

TOWN OF SUPERIOR
ORDINANCE NO. O-1
SERIES 2016

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE THIRD AMENDMENT TO THE PLANNED DEVELOPMENT/ZONE DISTRICT PLAN FOR THE SUPERIOR TOWN CENTER PROPERTY IN CASE PDA-ZDP-2015-2

WHEREAS, RC Superior, LLC ("Applicant") owns certain property located in the Town of Superior that is generally described as the Superior Town Center Property;

WHEREAS, the Town Center Property is more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Applicant has filed an application for a third amendment to the Planned Development/Zone District Plan for the Property (the "Application");

WHEREAS, the Application includes property owned by other parties, including the Town, and the other parties have either signed the Application or otherwise consented to the Application;

WHEREAS, Section 16-10-30 of the Superior Municipal Code (the "Code") requires a public hearing and a decision by the Board of Trustees on the Application;

WHEREAS, the specific criteria for consideration of the Application are set forth in Article X of Chapter 16 of the Code;

WHEREAS, on November 17, 2015 and January 28, 2016, the Planning Commission held properly-noticed public hearings on the Application and recommended that the Board of Trustees approve the Application;

WHEREAS, on February 8, 2016, February 29, 2016, March 14, 2016, March 28, 2016 and April 18, 2016, the Board of Trustees held a public hearing on the Application;

WHEREAS, notice of the public hearing before the Board of Trustees was properly posted, published and mailed, as required by Section 16-2-60 of the Code; and

WHEREAS, the Board of Trustees, upon reviewing the recommendation of the Planning Commission, hearing the

statements of staff and the public, and giving due consideration to the matter, finds and determines as provided below.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Findings. The Board of Trustees hereby finds that, with the conditions imposed below, the Application meets all of the criteria set forth in the Code and is consistent with the Town of Superior Comprehensive Plan.

Section 2. Approval with Conditions. The Board of Trustees hereby approves the Application, subject to all of the following conditions, all of which shall be fully satisfied within 60 days of approval of this Ordinance, other than Conditions O and P, which shall be satisfied at the time of the applicable future Final Development Plan applications:

A. Applicant shall make minor technical and redline corrections to plans as identified by Town Staff.

B. On all plan sheets and in the Design Guidelines Supplement, Applicant shall indicate as follows: "This PDA3 does not supersede or replace any sheets or Design Guidelines in PDA1 and PDA2 for Block 12. Block 12 shall be subject to the Design Guidelines adopted in PDA1, as amended by PDA2, and Block 12 shall be zoned as set forth in PDA1, as amended by PDA2."

C. In the event of a conflict between the Design Guidelines Supplement and the plan sheets, the plan sheets shall control, and each plan sheet shall be amended to include a note stating as follows: "In the event of a conflict between the Design Guidelines Supplement and this plan sheet, this plan sheet shall control."

D. The third sentence in the vested rights notice on each plan sheet shall be removed from the vested rights notice.

E. Applicant shall restore Tract H to the elevation as it existed prior to the start of construction of the Town Center, or as close thereto as possible. The restoration shall be subject to administrative approval through a grading permit, in accordance with the Code.

F. Each residential lot adjacent to the northern boundary of Tract H shall have a 25' rear setback in which no buildings shall be permitted.

G. All references to "Buffer" and "Open Land/Trail Area" on all plan sheets shall be changed to "Open Space".

H. Note 5 shall be removed from Sheet SP1.1.

I. On Sheet CS1.2/Figure B, the reference to "Buffer Area" in the Build-to Setback Diagram Legend and the corresponding gray shading and the arrow indicating "Buffer Area" shall be removed. Instead, the area that was shown in gray shading shall reference Condition O of this Ordinance.

J. On Sheet CS1.2/Figure B, in the Build-to Setback Diagram Legend, the third line shall be amended to read "2.0' min to 8.0' max".

K. On Sheet CS1.3/Figure A, the note under the figure entitled "Blocks w/ Structured and/or Surface Parking" shall be amended to read as follows: "Blocks that may have structured and/or surface parking lots are shown in gray, with surface parking to be minimized and obscured to the greatest extent possible."

L. On Sheet CS1.3/Figure A, the Natural Open Space selection under the Land Use Plan Legend shall include the word "trail" immediately before the word "improvements".

M. On Sheet CS1.3/Figure A, the asterisk after the "Flex Space - Excluding Residential" shall be removed, along with the explanatory asterisk and note.

N. On Sheet CS1.3/Figure A, the note with an arrow that states "Avenue C parallel to Tract H may be realigned at Developer's option" shall be removed.

O. Applicant may present alternate alignments of Avenue C in future Final Development Plan applications, and if the realignment approved by the Board relocates the portion of Avenue C that runs parallel to the northern Tract H boundary more than 250' from the southern Tract H boundary, then Blocks 21 and 22 shall be changed to Flex Space (Commercial, Residential, Live/Work, Civic/Education). The Flex Space change shall thereafter be shown on all applicable plan sheets.

P. All of Tract H shall be dedicated to the Town to be used for open space, and the Town shall determine at what time Tract H will be accepted by the Town.

Section 3. Effect of Approval. The third amendment to the Planned Development/Zone District Plan approved in this Ordinance shall supersede all prior amendments to the Planned Development/Zone District Plan for the Property.

Section 4. Vested Rights. The third amendment to the Planned Development/Zone District Plan approved in this Ordinance shall be subject to the vested rights provisions contained in the Development Agreement between the Town, the Superior Urban Renewal Authority, Superior Metropolitan District No. 1 and Applicant dated March 11, 2013, and the approval of the Application shall not be deemed to extend the term of such vested rights. Pursuant to the Development Agreement, the period of vested rights began to run on August 20, 2013.



Section 5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 6. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 18th day of April, 2016.



Clint Folsom, Mayor

ATTN: THE TOWN OF SUPERIOR
 SEAL


Phyllis L. Hardin, Town Clerk-Treasurer
COLORADO

EXHIBIT A

[Legal Description]

A parcel of land situate in Section Nineteen (19), Township One South (T.1S.), Range Sixty-nine West (R.69W.), Sixth Principal Meridian (6th P.M.), Town of Superior, County of Boulder, State of Colorado, more particularly described as follows:

COMMENCING at the North Sixteenth Corner on the West side of said Section 19, monumented by a 2.5" Brass Rock Cap embedded in a concrete median and stamped "PLS 29761" and assuming the West line of the Southwest Quarter of the Northwest Quarter of said Section 19, monumented at the West Quarter Corner by a 2" Aluminum Pipe with a 2.5" Aluminum Cap stamped "Frank R. Drexel and 2149", to bear South 01°14'50" East, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, a distance of 1316.98 feet, with all bearings herein relative thereto;

THENCE North 88°44'36" East a distance of 164.48 feet to the Westerly line of Superior Town Center Filing No. 1 which is coincidental with the Easterly Right of Way lines of McCaslin Boulevard and to the **POINT OF BEGINNING**;

The next Three (3) courses are along the Westerly lines of the Superior Town Center Filing No. 1 recorded February 4, 2013 as Reception No. 3287103 of the Records of Boulder County:

THENCE North 09°49'34" West a distance of 297.96 feet;

THENCE North 08°19'35" West a distance of 139.98 feet;

THENCE North 00°10'10" East a distance of 226.84 feet to the North line of said Superior Town Center Filing No. 1;

THENCE North 88°42'50" East along the North line of said Superior Town Center Filing No. 1 a distance of 914.12 feet to the Southwesterly line of Parcel 6, a parcel conveyed to the Colorado Department of Transportation per Reception No. 3311195 of the Records of Boulder County and to the beginning point of a curve non-tangent to this course;

THENCE along the Southwesterly line of Parcel 6 and southeasterly along the arc of a curve concave to the Southwest a distance of 358.66 feet, said curve has a Radius of 5594.58 feet, a Delta of 03°40'23" and is subtended by a Chord bearing South 54°03'32" East a distance of 358.60 feet to the Westerly line of Parcel 5A, a parcel conveyed to the Colorado Department of Transportation per Reception No. 3278852 of the Records of Boulder County;

The next Four (4) courses are along the Southwesterly lines of Parcel 5 and Parcel 5A, parcels conveyed to the Colorado Department of Transportation per Reception No. 3278852 of the Records of Boulder County:

THENCE South 00°09'03" East a distance of 112.62 feet;

THENCE South 33°36'24" East a distance of 332.24 feet;

THENCE South 76°33'19" East a distance of 339.96 feet;

THENCE South 45°06'17" East a distance of 1143.76 feet to the Northwest corner of Parcel 34REV X, a parcel conveyed to the Town of Superior per Reception No. 3311198 of the Records of Boulder County;

The next Three (3) courses are along the Northeasterly lines of said Parcel 34REV X:

THENCE South 45°06'17" East a distance of 40.00 feet;

THENCE South 00°02'40" East a distance of 81.39 feet;
THENCE South 45°06'17" East a distance of 491.08 feet to the Northwest corner of Parcel 3, a parcel conveyed to the Colorado Department of Transportation per Reception No. 3292608 of the Records of Boulder County, the Northerly line of said Parcel 3 being coincidental with the North line of the Southeast Quarter of said Section 19;

The next Seven (7) courses are along the Southwesterly Right of Way line of Highway 36, acquired as Parcel 3 in Reception No. 3292608 of the Records of Boulder County:

THENCE South 44°55'45" East a distance of 271.52 feet;
THENCE South 51°12'24" East a distance of 282.51 feet;
THENCE North 44°53'46" East a distance of 49.97 feet;
THENCE South 45°06'14" East a distance of 20.98 feet to a Point of Curvature;
THENCE along the arc of a curve concave to the Northeast a distance of 694.29 feet, said curve has a Radius of 11531.56 feet, a Delta of 03°26'59" and is subtended by a Chord bearing South 46°49'43" East a distance of 694.18 feet to the end point of said curve;
THENCE South 44°48'05" East a distance of 316.20 feet;
THENCE South 50°07'05" East a distance of 369.75 feet to the South line of the North Half of the Southeast Quarter of said Section 19;
THENCE South 88°57'26" West along said South line a distance of 1850.30 feet to the Center-South Sixteenth Corner of said Section 19;
THENCE South 88°43'30" West along the South line of the Northeast Quarter of the Southwest Quarter of said Section 19 a distance of 1327.02 feet to the West line thereof;
THENCE North 00°13'16" East along the West line of the Northeast Quarter of the Southwest Quarter of said Section 19 a distance of 385.18 feet;
THENCE North 58°04'19" West a distance of 15.51 feet
THENCE North 12°42'39" West a distance of 30.44 feet;
THENCE North 02°40'43" West a distance of 223.26 feet;
THENCE North 13°53'20" East a distance of 132.46 feet to the Southeast corner of the Discovery Office Park, a Minor Subdivision Plat recorded January 24, 2002 as Reception No. 2246377 of the Records of Boulder County;
THENCE North 00°13'16" East along the East line of said Discovery Office Park a distance of 335.51 feet;
THENCE North 60°39'58" West a distance of 103.04 feet;
THENCE North 15°03'36" West a distance of 224.80 feet;
THENCE South 74°56'24" West a distance of 421.03 feet;
THENCE South 15°03'36" East a distance of 22.39 feet the Southerly boundary line of the Superior Town Center Filing No. 1;
THENCE South 73°50'24" West along said Southerly line a distance of 355.67 feet to the most Southwesterly corner of the Superior Town Center Filing No. 1;
The next Two (2) courses are along a Westerly lines of the Superior Town Center Filing No. 1 recorded February 4, 2013 as Reception No. 3287103 of the Records of Boulder County, the Westerly lines of said subdivision being coincidental with the Easterly Right of Way lines of McCaslin Boulevard:
THENCE North 09°51'48" West a distance of 152.34 feet;
THENCE North 09°57'12" West a distance of 1229.42 feet to the South corner point of a parcel of land dedicated for McCaslin Boulevard Right of Way by action of said Superior Town Center Filing No. 1;

THENCE North 04°41'56" West along the Easterly line of said Right of Way parcel a distance of 102.76 feet to the **POINT OF BEGINNING**.

EXCEPTING THEREFROM all that portion of the Superior Cemetery that lies within the East Half of the Northwest Quarter of Section 19, Township 1 South, Range 69 West of the 6th Principal Meridian, County of Boulder, State of Colorado, more particularly described as follows:

COMMENCING at the Center Quarter Corner of said Section 19, monumented by a 3 1/4" Aluminum Cap on a #6 Rebar and stamped LS 24667 and 1996, and assuming the East line of the Northwest Quarter of said Section 19, monumented at the North Quarter corner of said Section 19, monumented by a 3 1/4" Aluminum Cap on a #6 Rebar stamped PLS 24961 and 2012, to bear North 00°02'40" West, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, a distance of 2647.43 feet, with all bearings herein relative thereto;

THENCE North 00°02'40" West along the East line of the Northwest Quarter of said Section 19 a distance of 190.53 feet to the **POINT OF BEGINNING**;

The following Three (3) courses are along the Southerly, Westerly and Northerly lines of the Superior Cemetery as described in an Agreement recorded May 16, 2003 as Reception No. 2442477 of the Records of Boulder County and illustrated in that Land Survey Plat deposited in the Records of Boulder County as LS-03-0011:

THENCE South 89°41'10" West a distance of 238.00 feet;

THENCE North 00°46'59" West a distance of 271.00 feet;

THENCE North 89°13'28" East a distance of 241.51 feet to the East line of the Northwest Quarter of said Section 19;

THENCE South 00°02'40" East along the East line of the Northwest Quarter of said Section 19 a distance of 272.94 feet to the **POINT OF BEGINNING**.

Said parcel of land, less the Superior Cemetery parcel, contains 156.350 acres, more or less ().

ADDITIONALLY EXCEPTING THEREFROM BLOCK 12 OF THAT CERTAIN LOT LINE ADJUSTMENT PLAT OF BLOCK 12, PARCEL H AND SUPERLOT 1 OF SUPERIOR TOWN CENTER FILING NO. 1B UNDER RECEPTION NUMBER 03415628 WITH THE COUNTY OF BOULDER, COLORADO RECORDED 12/02/2014.