

**TOWN OF NEW CASTLE, COLORADO  
ORDINANCE NO. TC 2023-2**

**AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL GRANTING  
CONDITIONAL APPROVAL OF A FINAL PUD DEVELOPMENT PLAN FOR  
LAKOTA CANYON RANCH PUD FILING 8 (LONGVIEW) AND VESTED  
RIGHTS FOR THE SAME AND THE FINAL SUBDIVISION PLAT OF FILING 8,  
PHASE 1**

WHEREAS, RG Lakota II, LLC (“Owner”) is the owner of certain real property within the Town of New Castle, Colorado (the “Town”) described in the attached Exhibit A, which property is located within the Lakota Canyon Ranch PUD (the “Property,” or “Filing 8,” or “Longview”); and

WHEREAS, the Property is zoned Mixed Use (MU) within the Lakota Canyon Ranch PUD; and

WHEREAS, on September 14, 2022, the Planning & Zoning Commission approved a Preliminary PUD Development Plan (“Preliminary Plan”) for Filing 8 and a Preliminary Plat (“Preliminary Plat”) for Phase 1 of Filing 8; and

WHEREAS, on February 3, 2023, Dwayne Romero, on behalf of Owner (“Applicant”) submitted an application requesting approval of a Final PUD Development Plan for Filing 8 (“Final Plan”) and a Final Plat for Phase 1 of Filing 8 (the “Phase 1 Final Plat”) (collectively, the “Application” as further defined below);

WHEREAS, the Application proposes the construction of 185 residential units (108 rental apartments, 21 townhomes, 28 single-family homes, and 28 Mixed-Use Flats), 51,407 square feet of commercial space, and open space areas on a total of 17.51 acres; and

WHEREAS, the Applicant intends to develop the Property and the public improvements associated with the same in up to ten phases; and

WHEREAS, the Town of New Castle Planning & Zoning Commission (“Commission”) held a duly noticed public hearing on April 12, 2023, to consider the Application and recommended that Town Council approve the Application with conditions; and

WHEREAS, Applicant has requested vested rights for the Final Plan, which Final Plan constitutes a site-specific development plan under Section 16.36.020 of the Town Municipal Code; and

WHEREAS, pursuant to Code Section 16.36.060, a duly-noticed public hearing was held by Town Council on May 2, 2023, to consider the Application and vested rights for the Final Plan; and

WHEREAS, Town Council continued first reading of the Ordinance to May 16, 2023; and

WHEREAS, Town Council has considered the Application materials, testimony, and other evidence from Staff, the Applicant, and members of the public concerning the Application; and

WHEREAS, Town Council has determined pursuant to Section 16.36.050 of the Code that vested rights for the Final Plan are appropriate considering the phasing of development of Filing 8; the substantial benefits conferred upon the Town and its citizens by the additional parks and open space, sales tax revenue, employment opportunities, and affordable housing opportunities incorporated into the Filing 8 mixed-use development; and the other unique characteristics of the proposed development; and

WHEREAS, based on the Application, testimony, and other information presented, subject to compliance with the terms and conditions of this Ordinance, Town Council finds that the Application complies with the following review criteria set forth in Sections 16.16.020(G) and 17.100.050(H) of the Code:

1. Consistency with the comprehensive plan;
2. Compliance with zoning and density requirements;
3. Compatibility to neighboring land uses;
4. Availability of town services from public works (including water and sewer services), fire, and police;
5. Adequacy of off-street parking and vehicle, bicycle, and pedestrian circulation;
6. Required open space or parks designed for active or passive use by residents of the subdivision and the public; and
7. Development consistent with the natural character, contours, and viewsheds of the land; and

WHEREAS, Town Council finds further that the Application meets the goals described in Code Section 16.04.010, satisfies the criteria set forth in Code Section 17.72.090, and conforms or will conform with the conditions of approval of the Preliminary Plan; and

WHEREAS, Town Council now desires to approve the Application and vested rights for the Final Plan pursuant to the terms and conditions of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated by reference as findings and determinations of Town Council.

2. Definition of the Application. The “Application” consists of the documents and information identified on Exhibit B, plus all representations of and other documents presented by the Applicant reflected in the recordings and minutes of the Planning and Zoning Commission public hearing held on April 12, 2023, and the Town Council meetings and public hearing held on May 2, 2023, May 16, 2023, and June 6, 2023.
  
3. Approval of Final Plan: The Final Plan proposes:
  - a. The development of 185 residential units (108 rental apartments, 21 townhomes, 28 single-family homes, and 28 Mixed-Use Flats), 51,407 square feet of commercial space (plus the potential “floating zone” commercial space described below), and open space as depicted on the final Lakota Canyon Ranch PUD Filing 8, Longview Master Plat/Plan dated April 5, 2023 (the “Master Plat/Plan”), Site Plan presented on May 2, 2023, Site Plan Unit Count Info sheet dated January 13, 2023, and as otherwise described in the Application;
  - b. Multi-family, mixed-use, and single-family use areas in the locations and with the acreage depicted on the Acreage Use Diagram dated January 13, 2023;
  - c. Use and other zoning standards as described and depicted on the Zoning Diagram dated January 13, 2023;
  - d. Building elevations and architectural design and materials as described and depicted in the Precedent Images, Design & Material Notes, and architectural drawings and floor plans dated April 26, 2023;
  - e. The subdivision of the Property into 39 lots as shown on the Master Plat/Plan by platting the phases shown on the Master Plat/Plan in up to 10 phases; and
  - f. Phase plats and amended final plats for the multi-family buildings will be submitted for approval at the staff level, provided that the phase plats, amended final plats, and multi-family buildings are in substantial conformance with the approved Application.

Town Council hereby approves the Final Plan, subject to compliance with all conditions set forth in Section 7 of this Ordinance.

4. Subdivision. Applicant has submitted the Phase 1 Final Plat, which proposes to subdivide Phase 1 into three single-family lots and three future development parcels. The Phase 1 Final Plat takes into account adjustments made between Lakota Canyon Ranch Parcels A1-1 and Parcel A2, which will be accomplished through a boundary line adjustment plat that will be recorded prior to the Phase 1 Final Plat. Town Council hereby approves the Phase 1 Final Plat, subject to compliance with the applicable conditions set forth in Section 7 of this Ordinance.

5. Zoning. Development and use of the Property under the Final Plan is subject to the following restrictions and requirements:

- a. The restrictions and requirements of the MU Zone District of the Lakota Canyon Ranch PUD Zoning Regulations, Section 17.128.070 of the Code, as set forth in Exhibit C hereto and as such regulations may be amended with the Owner's consent during the vested rights period established by this Ordinance or recodified from time to time, subject to the following variations:
  - i. The maximum height of Building CR-5 shall be 44 feet consistent with the building elevations materials dated April 26, 2023. The A-1 Building types shown on the Application's most recent site plan shall be designed and constructed as partially sunken structures with a maximum height of 35 feet per building. The maximum height of all other structures within Filing 8 shall be 35 feet as provided in Section 17.128.010.
  - ii. The five apartment buildings (Building types A-1 and A-2 as described and depicted in the Application) shall be allowed to exceed the maximum number of units per building (10 per Section 17.128.070(I)) as follows:
    - a. A-1 Buildings: up to 24 units per building; and
    - b. A-2 Buildings: up to 20 units per building.
  - iii. The total number of commercial parking spaces required for Filing 8 shall be reduced by 40% from what is otherwise required under the Lakota Canyon Ranch PUD standards, subject to the implementation of a shared parking arrangement among the commercial, mixed-use, and multi-family uses within Filing 8. The 40% reduction will apply to Phases 2 and 3 as shown on the Master Plat/Plan, regardless of whether those phases are platted and developed in multiple sub-phases.
  - iv. A "floating zone" is established for the Phase 3 area shown on the Master Plat/Plan—which phase may be platted and developed in multiple sub-phases—allowing for up to an additional 10,000 square feet of commercial floor area within the buildings in the "floating zone." The additional commercial space may be approved as an administrative amendment to the PUD. The 40% "shared parking" reductions shall apply to any additional commercial floor area and no additional parking spaces will be required if the additional commercial space is utilized; provided, however, that the floating zone will be subject to the annual shared parking audit, including the satisfaction of any mitigation measures required as part of the audit process. The overall cap on commercial square footage within the Lakota Canyon Ranch will

continue to apply, and the additional commercial square footage provided for in the floating zone is subject to said cap.

- v. The requirements of Section 17.128.070 may be further modified on any final phase plat for the Property approved by the Town. In the event of any conflict between the Zone District text or this Ordinance and the final plats for the Property, the final plat shall control.
  - b. All other applicable provisions of the Code; and
  - c. All applicable Ordinances of the Town.
6. Vested Rights. Town Council finds that the requirements of Section 16.36 for obtaining vested rights for Filing 8 have been satisfied and hereby approves the following vested rights for Filing 8:
- a. The vested rights period for Filing 8 will be ten (10) years from the effective date of this Ordinance.
  - b. All phase plats for Filing 8 shall be recorded within ten (10) years of the effective date of this Ordinance.
  - c. Vested rights for each individual phase of Filing 8 shall be valid for three (3) years from the recording of the final plat for that phase, subject to the maximum vested rights period of 10 years.
  - d. The recordation of a phase plat will not extend the maximum vested rights period for Filing 8 beyond 10 years.
  - e. The following are exceptions to the vested rights for Filing 8:
    - i. Development of Filing 8 will be subject to any wildland urban interface regulations in effect at the time of building permit, regardless of the approved Final Plan.
    - ii. Owners of property within Filing 8 will be required to comply with the sign code in effect at the time of application for a sign permit. There is no grandfathering of or vested rights for signage within Filing 8.
7. Conditions. Approval of the Application, Final Plan, and Phase 1 Final Plat are subject to and contingent up on satisfaction of the following conditions:
- a. All “tuck-in” parking beneath A-2 type apartments and CR-1 mixed-use building shall be reserved for residential tenants of those respective buildings.
  - b. The shared parking arrangement in Phases 2 and 3 of Filing 8 shall be subject to

the following parking audit process:

On the first anniversary of initial implementation of shared parking in Phase 2 and Phase 3 of Filing 8 and annually thereafter for four additional years, Town Council shall review and take comment regarding the shared parking arrangement for Phase 2 and/or Phase 3, as applicable, to determine whether the arrangement adequately meets the needs of the owners and residents affected. The Fox Tuttle Parking Strategies Memorandum dated April 27, 2023 (the "Parking Memorandum") included in the Application establishes the process for evaluating the shared parking arrangement and sets the performance measures for the arrangement. If a "significant impact" is identified as provided in the Parking Memorandum, Town Council, in its discretion, may require Applicant to implement one or more of the first ten of the Parking Demand Management Strategies listed in the Parking Memorandum. In the event that after two years of implementing one or more of the first ten Parking Demand Management Strategies the identified "significant impact" has not been mitigated, then Parking Demand Management Strategies number eleven (payment of a mutually agreed on parking mitigation fee) may be implemented provided that any such fees paid shall be used to directly mitigate parking within Longview.

- c. Each Filing 8 plat shall indicate whether the property included in the plat is subject to the covenants for the Lakota Canyon Ranch Master Association, a Lakota Canyon Ranch sub-association, and/or an association independent of the Lakota Canyon Ranch community. Covenants addressing shared parking, including management and enforcement requirements (including the potential parking impact fee), hours of use, penalties for violation, maintenance responsibilities, and the reserved parking arrangements identified above shall be recorded with the applicable final plat(s). Copies of any new covenants shall be submitted to and approved by the Town Attorney prior to recordation of a final plat.
- d. Prior to the first building permit application for each phase, the Applicant shall specify the location of any sustainability initiatives identified in the Application. Applicant shall use commercially reasonable efforts to implement the full list of initiatives included in the Application by the time of Filing 8 completion.
- e. In addition to the provisions of Chapter 16.16 of the municipal code, plats for all phases shall identify streets and sidewalks dedicated as public rights-of-way, travel direction for one-way streets, locations for on-street parking, any dedicated open space, easements for snow storage, and any necessary signage as required under Condition F.
- f. Streets or sides of streets showing no parking in in the Application shall be signed "No Parking this Side of Street" and placed in locations recommended by Public



Works and the Police Department.

- g. All outside parking areas facing a residential-only use shall have a landscape buffer to obscure vehicles from view per Code Section 17.128.070.
- h. Following construction of the CR-5 building, Applicant shall submit an improvement location certificate to the Town to confirm that the CR-5 building is no taller than 44 feet.
- i. In order to satisfy Applicant's requirement to contribute 25% of the estimated cost of traffic signal improvements at the Castle Valley Ranch Boulevard/Faas Ranch Road intersection, the Town and Applicant agree that Applicant shall dedicate land to the Town for a right-of-way of sufficient size to accommodate a two-lane roundabout in generally the location shown on the diagram prepared by the Town Engineer dated April 11, 2023. Applicant will dedicate the land indicated on the staff diagram for a roundabout on the Third Amended & Restated Subdivision Exemption Plat. The final location and dimensions of the right-of-way dedication will be determined by the Town Engineer prior to recordation of the Third Amended & Restated Subdivision Exemption Plat. Nonpermanent encroachments into the roundabout area by Applicant will be permitted subject to a revocable license approved by Town Council. Minimum setbacks from the roundabout may be adjusted as needed on the Phase 2 and/or Phase 3 final plat or sub-plats so that no change to the approved site plan for Filing 8 will be required to accommodate the roundabout; or, alternatively, Applicant may propose minor adjustments to the approved site plan at the time of building permit to move structures away from the roundabout or any associated improvements. The land dedication by Applicant as provided in this condition will satisfy all of the Filing 8 traffic mitigation obligations at the Castle Valley Ranch/Faas Ranch Road intersection.
- j. Applicant shall implement and comply with the affordable housing plan included in the Application. Applicant shall prepare all necessary deed restrictions and agreements needed to formalize the affordable housing plan, which deed restrictions and agreements shall be subject to review and approval by the Town Attorney. Any deed restriction shall be recorded at the same time as—and as a condition of—recordation of the phase plat creating the lot(s) or units to be encumbered with the deed restriction.
- k. The Applicant shall include an additional potable water service line and curb stop for a water sample station. The sample station shall be purchased and installed by the Town. The additional service line and curb stop shall be located near the intersection of Drive F and Drive H or, if such location is unfeasible, another location approved by Public Works. Any easements necessary for the sample station will be dedicated to the Town on the appropriate plat.
- l. Applicant shall provide a conceptual landscape plan to staff for each phase of development illustrating size, type, and location of plant materials and an

irrigation plan, if applicable. Plans submitted to obtain a building permit for any building shall demonstrate no more than 2,500 square feet of sod per dwelling unit as specified in 13.20.060 of the Municipal Code. Plans submitted to obtain a building permit must also identify measures (e.g., retaining walls, swales, perimeter drains, sumps, etc.) for diverting surface water drainage away from adjacent lots. The landscape plans for the townhome and A-1 buildings in Phase 2 or its sub-phases shall incorporate trees and other appropriate screening from the golf course. The landscape plan for the townhome buildings and private drive in Phase 4 shall incorporate trees and other appropriate screening from the adjacent homes on Blackhawk Drive.

- m. The development of Filing 8 shall comply with all applicable building code and municipal code requirements, including all sign code regulations and any wildland-urban interface regulations, in effect at the time of development of the property, as well as all recommendations of the Town Engineer and Town Public Works Director provided in response to review of the Application. All building permit applications subject to the provisions of the International Fire Code or matters requiring fire alarms and/or fire suppression shall be submitted to the Fire Marshal for review and comment.
- n. Applicant shall submit a construction phasing and management plan for staff approval that identifies, at a minimum, each of the following components for each phase or sub-phase of construction:
  - i. Buildout phases;
  - ii. A schedule that identifies
    1. the sequencing of infrastructure, road, and building construction;
    2. the sequencing of occupancy and egress for residents during construction;
    3. construction traffic flow with any alternative means of project access;
    4. location of construction parking;
    5. list of construction hours; and
    6. any necessary traffic control plans during construction;
  - iii. Storage and staging areas for construction equipment and materials;
  - iv. Location of temporary snow storage;
  - v. Drainage, dust, and erosion control best management practices (BMP's);
  - vi. Conformance to all requirements and specifications approved by the Fire Marshal concerning temporary access for each phase including, but not limited to, temporary hammerhead turnarounds at dead end streets and any necessary ingress/egress routes for emergency personnel and equipment during construction.
- o. Street names shall be approved by Garfield County Communications to avoid any duplication of names in the county dispatch area.



- p. Applicant shall designate locations of mailbox kiosks with written authorization from the local postmaster.
- q. Landscaping and open space shall be perpetually weed free per the Colorado Noxious Weed Act and any recommendation of Garfield County and New Castle Public Works.
- r. The plat making the lot line adjustments with Parcel A1-1 and Parcel A-2 shall be executed and recorded within 180 days of the final approval of the Application. The Third Amended & Restated Subdivision Exemption Plat will be updated to incorporate the change made by the foregoing and be recorded at the same time as the lot line adjustment plat.
- s. The sale of individual lots or units within Filing 8 may not occur until a plat creating the lot or unit is recorded with Garfield County.
- t. Prior to the recordation of the Phase 1 Final Plat, the Applicant shall enter into a subdivision improvements agreement with the Town in a form acceptable to the Town Attorney and provide security for the public improvements required thereunder.
- u. Phase plats that are in substantial compliance with the approved Application may be approved on a staff level and shall be recorded with Garfield County before commencing construction of any individual building within a phase. No grading or excavation for the construction of a building shall occur until a permit is issued for that specific building. Applicant may commence grading and excavation for infrastructure for public improvements in areas of the project for which a phase plat and subdivision improvements agreement has not yet been recorded, provided that applicant has obtained a grading permit pursuant to the Town Code and posted security to cover the applicable grading and revegetation work.
- v. A subdivision improvements agreement shall be recorded with each phase plat, including a cost estimate for the public improvements within the phase as well as any public improvements located outside of such phase that will be constructed in conjunction with the construction of such phase. At the time of recordation of the phase plat and SIA, the developer shall be required to post financial security in a form acceptable to the Town Attorney for the public improvements located within the phase and to be constructed in conjunction with such phase.
- w. One or more phase plats may include one or more lots upon which townhome buildings will be constructed. Such phase plat shall show the building envelope for the townhome building but need not show the individual units. One or more amended plats to define the boundaries of the individual units within each building shall be prepared for each building envelope based on as-built surveys after construction, which amended plats may be approved on staff level. Individual units may not be sold or separately encumbered until and unless the

amended plat showing such units has been approved by Town Staff, signed by the Town Administrator, and recorded in the real estate records of Garfield County.

- x. All representations of the Applicant made verbally or in written submittals presented to the Town in conjunction with the Application before the Commission or Town Council shall be considered part of the Application and binding on the Applicant.
- y. The Applicant shall reimburse the Town for any and all expenses incurred by the Town regarding this approval, including, without limitation, all costs incurred by the Town's outside consultants such as legal and engineering costs.
- z. All single-family, duplex, and triplex dwellings in Filing 8 shall include a two-car garage and two-car driveway.
- aa. Design approval for any building in Filing 8 that is not submitted to the Lakota Canyon Ranch Design Review Committee shall be made by Town Staff pursuant to applicable design review criteria in the Town Municipal Code.

8. Severability. Each section of this Resolution is an independent section and a holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause or reason shall not be deemed to affect the validity or constitutionality of any other section or part hereof, the intent being that the provisions of this Resolution are severable.

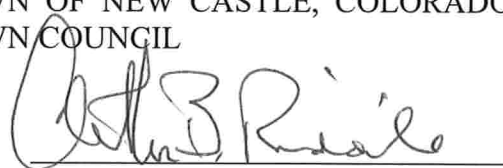
9. Effective Date. This Ordinance shall be effective 14 days after final publication pursuant to Section 4.3 of the Town Charter

INTRODUCED on first reading on May 2, 2023, and again on May 16, 2023, at which time copies were available to the Town Council and to those persons in attendance at the meeting, read by title, passed on first reading with amendments, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Town Council of the Town of New Castle, Colorado, on June 6, 2023, read by title and number, passed without amendment, approved, and ordered published as required by the Charter.

TOWN OF NEW CASTLE, COLORADO  
TOWN COUNCIL


By:



Art Riddile, Mayor



ATTEST:

  
Melody Byram, Town Clerk

Exhibits: Exhibit A: Legal Description; Exhibit B: List of Application materials; Exhibit C: Code Section 17.128.070

**EXHIBIT A**  
Legal Description

Parcel C2, SECOND AMENDED AND RESTATED SUBDIVISION  
EXCLUSION/EXEMPTION MAP, according to the Plat thereof recorded October 19,  
2006, as Reception No. 709280.

Future Development Parcel 3, FINAL BLOCK PLAT, WHITEHORSE VILLAGE AT  
LAKOTA CANYON RANCH, according to the Plat thereof recorded October 19, 2004,  
as Reception No. 661957.

Future Development Parcel, LAKOTA CANYON RANCH FILING 3, PHASE 1,  
according to the Plat thereof recorded December 23, 2004, as Reception No.665843

**EXHIBIT B**

Final PUD Application Materials

- a. Final Plan Submittal Packet – submitted April 5, 2023; updated April 26, 2023 and May 2, 2023
- b. Parking Memorandum – April 27, 2023
- c. Affidavits of Public Notice
- d. Applicant Comment on Sustainability Initiatives – April 5, 2023
- e. Recording of April 6, 2023 site visit

**EXHIBIT C**  
Code Section 17.128.070