



Agenda Item Summary

MEETING DATE: December 11, 2023

SUBJECT: **Ordinance No. 1050** – An Ordinance of the Town of Mead, Colorado Repealing and Replacing Town Ordinance No. 1015 dated November 1, 2022, in its entirety, and Restating the Conditional Approval of the Waterfront Filing No. 1 Final Plat

PRESENTED BY: Jason Bradford, AICP, Community Development Director

SUMMARY

Ordinance No. 1050 (the “Ordinance”) repeals and replaces **Ordinance No. 1015** dated November 1, 2022, titled *an Ordinance Approving with Conditions the Waterfront Filing No. 1 Final Plat* (the “Prior Ordinance”), previously adopted by the Board of Trustees (the “Board”).

This proposed repeal/replacement of the Prior Ordinance (and restatement of the conditions of approval related to the Waterfront Filing No. 1 Final Plat, as set forth in the Prior Ordinance) is being processed at the specific request of the current owner of record of the Property (as that term is defined below).

A copy of the Prior Ordinance is attached to this *Agenda Item Summary* for the Board’s review.

The Prior Ordinance conditionally approved the Waterfront Filing No. 1 Final Plat, which encompasses approximately 586.07 acres, which is generally located west of I-25, north of the St. Vrain River, east of Third Street (CR 7), and south of State Highway 66, in the Town of Mead, County of Weld, State of Colorado, as more particularly described in the Final Plat (the “Property”).

Section 1 of the Prior Ordinance lists a number of conditions of approval, the majority of which are required to be satisfied prior to recordation of the Final Plat in the real property records of Weld County, Colorado (“County Records”). When the Prior Ordinance was considered by the Board of Trustees for approval, the Property was owned by Tharaldson Ethanol Plant I, L.L.C., a Nevada limited liability company (“Prior Owner”). The Prior Owner has conveyed the Property to Tharaldson Motels II, Inc., a Nevada corporation by that certain quitclaim deed dated July 25, 2023 and recorded on July 27, 2023 at Reception No. 4911565 in the County Records.

Bryan Horan, with Ventana Capital, is the authorized applicant (“Applicant”) representing the current Owner.

The Applicant and Owner are requesting that the deadline for the satisfaction of certain conditions, as set forth in the Prior Ordinance, be modified so that certain conditions may be satisfied *after* recordation of the Final Plat but *prior to* the issuance of the first (or any) residential building permit within the boundaries of the Final Plat.

The Applicant has informed Town Staff that the Owner is under contract with a national home builder to purchase the lots in the Final Plat and that closing is contingent upon recordation of the Final Plat. The Applicant is requesting that the deadline for certain of the conditions, set forth in the Prior Ordinance, be revised, so that the Final Plat and Subdivision Improvement Agreement (SIA) may be recorded in the County Records and that the Owner may proceed to close on the sale of the lots within the Final Plat to that home builder.

Town Staff has met with the Applicant to discuss proposed revisions to the conditions of approval for the Final Plat. Town Staff believes the following conditions would provide the Town of Mead with the assurance that all the conditions set forth in the Prior Ordinance will still be satisfied, while providing the Owner the flexibility to complete certain specific conditions prior to the issuance of the first (or any) residential building permit by the Town.

The following represent the proposed revised conditions of approval (as incorporated and set forth in Section 1 of the Ordinance):

Section 1. That the Final Plat designated as Waterfront Filing No. 1 is hereby approved subject to the following conditions of approval:

- a. Prior to, and as a condition of the recording of the Final Plat, the Owner shall:
 1. resolve/correct any and all minor technical issues as directed by Town Staff; and
 2. address all comments from the Town's engineering consultant, JVA, INC., and utility providers and shall revise the phasing plans, construction plans, and drainage report for the Property accordingly; and
 3. replace the Prior Owner signature block with signature block of Owner; and
 4. replace any/all references to Prior Owner with references to Owner; and
 5. insert the specific conditions set forth in Section 1.b.1. through 5. of this Ordinance below into the Final Plat document; and
 6. finalize and execute license agreements with the Highland Ditch Company, as required by Highland Ditch Company, and provide the final executed agreements to the Town; and
 7. finalize and execute license agreements regarding the Outlet No. 3 crossing, as required by the utility provider, and provide the final executed agreements to the Town; and
 8. finalize and execute license agreements regarding Sanborn Crossing, as required by the utility provider, and provide final executed agreements to the Town; and
 9. provide an updated mineral estate owner certification in accordance with Section 24-65.5-101 *et seq.*, C.R.S.; and
 10. execute the SIA in a form approved by the Town Attorney.
- b. Prior to, and as a condition of the issuance of any residential building permits by the Town, the Owner shall:
 1. enter into easement and/or easement vacation agreements with Little Thompson Water District, Longs Peak Water District, and Saint Vrain Sanitation District, as those utility providers may require, and provide final executed agreements to the Town; and
 2. acquire and dedicate to the Town all rights-of-way required for construction of the Weld County Road 28 improvements and roundabout

- improvements at Third Street and Weld County Road 28, in accordance with the approved construction plans and SIA; and
3. enter into easement and/or easement vacation agreements with oil and gas providers including Western Midstream and Kerr McGee, as those oil and gas providers may require, and provide final executed agreements to the Town; and
 4. obtain from Colorado Department of Transportation (CDOT) all required permits and approvals for the improvements to Weld County Road 28, in accordance with the approved construction plans and SIA, and provide written evidence of such CDOT permits and approval to the Town in a form acceptable to the Town; and
 5. pay all fees and costs incurred by the Town and its consultants, including without limitation legal and engineering fees and costs, for review and processing of the Final Plat application within forty-five (45) days of receiving an invoice from the Town. If the fees and costs are not paid within forty-five (45) days of receiving an invoice, the Town may withhold issuance of building permits or further approvals until the invoices have been paid.
- c. No grading permit, including an “at risk” grading permit shall be issued by the Town until the Owner has satisfied all conditions set forth in Section 1.a. of this Ordinance, and the Final Plat and SIA have been recorded in the County Records.
 - d. Prior to, and as a condition of the issuance of a grading permit prior to the Owner satisfying all conditions set forth in Section 1.b. of this Ordinance, the Owner shall apply for an “at risk” grading permit for the Property, which will require the Owner to enter into a written agreement with the Town acknowledging the “at-risk” nature of the grading permit (“At-Risk Agreement”) prior to issuance of any “at risk” grading permit, and shall pay all applicable grading permit fees to the Town. The At-Risk Agreement shall be in a form approved by the Town Attorney and shall require the Owner to post an irrevocable letter of credit for 115% of the estimated cost of all grading activities on the Property.
 - e. The Town shall not issue building permits for any of Lots 1-5, Block 12 and Lots 8-12, Block 12 of Waterfront Filing No. 1 until such time that the Town is provided documentation that the proximate oil and gas wells to those lots have been plugged and abandoned in accordance with state law.

FINANCIAL CONSIDERATIONS

N/A.

STAFF RECOMMENDATION/ACTION REQUIRED

Staff recommends approval of the Ordinance.

A motion to approve the December 11, 2023 consent agenda will approve the Ordinance (repealing and replacing Ordinance No. 1015 in its entirety and restating the conditional approval of the Final Plat).

If this matter is pulled from the consent agenda for additional discussion or questions, Town Staff recommends the following motion:

Suggested Motion:

“I move to approve Ordinance No. 1050, An Ordinance of the Town of Mead, Colorado, Repealing and Replacing Town Ordinance No. 1015 Dated November 1, 2022, in its entirety, and Restating the Conditional Approval of the Waterfront Filing No. 1 Final Plat.”

ATTACHMENTS

Ordinance No. 1050, approving the Final Plat and SIA with revised conditions.
Waterfront Filing No. 1 Final Plat (as an attachment to the Ordinance).
Ordinance No. 1015 dated November 1, 2022