

**TOWN OF MEAD, COLORADO  
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**

**WHEREAS**, the Town of Mead (“Town”) is authorized pursuant to Title 31, Article 23, C.R.S. and the Town of Mead Municipal Code (“MMC”) to regulate the subdivision of land, streets and utilities within the Town for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

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

**WHEREAS**, the Prior Ordinance conditionally approved the Waterfront Filing No. 1 Final Plat (the “Application”), concerning that certain 586.07-acre property, known as the Waterfront Subdivision (the “Property”), 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 “Final Plat”); and

**WHEREAS**, a copy of the Final Plat is attached to this Ordinance as **EXHIBIT 1** and is incorporated herein by reference; and

**WHEREAS**, 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”); and

**WHEREAS**, when the Prior Ordinance was considered by the Board of Trustees for approval, the Property was owned of record by Tharaldson Ethanol Plant I, L.L.C., a Nevada limited liability company (“Prior Owner”); and

**WHEREAS**, the Prior Owner 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; and

**WHEREAS**, Bryan Horan, with Ventana Capital, is the authorized applicant (“Applicant”) representing the current owner of record, Tharaldson Motels II, Inc. (“Owner”); and

**WHEREAS**, the Applicant and Owner have requested that the deadline for the satisfaction of certain conditions 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 residential building permit; and

**WHEREAS**, the Applicant has also requested that a new condition be added related to the issuance of a grading permit, in order to clarify the specific conditions under which the Town may issue an at-risk grading permit prior to satisfaction of certain conditions set forth in this Ordinance; and

**WHEREAS**, the Board desires to repeal and replace the Prior Ordinance in its entirety; and

**WHEREAS**, the Board considered this Ordinance at a public meeting; and

**WHEREAS**, Section 16-4-70 of the MMC authorizes administrative staff review and approval of the Final Plat, subject to adoption by ordinance of the Board of Trustees; and

**WHEREAS**, the Planning Commission held a public hearing on April 20, 2022, regarding the Waterfront Filing No. 1 Preliminary Plat (the “Preliminary Plat”) and, following the conclusion of the public hearing, recommended conditional approval of the Preliminary Plat to the Board of Trustees, subject to standard conditions, via Resolution No. 03-PC-2022; and

**WHEREAS**, the Final Plat generally conforms to the Preliminary Plat, which was reviewed and conditionally approved by the Board of Trustees by Resolution No. 38-R-2022, dated May 9, 2022; and

**WHEREAS**, the administrative record for this matter includes, but is not limited to, the Town of Mead Land Use Code, the Town of Mead Comprehensive Plan, all other applicable ordinances, resolutions and regulations, the staff files and reports of the Community Development Director and Town Engineer related to the Final Plat, any and all submittals by the Prior Owner or Owner and members of the public, and the recordings and minutes of the Board of Trustees meeting at which the Final Plat was considered; and

**WHEREAS**, Town staff has determined that the Final Plat meets all applicable requirements of the Town of Mead Land Use Code and MMC and that the review criteria set forth in Section 16-4-70(b)(8) of the MMC have been satisfied; and

**WHEREAS**, based on Town staff’s recommendation regarding the Final Plat and the administrative record for this matter, the Board of Trustees desires to repeal and replace the Prior Ordinance in its entirety and adopt this Ordinance restating the Board’s conditional approval of the Final Plat, specifically those specific conditions set forth in Section 1 of this Ordinance below; and

**WHEREAS**, the Subdivision Improvement Agreement (“SIA”) for the Final Plat has been prepared in accordance with the requirements of Section 16-4-130 of the MMC, and is presently on file with the Town Clerk; and

**WHEREAS**, the SIA must be amended to replace the Prior Owner with the Owner; and

**WHEREAS**, the Board desires to delegate authority to the Town Attorney to make all amendments necessary to the SIA prior to recordation of the SIA in the County Records; and

**WHEREAS**, the Board of Trustees has determined that the approval of the Final Plat will advance the public health, safety, convenience and general welfare of the residents of the Town, subject to the amended conditions of approval as hereinafter set forth,

**NOW THEREFORE, BE IT ORDAINED** by the Board of Trustees of the Town of Mead, Weld County, Colorado, that:

**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 certificate 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 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.

**Section 2.** The SIA is hereby approved, in substantially the form presently on file with the Town Clerk. The Town Attorney shall be authorized to make amendments to the SIA prior to recordation of the SIA in the County Records as deemed necessary by the Town Attorney to incorporate the Board’s approval of this Ordinance, including but not limited to replacing references to the Prior Owner with those of Owner, and incorporating the conditions set forth in Section 1.b., 1.c., 1.d. and 1.e. above into the SIA. The Town Manager and Town Attorney shall be authorized to negotiate and make non-material changes to the SIA that do not increase the Town’s obligations. The Town Manager shall be authorized to execute the SIA on behalf of the Town once the SIA has been finalized. The fully executed SIA shall be recorded in the County Records with the Final Plat.

**Section 3.** Subject to review and approval of the Final Plat mylar by the Town Staff, and satisfaction of the conditions set forth in Section 1.a. above, the Mayor and other Town officials, as applicable, are hereby authorized to sign the Final Plat mylar.

**Section 4. Effective Date.** This ordinance shall be published and become effective as provided by law.

**Section 5. Severability.** If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, section, subsection, sentence, clause or phrase is declared invalid.

**Section 6. Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 7. Certification.** The Town Clerk shall certify to the passage of this ordinance and make not less than one copy of the adopted ordinance available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED AND ADOPTED THIS 11<sup>th</sup> DAY OF DECEMBER 2023.**

**ATTEST:**

**TOWN OF MEAD:**

By: \_\_\_\_\_  
Mary E. Strutt, MMC, Town Clerk

By: \_\_\_\_\_  
Colleen G. Whitlow, Mayor

**EXHIBIT 1**

Waterfront Filing No. 1 Final Plat  
(Attached on the next page)