

**TOWN OF LYONS, COLORADO
ORDINANCE NO. 999**

**AN ORDINANCE CONDITIONALLY REZONING
PROPERTY WITHIN THE TOWN OF LYONS, COMMONLY
KNOWN AS 501 WEST MAIN STREET, FROM THE R-2
MEDIUM DENSITY ZONE DISTRICT TO THE PUD-C
COMMERCIAL PLANNED UNIT DEVELOPMENT
DISTRICT AND CONDITIONALLY APPROVING THE
FINAL PUD PLAN**

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

WHEREAS, JM Associates, Inc. ("Applicant") on behalf of Lyons Properties, LLC, a Colorado limited liability company ("Owner") has applied for the rezoning of certain property from the R-2 Medium Density Zone District to PUD-C Commercial Planned Unit Development District; and

WHEREAS, the property is generally described as 501 West Main, in the Town of Lyons (the "Subject Property"); and

WHEREAS, the Subject Property consists of 5.646 acres, more or less, and is described in Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, the Applicant has also submitted a Final PUD Plan for the Subject Property for approval; and

WHEREAS, in accordance with Section 16-4-80(a) of the Lyons Municipal Code, the Final PUD Plan has been reviewed by the PCDC at a public hearing and has been approved, subject to the conditions set forth in Exhibit B attached hereto and incorporated herein by reference; and

WHEREAS, as required by law, duly noticed public hearings were held before the Town of Lyons Planning and Community Development Commission, which heard testimony and considered other evidence before making certain findings of fact, concluding that the rezoning application and the Final PUD Plan met and satisfied all of the applicable criteria set forth in Lyons Municipal Code, and recommending that the Board of Trustees approve both the rezoning application and the Final PUD Plan; and

WHEREAS, also as required by law, the Board of Trustees conducted a duly noticed public hearing, considered the evidence presented, adopted the Planning and Community Development Commission's findings of fact and approved both the application for rezoning to the PUD-C zone district and the Final PUD Plan, subject to certain conditions recommended by staff and adopted by the Board.

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 zoning of the Subject Property, 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 re-zoning 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 proposed zoning or Final PUD Plan.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, BOULDER COUNTY, COLORADO:

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Rezoning of Property Conditionally Approved. The Subject Property is hereby conditionally rezoned from the R-2 Medium Density Zone District to the **PUD-C Commercial Planned Unit Development District**, the Board specifically finding that the rezoning is supported by the Town of Lyons Comprehensive Plan. Following the effective date of this Ordinance and compliance with the conditions set forth below, the Subject Property shall be zoned PUD-C. Approval of the PUD-C zoning shall be and is subject to the following conditions of approval:

- (1) The Owner shall approve an amendment to the Memorandum of Agreement dated January 12, 2016 ("MOA"), in a form acceptable to the Board of Trustees and the Town Attorney, which amendment shall modify the MOA to clarify the process by which the Owner and the Town shall permanently establish the boundary line between the Subject Property and Meadow Park;

- (2) The boundary line agreement or District Court action contemplated in Section V of the MOA, as amended, is completed to the satisfaction of the Town and a fully executed and notarized copy of the boundary line agreement or certified copy of the District Court order is recorded in the real property records of Boulder County, Colorado; and
- (3) The legal description of the Subject Property set forth on Sheet 1 of the Final PUD Plan be revised to reflect the revised boundaries of the Subject Property established by the recordation of the boundary line agreement or District Court order contemplated in the MOA, and that the modification to the legal description on Sheet 1 of the Final PUD Plan be completed prior to recordation of the Final PUD Plan mylar.

The conditions set forth in this Section 2 shall be fully satisfied by the Applicant and Owner on or prior to August 30, 2016. If the conditions are not satisfied, the rezoning of the Subject Property shall not be effective.

Section 3. Amendment of Zoning Map. Following the satisfaction of the conditions set forth in Section 2 of this Ordinance above, the Town Administrator, Town Planner, and other appropriate staff are authorized and instructed to revise the official zoning map for the Town of Lyons in accordance with Section 16-15-60 of the Municipal Code so that the zoning designation described in this Ordinance is illustrated in graphic form. Failure to amend the official zoning map in accordance with this Ordinance shall not, however, have the effect of limiting, preventing or precluding the effect or effective date of this Ordinance.

Section 4. Final PUD Plan Conditionally Approved. The Final PUD Plan for the Subject Property is hereby conditionally approved, based on a determination that all applicable standards for approval of the Final PUD Plan have been met. Approval of the Final PUD Plan shall be and is subject to the following conditions of approval:

- (1) The conditions set forth in Exhibit B, as recommended to the Board of Trustees by the PCDC;
- (2) The Applicant and Owner shall resolve and correct any technical issues as directed by Town staff prior to recordation of the Final PUD Plan mylar;
- (3) The legal description of the Subject Property set forth on Sheet 1 of the Final PUD Plan be revised to reflect the revised boundaries of the Subject Property established by the recordation of the boundary line agreement or District Court order contemplated in the MOA, and that the modification to the legal description on Sheet 1 of the Final PUD Plan be completed prior to recordation of the Final PUD Plan mylar.

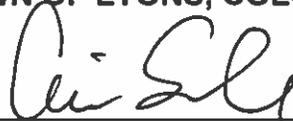
- (4) The Applicant and Owner shall pay any and all remaining fees and costs incurred by the Town and its consultants in review and processing of the rezoning and Final PUD Plan application in full prior to recordation of the Final PUD Plan mylar.

Section 5. The Town shall be authorized to make any changes to the mylar form of the approved Final PUD Plan as may be needed to conform the Final PUD Plan to the form and content requirements of the Lyons Municipal Code in effect at the time the Final PUD Plan is submitted for signature(s) and to make such other changes that are expressly authorized or required pursuant to this Ordinance.

INTRODUCED AND PASSED ON FIRST READING THIS 2nd DAY OF MAY, 2016.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 9th DAY OF MAY, 2016.

TOWN OF LYONS, COLORADO



Connie Sullivan, Mayor



Debra K. Anthony, Town Clerk

Exhibit A
Legal Description of Subject Property

A TRACT OF LAND IN THE SW ¼ OF SECTION 18, T3N, R70W OF THE 6TH P.M., TOWN OF LYONS, COUNTY OF BOULDER, STATE OF COLORADO. BEARINGS ARE BASED ON THE NORTH-SOUTH CENTERLINE OF SAID SECTION 18 AND ASSUMED AS BEARING N00°00'45"E, WITH ALL OTHER BEARINGS HEREIN RELATIVE THERETO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE C. 1/4 OF SAID SECTION 18;

THENCE ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 18, S00°00'45"W, 431.90 FEET TO A POINT ON THE SOUTH LINE OF THE R.O.W. OF STATE HIGHWAY NO. 66 (AKA HIGHWAY 36);

THENCE LEAVING SAID NORTH-SOUTH CENTERLINE AND ALONG SAID SOUTH R.O.W., N38°33'00"W, 28.98 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING THE CENTERLINE OF NORTH ST. VRAIN RIVER;

THENCE ALONG THE CENTERLINE OF SAID NORTH ST. VRAIN RIVER, THE FOLLOWING 7, CALLS:

S24°20'51"W, 172.60 FEET;

S44°05'12"W, 129.92 FEET;

S53°41'34"W, 77.56 FEET;

S71°42'55"W, 86.06 FEET;

N89°39'29"W, 187.06 FEET;

N68°22'42"W, 125.54 FEET;

N53°39'31"W, 122.97 FEET;

THENCE LEAVING SAID CENTERLINE, N71°07'35"E, 207.70 FEET;

THENCE N14°15'45"W, 132.83 FEET;

THENCE S71°07'35"W, 22.00 FEET;

THENCE S14°15'45"E, 21.50 FEET;

THENCE S71°07'35"W, 241.31 FEET;

THENCE N35°00'46"E, 189.59 FEET;

THENCE S86°58'00"E, 66.92 FEET;

THENCE N35°09'00"E, 174.68 FEET;

THENCE S83°32'00"E, 195.62 FEET;

THENCE N69°08'00"E, 162.09 FEET TO A POINT ON SAID SOUTH R.O.W. OF STATE HIGHWAY NO. 66 (AKA: HIGHWAY 36);

THENCE ALONG SAID SOUTH R.O.W., S38°33'00"E, 253.91 FEET TO THE POINT OF BEGINNING, SAID PORTION OF LAND CONTAINING 5.646 ACRES, MORE OR LESS.

Identified as "Parcel A" on survey of 501 & 503 W. Main Street as completed by England Surveying on July 30, 2008 (Job No. 535.01).

Also known as 501 W. Main, Town of Lyons, Colorado.

Exhibit B

Staff and PCDC recommended conditions of approval for Final PUD.

All conditions proposed and presented by the Applicants with this land use request as submitted, both written and graphic, are hereby incorporated into this list of conditions by reference. Some of these conditions are repeated below for emphasis and ease of administration of this land use approval moving forward. Some are amplified, clarified and/or modified below for the final record. Omission from this listing below of conditions that the applicant has proposed elsewhere in the submittal does not negate the binding nature of the PUD submittal taken as a whole with all elements duly noted and accepted with this approval.

1. As noted on Sheet A00, the Applicants have proposed and the PCDC has accepted the following sound limitations.

Event center, small use, shall be subject to the following conditions:

a. Outdoor music performed by live entertainment at events shall not include amplified instruments. Horns or percussion are not allowed. Woodwinds (e.g., clarinets, flutes, etc. are allowed. One vocalist may use a microphone with amplification.

b. Outdoor Disc Jockey (DJ) style performance of amplified recorded music is not allowed.

c. Outdoor weddings: i. During wedding ceremonies: the officiant and other members of wedding parties may use a microphone with amplification for readings, vows. Low level amplified recorded music or unamplified acoustic instruments only are allowed during the ceremony with one vocalist using a microphone with amplification. Wedding ceremonies are to be concluded no later than 5:30 pm.

ii. During cocktail hour and dinner: unamplified acoustic only instrumental music is allowed. The officiant and other members of wedding parties may use a microphone with amplification for toasts and announcements.

iii. After dinner music: unamplified acoustic only instruments are allowed with one vocalist using a microphone with amplification.

d. All music shall end by 10:00 pm.

e. Outdoor low level amplified recorded music, vocals, and public address system announcements, or any other noise generated at any wedding or other special event conducted on the property shall be carefully limited to the minimum functional sound level. All uses conducted at River Bend shall also comply with the noise restrictions set forth in Sec. 10-11-10 Unreasonable Noise of the Lyons Municipal Code as it may be amended from time to time. The Applicant or any person or entity holding a function on the subject property shall immediately reduce or eliminate any amplified or other sounds when instructed to do so by a member of the Boulder County Sheriff's Office, other law enforcement or emergency services personnel or member of Town Staff.

2. Limitations on Use. As noted on Sheet A00, the Applicants have proposed and the PCDC has accepted the limitations on use as set forth on Sheet A00. This PUD approval is restricted to the specific uses proposed as set forth on Sheet A00 in items 1 through 14. This PUD approval would require a PUD amendment approved by both the PCDC and BOT to add a use not specifically identified and approved with this review.

3. All public improvements and site design including road surfacing, utilities and drainage shall be subject to a separate plan review including review of the final layout and construction details by the Town Engineer, prior to issuance of a construction permit pursuant to the Final PUD approval.