and accompanying maps, reports, studies and all other submittals of the Applicant, any evidence or correspondence submitted by members of the public at the public hearing, and the staff files and reports of the Town Planner pertaining to the application; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, the Board of Trustees has determined that the proposed amendment to the Final PUD Plan subject to any conditions set forth herein, furthers the public health, safety, convenience and general welfare of the community; generally conforms with the Town's Comprehensive Plan, as amended and updated; is compatible with surrounding uses; and otherwise meets the applicable criteria set forth in Chapter 16 of the Lyons Municipal Code; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Board

of Trustees desires to comply with state law and the Lyons Municipal Code by setting a public hearing in order to provide the Owner and the public an opportunity to present testimony and evidence regarding the rezoning application and Final PUD Plan. Approval of this Ordinance on first reading does not constitute a representation that the Board of Trustees, or any member of the Town Board, supports, approves, rejects, or denies the amendment to the Final PUD Plan.

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, THAT:

Section 1. Recitals Incorporated. The above recitals are hereby incorporated by reference.

Section 2. Final PUD Plan Amended. The amendment to the Final PUD Plan for the 2nd & Park Subdivision and Planned Unit Development is hereby conditionally approved, based on a determination that the amended Site Development Plan and Final PUD Plan meet all applicable standards for approval. The Amended Final PUD Plan shall be and is subject to the following conditions of approval:

- (1) The Site Development Plan shall be amended as substantially shown on the attached **Exhibit A** hereby incorporated by reference.
- (2) The Final PUD plan is amended to allow for administrative amendment for the following minor modifications:
 - (i) **Permitted Uses.** An administrative amendment may clarify or define a permitted use in a planned unit development
 - (ii) **Non-Residential Floor Area.** Up to a one percent increase is allowed by administrative amendment for any commercial or industrial development. The increase is limited to hallways, stairways, restrooms and storage, or a proven necessity for the operational safety of the project. An amended floor plan shall accompany the final application and be included as a part of the approved documents.
 - (iii) **Setbacks.** In the Final PUD the Director of Community Development may authorize: a. Internal Lot Line Setbacks. Setback decreases that are proposed from internal lot lines and/or between structures, up to 30 percent of the original setback distance. b. External Lot Line Setbacks. Setback decreases from external lot lines, up to 10 percent of the original setback distance. However, a requested decrease shall not change the final setback to less than 30 feet from public rights-of-way and 20 feet from all other external lot lines.
 - (iv) **Distance Between Buildings.** The Director of Community Development may authorize a reduction up to 10 percent for the minimum distance between buildings. However, the reduction shall not authorize spacing of less than 10 feet.
 - (v) **Building Envelopes and Footprints.** The Director of Community Development may authorize: a. Increase. A 10 percent increase in the area of building footprints. However, this shall not reduce approved minimum open space, parking and setbacks and/or increase maximum height and density from those approved in the Final PUD. b. Reduction. Building footprints may be administratively reduced, but shall not increase approved heights and/or densities.
 - (vi) **Location of Buildings.** The Director of Community Development may authorize relocation of building envelopes and/or footprints on site but shall not change

and/or alter any of the approved development restrictions as set forth in the development order. Additionally, an analysis of impacts to the originally approved drainage study shall be provided with a request to alter approved building locations. To accommodate a request to "flip-flop" building footprints of dissimilar configurations, the buildings shall be comparable in height and massing.

(vii) **Other Non-Material Changes.** The Director of Community Development may authorize non-material modifications to the Final PUD upon the determination that the change will not alter the intent or evaluation criteria associated with the original PUD approval and will not result in a significant change in height or massing of the any approved buildings.

(3) The Applicant shall work with the Town Staff to resolve any technical issues in the Site Development Plan identified by the Town.

(4) The Applicant shall pay any outstanding fees and costs incurred by the Town and its consultants in the review and processing of the Amended PUD Application.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Effective Date. Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 15th DAY OF JULY, 2019.

INTRODUCED, PASSED AND ADOPTED AND ORDERED PUBLISHED THIS 5th DAY OF AUGUST, 2019.

TOWN OF LYONS

By: Barney Dreistadt
Mayor Connie Sullivan
Mayor Pro Tem
Barney Dreistadt



