

**CITY OF LEADVILLE, COLORADO**  
**Ordinance No. 9**  
**Series of 2021**

**AN ORDINANCE CONDITIONALLY APPROVING PLANNED UNIT  
DEVELOPMENT OVERLAY (PUD) DISTRICT ZONING FOR CERTAIN  
LAND KNOWN AS RAILYARD LEADVILLE PHASE 2 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”), has submitted an application seeking approval of Planned Unit Development Overlay (PUD) District zoning on certain property consisting of approximately 10.86 acres, more or less, and located generally north and east of the intersection of E. 12<sup>th</sup> 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 Leadville Phase 2 PUD, a copy of which is on file with the City (the “Phase 2 PUD”); and

WHEREAS, a legal description of the Property is included on Sheet 2 of the Phase 2 PUD;  
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 “[p]lanned 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 requires that an 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 August 10, 2021, and the Planning and Zoning Commission subsequently forwarded its recommendation to City Council; and

WHEREAS, the August 10, 2021 joint public hearing provided the Applicant, the Owner and the public an opportunity to present testimony and evidence regarding the zoning application;  
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 Consultant, RG and Associates, LLC ("Planning Consultant"), pertaining to the proposed PUD Overlay district zoning and Phase 2 PUD; and

WHEREAS, the regional trend toward increasing housing prices is resulting in inadequate supplies of affordable housing in Leadville for low, moderate, and middle income households, which has a negative effect on the ability of local employers to maintain an adequate workforce and adversely impacts the economy of the City; and

WHEREAS, because land appropriate for residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into housing units that are affordable to low and moderate income residents and working people; and

WHEREAS, Developer and the City have mutually agreed, as evidenced by a letter from the Developer to the City dated October 19, 2021, to incorporate affordable housing into the development on the Property via deed restrictions, the terms of which will be set forth in a development agreement between the City and the Developer; 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: (1) furthers the public health, safety, convenience and general welfare of the community, (2) generally conforms with the City's Comprehensive Plan, as amended and updated from time to time, (3) is compatible with surrounding uses, and (4) otherwise meets the applicable approval criteria set forth in the LMC; and

WHEREAS, adoption 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 this reference and are adopted as findings and determinations of the City Council.

**Section 2. Zoning of Property Approved.** Subject to Section 3 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 Phase 2 PUD.

**Section 3. Conditions of Approval.** Approval of the Phase 2 PUD is conditioned upon the Applicant completing and complying with the following prior to recordation of the Phase 2 PUD:

- A. The Applicant shall correct the legal description on the Phase 2 PUD to reflect only Outlot B and the associated right-of-way dedication set forth in the Railyard Leadville, Filing No. 1 Amendment No. 1, Minor Subdivision Plat, approved by Resolution No. 19, Series of 2021;
- B. The Applicant shall add a note to the PUD stating that the triggers for the improvement of streets, alleys, sidewalks, park land, greens, and trails shall be clearly identified in the future Phase 2 parcel platting and subdivision improvement agreements;
- C. The Applicant shall remove the reference to the Leadville Municipal Code as adopted January 5, 2017 and shall replace that reference as follows: “If not listed below, the definitions listed in the City of Leadville Municipal Code, as adopted and amended from time to time, shall be followed.”;
- D. The Applicant shall add a note to the PUD that makes the Railyard Residential Homeowner’s Association and any successor master HOAs responsible for installation and maintenance of the landscaping of common areas, including street trees;
- E. The Applicant shall resolve and correct any technical, formatting, and grammatical issues as directed by City staff and City consultants prior to submitting the Phase 2 PUD in final form to the City;
- F. The Phase 2 PUD may be recorded only after the Railyard Leadville, Filing No. 1 Amendment No. 1, Minor Subdivision Plat, as approved by Resolution No. 19, Series of 2021, has been recorded;
- G. The Developer shall pay all fees and costs incurred by the City and its consultants in reviewing and processing the Phase 2 PUD application;
- H. The Developer shall add the following statement to the “Applicable Codes and Regulations” section of the Phase 2 PUD: “Development within the Railyard Leadville Phase 2 PUD shall be subject to a voluntary development agreement between High Country Developers and the City to be executed by Developer and City, as voluntarily agreed to by Developer by letter to the City dated October 19, 2021, at the time the Developer files a land development application for the Phase 2 Parcel (Outlot B, Railyard Leadville, Filing No. 1 Amendment No. 1, Minor Subdivision Plat). Such development agreement shall at a minimum include the requirement that at least five (5) dwelling units shall be subject to City-approved deed restrictions for affordable housing, as defined under Colorado law, and such restrictions shall be consistent with

community housing guidelines if such guidelines are adopted by the City prior to applicant's submission of such land development application.”;

- I. On page 9 of the Phase 2 PUD, the applicant shall amend the HWY 24 Building Lot Type to specify that only Building 5 of Block 7 shall have a maximum height of 60 feet, and Developer shall create an additional HWY 24 Building Lot Type with a maximum building height of 42 feet to accommodate all other buildings in Block 7; and
- J. On page 9 of the Phase 2 PUD, the applicant shall change “restaurants with fast food drive-ups” from an Allowed Use to Conditional Use.

**Section 4. Amendment of Official Zoning Map.** The City Staff is instructed to record the Phase 2 PUD for the Property in the real property records of Lake County, Colorado following the effective date of this Ordinance and following the date on which all conditions of approval set forth in this Ordinance have been satisfied, whichever is later. Following the effective date of this Ordinance and recordation of the Phase 2 PUD, the Official Zoning Map of the City of Leadville shall be amended to conform to and reflect the Property's Commercial and PUD zoning district classifications.

**Section 5. Severability.** Should any one or more sections or provisions of this Ordinance 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 6. 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 7. Effective Date.** This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED IN FULL ON FIRST READING THIS 10TH DAY OF AUGUST, 2021 by a vote of 7 in favor and 0 against, and 0 abstaining.

  
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Greg Labbe, Mayor

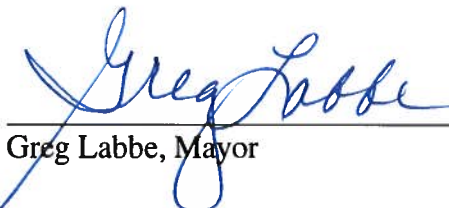
ATTEST:

  
\_\_\_\_\_  
Diane Kiss, Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on August 19<sup>th</sup>, 2021.

PASSED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY, with any amendments, this 19th day of October, 2021 by a vote of 7 in favor and 0 against, and 0 abstaining.

CITY OF LEADVILLE, COLORADO

  
\_\_\_\_\_  
Greg Labbe, Mayor

ATTEST:

  
\_\_\_\_\_  
Diane Kiss, Deputy City Clerk

PUBLISHED BY TITLE ONLY, with any amendments, in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on October 28<sup>th</sup>, 2021.