

CITY OF LEADVILLE, COLORADO
Ordinance No. 13
Series of 2017

**AN ORDINANCE APPROVING PLANNED UNIT DEVELOPMENT
OVERLAY (PUD) DISTRICT ZONING FOR CERTAIN LAND KNOWN AS
RAILYARD AT LEADVILLE PHASE 1 AND AMENDING THE OFFICIAL
ZONING MAP OF THE CITY**

WHEREAS, Pel-Ona Architects & Urbanists (“Applicant”), on behalf of the current owner, High Country Developers LLC (the “Owner”), have submitted an application seeking approval of Planned Unit Development Overlay (PUD) District zoning on certain property consisting of approximately 15.8 acres, more or less, and located generally north and east of the intersection of E. 12th Street and Highway 24 in the City of Leadville, County of Lake, State of Colorado, and west of the railroad tracks (the “Property”); and

WHEREAS, the Property is more particularly described in the Railyard at Leadville Phase 1 PUD Plan, a copy of which is on file with the City Clerk (the “PUD Plan”); and

WHEREAS, the Property consists of approximately 688,529 square feet (15.8 acres) and a legal description of the Property is included on Sheet 2 of the PUD Plan and attached to this Ordinance as **Exhibit A**; and

WHEREAS, the Property is part of the “Railroad Property Annexation” approved by Ordinance No. 1, Series of 2017 (the “Annexation Ordinance”); and

WHEREAS, the Annexation Ordinance and Maps of the Railroad Property Annexation were recorded on March 16, 2017 at Reception No. 369783 in the real property records of Lake County, Colorado; and

WHEREAS, the Property is currently zoned Commercial/Highway Business (“C”); and

WHEREAS, as set forth above, the Applicant is seeking the approval of Planned Unit Development Overlay (PUD) District zoning for the Property; and

WHEREAS, Section 17.40.030(E) of the Leadville Municipal Code (“LMC”) states that “Planned unit developments are rezonings allowable in all underlying zoning districts established within the city, and the issuance of a PUD rezoning approval shall not change the underlying zoning district(s) within which such PUD Overlay district is established”; and

WHEREAS, Section 17.40.010 of the LMC sets forth that application for a PUD Overlay district “shall require rezoning approval, as provided in Chapter 17.92 [of the LMC]”; and

WHEREAS, the City of Leadville Planning and Zoning Commission considered the zoning proposal at a duly noticed public hearing conducted as a joint public hearing with City Council in accordance with Section 17.92.060(F) of the LMC on October 11, 2017, and the Planning and Zoning Commission subsequently forwarded its favorable recommendation to City Council; and

WHEREAS, the October 11, 2017 joint public hearing provided the Applicant, the Owner and the public an opportunity to present testimony and evidence regarding the zoning application; and

WHEREAS, Section 17.40.120(A) of the LMC states that “[r]ezoning approvals for development of a PUD shall be issued only on the basis of approved plans and plats”; and

WHEREAS, as of the date of City Council’s consideration of this Ordinance the Applicant and Owner have not yet initiated the Major Subdivision Process as required by the LMC; and

WHEREAS, City Council desires to delay the effective date of this Ordinance until such time as the City Council has approved or conditionally approved the final plat for the Property in accordance with the process set forth in Chapter 16 of the LMC; and

WHEREAS, the administrative record for this case includes, but is not limited to, the LMC, the City of Leadville, Colorado, Comprehensive Plan, and all other applicable ordinances, resolutions and regulations, together with all City of Leadville land use application processing policies that relate to the subject matter of the public hearing, reports, studies and all other submittals of the Applicant, the Owner, or the Applicant’s or Owner’s designated representative(s), as applicable, any evidence or correspondence submitted by members of the public at the public hearing, and the staff files and reports of the City’s Planning Project Manager, RG and Associates, LLC (“Planning Project Manager”), pertaining to the proposed PUD Overlay district zoning and PUD Plan; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, City Council has determined that the proposed zoning of the Property, subject to any conditions set forth herein, furthers the public health, safety, convenience and general welfare of the community; generally conforms with the City’s Comprehensive Plan, as amended and updated; is compatible with surrounding uses; and otherwise meets the applicable approval criteria set forth in the LMC; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with Section 2.08.070 of the LMC by setting this Ordinance for consideration on second reading; and approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects, or denies the proposed zoning.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF LEADVILLE, COLORADO, as follows:

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

Section 2. Zoning of Property Approved. Subject to Section 6 of this Ordinance below, the City Council hereby grants and approves the PUD Overlay district zoning for the

Property, as more particularly set forth in the PUD Plan. Following the effective date of this Ordinance, as set forth in Section 6 below, the Property shall be zoned Commercial/Highway Business (“C”) with a Planned Unit Development (PUD) Overlay.

Section 3. Amendment of Official Zoning Map. Following the effective date of this Ordinance, the City Clerk is instructed to record the PUD Plan for the Property in the real property records of Lake County, Colorado following the date on which the Planning Project Manager has made any technical corrections to the PUD Plan to conform the same to all applicable requirements of the LMC and the Applicant and Owner have fully paid any outstanding fees to the City related to the City’s review and processing of the PUD Plan. Following the effective date of this Ordinance, the Official Zoning Map of the City of Leadville shall be amended to conform to and reflect the Property’s C and PUD zoning district classifications.

Section 4. Severability. Should any one or more sections or provisions of this ordinance or enacted hereby 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 5. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 6. Effective Date. In accordance with Section 17.40.120(A) of the LMC, this Ordinance shall not become effective unless and until City Council approves or conditionally approves the final plat for the Property in accordance with the process set forth in Chapter 16 of the LMC, which approval or conditional approval shall be memorialized and set forth in a resolution of City Council (the “Approving Resolution”). The City Clerk is hereby instructed to withhold publication of this Ordinance after final passage until after adoption of the Approving Resolution by City Council. This Ordinance shall thereafter become effective thirty (30) days following publication following adoption of the Approving Resolution.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this _____ day of _____, 2017.

Greg Labbe, Mayor

ATTEST:

Bethany Maher, City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on _____, 2017.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY, with any amendments, this _____ day of _____, 2017.

CITY OF LEADVILLE, COLORADO

Greg Labbe, Mayor

ATTEST:

Bethany Maher, City Clerk

PUBLISHED in full, as amended, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on _____, 2017.

Exhibit A

DESCRIPTION OF PHASE 1 PARCEL
RAILYARD AT LEADVILLE PHASE 1 PUD

DEVELOPMENT PARCEL – PHASE 1

THAT PORTION OF THE SIZER PLACER U.S. SURVEY NO. 388, SEARL PLACER U.S. SURVEY NO. 436 AND THE CAPITOL PLACER U.S. SURVEY NO. 977, LOCATED WITHIN SECTION 23 AND 24, TOWNSHIP 9 SOUTH, RANGE 80 WEST OF THE 6TH PRINCIPAL MERIDIAN, LAKE COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 4 OF SAID SEARL PLACER, U.S. SURVEY NO. 436, ALSO BEING CORNER NO. 2 OF THE JACOBSON PLACER, U.S. SURVEY NO. 380. A FOUND 2" BRASS CAP FROM WHICH CORNER NO. 1 OF SAID JACOBSON PLACER A FOUND 2" BRASS CAP BEARS N. $65^{\circ} 00' 00''$ W., A DISTANCE OF 2,865.39 FEET AND THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 13, A FOUND STONE BEARS S. $61^{\circ} 11' 22''$ E., A DISTANCE OF 1,265.53 FEET; THENCE S. $82^{\circ} 31' 53''$ W., A DISTANCE OF 742.23 FEET TO CORNER NO. 2 OF A PARCEL OF LAND AS DESCRIBED IN 498 AT PAGE 6 OF LAKE COUNTY RECORDS, THENCE N. $68^{\circ} 58' 22''$ W. ALONG THE SOUTH LINE OF SAID PARCEL DESCRIBED IN BOOK 498 AT PAGE 6, A DISTANCE OF 486.84 FEET TO THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN BOOK 319 AT PAGE 79 OF LAKE COUNTY RECORDS; THENCE S. $20^{\circ} 26' 00''$ W. ALONG SAID EASTERLY LINE OF PARCEL DESCRIBED IN BOOK 319 AT PAGE 79, A DISTANCE OF 377.97 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL DESCRIBED IN BOOK 319 AT PAGE 79;

THENCE N. $69^{\circ} 12' 00''$ W. ALONG THE SOUTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 319 AT PAGE 79, A DISTANCE OF 162.23 FEET TO THE EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS DESCRIBED IN 261 AT PAGE 191 OF LAKE COUNTY RECORDS;

THENCE S. $20^{\circ} 20' 05''$ W. ALONG SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24, A DISTANCE OF 59.89 FEET TO THE NORTH LINE OF A PARCEL OF LAND AS DESCRIBED IN BOOK 377 AT PAGE 264, LAKE COUNTY RECORDS;

THENCE S. $69^{\circ} 12' 00''$ E. ALONG SAID NORTH LINE OF A PARCEL OF LAND DESCRIBED IN BOOK 377 AT PAGE 264, A DISTANCE OF 188.13 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL DESCRIBED IN BOOK 377 AT PAGE 264;

THENCE S. $20^{\circ} 26' 00''$ W. ALONG THE EASTERLY LINE OF SAID PARCEL AS DESCRIBED IN BOOK 377 AT PAGE 264, A DISTANCE OF 275.00 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL AS DESCRIBED IN BOOK 377 AT PAGE 264;

THENCE S. $69^{\circ} 12' 00''$ E. TO SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS DESCRIBED IN BOOK 261 AT PAGE 191, A DISTANCE OF 187.55 FEET ; THENCE S. $20^{\circ} 20' 05''$ W. ALONG SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS DESCRIBED IN BOOK 261 AT PAGE 191, A DISTANCE OF 336.33 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 961.00 FEET, OF WHICH THE CHORD BEARS S. $06^{\circ} 40' 17''$ W., A DISTANCE OF 454.06 FEET; THENCE ALONG THE ARC OF SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS DESCRIBED IN BOOK 261 AT PAGE 191, A DISTANCE OF 458.38 FEET THROUGH A CENTRAL ANGLE OF $27^{\circ} 19' 35''$ TO THE 1-2 LINE OF SAID SEARL PLACER;

THENCE N. $65^{\circ} 00' 00''$ W. ALONG THE SAID SEARL PLACER, ALSO BEING THE NORTHERLY LINE OF SAID CAPITAL PLACER, A DISTANCE OF 27.42 FEET TO THE EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS SHOWN ON CONSTRUCTION DRAWINGS FOR TENNESSEE PASS DATED 1936, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 971.18 FEET, THE CHORD OF WHICH BEARS S. $10^{\circ} 34' 42''$ E., A DISTANCE OF 145.81 FEET;

THENCE ALONG THE ARC OF SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS SHOWN ON CONSTRUCTION DRAWINGS FOR TENNESSEE PASS, A DISTANCE OF 145.94 FEET THROUGH A CENTRAL ANGLE OF $08^{\circ} 36' 37''$; THENCE S. $14^{\circ} 53' 00''$ E., ALONG SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS SHOWN ON CONSTRUCTION DRAWINGS FOR TENNESSEE PASS, A DISTANCE OF 204.62 FEET; TO THE POINT OF BEGINNING;

THENCE CONTINUE S. $14^{\circ} 53' 00''$ E., ALONG SAID EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 24 AS SHOWN ON CONSTRUCTION DRAWINGS FOR TENNESSEE PASS, A DISTANCE OF 1038.94 FEET TO THE SOUTHERLY LINE OF THE DEPOT GROUND AS SHOWN ON COOPER'S SUBDIVISION PLAT RECORDED JULY 26, 1881 AND THE NORTHERLY RIGHT-OF-WAY LINE OF 12TH STREET;

THENCE N. $75^{\circ} 22' 00''$ E. ALONG SAID SOUTHERLY LINE OF THE DEPOT GROUND AS SHOWN ON COOPER'S SUBDIVISION PLAT AND SAID NORTHERLY RIGHT-OF-WAY OF 12TH STREET, A DISTANCE OF 660.97 FEET TO THE SOUTHEASTERLY CORNER OF SAID DEPOT GROUND AS SHOWN ON COOPER'S SUBDIVISION PLAT; THENCE N. $16^{\circ} 34' 00''$ W. ALONG THE EASTERLY LINE OF SAID DEPOT GROUND AS SHOWN ON COOPER'S SUBDIVISION PLAT, A DISTANCE OF 871.82 FEET TO THE

NORTHEASTERLY LINE OF THE SIZER PLACER ALSO BEING THE SOUTHWESTERLY LINE OF THE SEARL PLACER, AND CORNER NO. 5 OF SAID PARCEL OF LAND DESCRIBED IN BOOK 51 AT PAGE 331, BOOK 66 AT PAGE 268, AND BOOK 375 AT PAGE 461, LAKE COUNTY RECORDS;

THENCE N. $05^{\circ}40'33''$ E. ALONG THE EASTERLY LINE OF SAID PARCEL AS DESCRIBED IN BOOK 51 AT PAGE 331, BOOK 66 AT PAGE 268 AND BOOK 375 AT PAGE 461, A DISTANCE OF 83.20 FEET;

THENCE N. $84^{\circ}19'27''$ W., A DISTANCE OF 114.00 FEET;

THENCE N. $5^{\circ}40'33''$ E., A DISTANCE OF 23.00 FEET;

THENCE N. $84^{\circ}19'27''$ W., A DISTANCE OF 318.00 FEET;

THENCE S. $5^{\circ}40'33''$ W., A DISTANCE OF 24.00 FEET;

THENCE N. $84^{\circ}19'27''$ W., A DISTANCE OF 85.00 FEET;

THENCE S. $5^{\circ}40'33''$ W., A DISTANCE OF 94.14 FEET;

THENCE S. $75^{\circ}07'00''$ W., A DISTANCE OF 147.09 FEET; TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 15.8 ACRES, MORE OR LESS.