

Councilperson Clark
Councilperson Dooley

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CASTLE PINES NORTH
CONDITIONALLY APPROVING LAGAE RANCH FILING NO. 1 FINAL PLAT**

WHEREAS, the City of Castle Pines North (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of sections 31-2-101, *et seq.*, C.R.S.; and

WHEREAS, by Ordinance 08-04, the City Council adopted the Douglas County 2030 Comprehensive Master Plan (the "City's Master Plan"); and

WHEREAS, by Ordinance 08-04 the City Council adopted the Douglas County Zoning Resolution (the "City's Zoning Ordinance") and the Douglas County Subdivision Resolution (the "City's Subdivision Regulations"); and

WHEREAS, H.F. Holdings, LLC, a Colorado Limited Liability Company, (the "Applicant"), has submitted a final plat (the "Final Plat") for property located approximately 600 feet south of the intersection of Castle Pines Parkway and Lagae Road, a legal description of which is attached hereto as **Exhibit A** and incorporated herein by reference (the "Property"); and

WHEREAS, the owner of the Property, R.I. Management of Tulsa, Inc., a North Dakota Corporation (the "Owner"), has consented to the submission of the Final Plat;

WHEREAS, the City Council held a public hearing on approval of the Final Plat, in accordance with Section 504.05 of the City's Subdivision Regulations; and

WHEREAS, the City Council finds that notice of the public hearing was properly given in accordance with section 31-23-215(1), C.R.S.; and

WHEREAS, Section 503 of the City's Subdivision Regulations provides that, a final plat may be approved upon the City Council finding that:

1. Section 503.01: The final plat is in conformance with the goals, objectives and policies of the City's Master Plan;
2. Section 503.02: The plan is in conformance with the design elements established in Article 3, Section 304 of the City's Subdivision Regulations;
3. Section 503.03: The subdivider has provided evidence that provision has been made for a water supply that is sufficient in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the Water Supply – Overlay District section of the City's Zoning Ordinance;

4. Section 503.04: The subdivider has provided evidence that provision has been made for a public sewage disposal system and, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with State and local laws and regulations;
5. Section 503.05: The subdivider has provided evidence to show that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions;
6. Section 503.06: The subdivider has provided adequate drainage improvements;
7. Section 503.07: Significant cultural, archaeological, natural/historical resources and unique landforms have been protected; and
8. Section 503.08: Necessary services, including fire/police protection, recreation, utilities, open space and transportation system, are available to serve the proposed subdivision.

WHEREAS, the City Council finds that the Final Plat complies with all the standards set forth in Section 503 of the City's Subdivision Regulations; and

WHEREAS, City Council wishes to approve the Final Plat, subject to the conditions contained herein.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO, THAT:

Section 1. Provided that the conditions set forth in Section 2 of this Resolution are met, the City Council hereby finds that:

1. The Final Plat is in conformance with the goals, objectives and policies of the City's Master Plan.
2. The Final Plat is in conformance with the design elements established in Article 3, Section 304 of the City's Subdivision Regulations.
3. The Applicant has provided evidence that provision has been made for a water supply that is sufficient in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the Water Supply – Overlay District section of the City's Zoning Ordinance.
4. The Applicant has provided evidence that provision has been made for a public sewage disposal system and, if other methods of sewage disposal are proposed, adequate evidence that such system shall comply with State and local laws and regulations.
5. The Applicant has provided evidence to show that all areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the Applicant and that the proposed uses of these areas are compatible with such conditions.

6. The Applicant has provided adequate drainage improvements.
7. Significant cultural, archaeological, natural/historical resources and unique landforms have been protected.
8. Necessary services, including fire/police protection, recreation, utilities, open space and transportation system, are available to serve the proposed subdivision.

Section 2. The City Council hereby approves the Final Plat, subject to the following conditions:

1. Prior to Recording of the Final Plat:

- A. A subdivision improvements agreement (the "SIA"), in form acceptable to the City, shall be executed by the City and the Owner; AND
- B. A final Planned Development Plan, which is consistent with Ordinance 08-12 and the Final Plat as approved by the City Attorney and City Planner, shall be recorded at the expense of the Applicant; AND
- C. A new plat note shall be added which shall read:

THE OWNER SHALL PAY TO THE CITY CASH-IN-LIEU OF 1.08 ACRES OF DEDICATED SCHOOL LAND, IN AN AMOUNT OF \$122,152.27. SUCH PAYMENT SHALL BE PAID UPON THE EARLIER TO OCCUR OF (1) TRANSFER BY THE OWNER TO ANY UNAFFILIATED THIRD-PARTY PURCHASER OF ANY RESIDENTIAL LOTS(S) OR ANY MULTIFAMILY LOT(S), OR (2) THE ISSUANCE OF A BUILDING PERMIT FOR ANY RESIDENTIAL LOT OR MULTI-FAMILY LOT. IF PAID AT BUILDING PERMIT SUCH PAYMENT WILL BE MADE IN INSTALLMENTS CALCULATED AT \$50.00 PER MULTI-FAMILY UNIT AND/OR \$442.22 PER SINGLE FAMILY LOT. IF THE PAYMENT IS MADE IN INSTALLMENTS, AND A RESIDENTIAL LOT IS SUBSEQUENTLY CONVEYED TO AN UNAFFILIATED THIRD-PARTY PURCHASER OR A MULTI-FAMILY LOT HAS BEEN CONVEYED TO AN UNAFFILIATED THIRD-PARTY PURCHASER, ANY UNPAID BALANCE SHALL BECOME IMMEDIATELY DUE AND PAYABLE. THE AMOUNT OF \$122,152.27 SHALL ACCRUE INTEREST AT A RATE OF 8% FROM THE DATE OF RECORDING OF THIS FINAL PLAT UNTIL PAYMENT.

- D. The Applicant shall resolve/correct any minor technical issues as directed by staff.
- E. The Applicant shall submit to the City a letter signed by American Academy, in form acceptable to the City Attorney, acknowledging that Lot 234 will be conveyed to American Academy without the installation of the public improvements required for use of the lot and that the City has not required the Owner to provide collateral to secure the construction of the Subdivisions Improvement in Phase 1 as forth in the SIA which benefit the Property. In the letter, American Academy shall agree to release and hold harmless the City from any damages it may incur in the event that the Subdivision Improvements in Phase 1 as forth in the SIA are not built by the Owner.

- F. Note 11 on the Final Plat shall be revised to add the underlined language contained below:

THE OWNER SHALL NOT CONVEY OR OTHERWISE TRANSFER TITLE TO ANY OR ALL OF LOTS 1-231 TO AN UNAFFILIATED THIRD PARTY, NOR SHALL ANY BUILDING PERMIT ISSUE FOR SUCH LOTS, UNTIL SUCH TIME AS A ROADWAY IS DESIGNED AND CONSTRUCTED BY THE OWNER OR ITS SUCCESSOR DEVELOPER(S), APPROVED BY DOUGLAS COUNTY AND ACCEPTED BY THE CITY OF CASTLE PINES NORTH, WHICH APPROVAL AND ACCEPTANCE SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED. SUCH ROADWAY SHALL PROVIDE CONTINUOUS ACCESS FROM CASTLE PINES VILLAGE FILING NO. 27A TO LAGAE ROAD AT THE SOUTH END OF THIS FINAL PLAT BOUNDARY. NOTWITHSTANDING THE FOREGOING, AND REGARDLESS OF THE STATUS TO THE ROADWAY, THE OWNER MAY CONVEY TITLE TO ANY OR ALL OF LOTS 1-231 TO A DEVELOPER(S) IN CONNECTION WITH A BULK SALE OF FIVE OR MORE LOTS TO EACH DEVELOPER(S), IN WHICH CASE OWNER MAY, BUT SHALL NOT BE OBLIGATED TO, ASSIGN ITS OBLIGATIONS WITH RESPECT TO THE ROADWAY SET FORTH HEREIN TO SUCH SUCCESSOR DEVELOPER(S), AND ANY SUCESSOR DEVELOPER(S) WILL CONTINUE TO BE SUBJECT TO THE TRANSFER LIMITATION SET FORTH IN THIS NOTE. A PUBLIC RIGHT-OF-WAY OR ROADWAY EASEMENT SHALL BE GRANTED WITH THE DESIGN AND CONSTRUCTION OF SAID ROADWAY.

- G. Note 12 on the Final Plat shall be revised to add the underlined language contained below:

THE OWNER SHALL NOT CONVEY OR OTHERWISE TRANSFER TITLE TO LOTS 1 – 231 TO AN UNAFFILIATED THIRD PARTY UNTIL THE PUBLIC IMPROVEMENTS SET FORTH IN THE SUBDIVISION IMPROVEMENTS AGREEMENT BETWEEN THE CITY OF CASTLE PINES NORTH AND R.I. MANAGEMENT OF TULSA, INC., ASSOCIATED WITH THE PHASE CONTAINING THE RELEVANT LOT HAVE BEEN CONSTRUCTED AND PRELIMINARILY ACCEPTED BY THE CITY OF CASTLE PINES NORTH, OR REPLACEMENT COLLATERAL ACCEPTABLE TO THE CITY OF CASTLE PINES NORTH HAS BEEN PROVIDED. NOTWITHSTANDING THE FOREGOING, AND REGARDLESS OF THE STATUS OF THE PUBLIC IMPROVEMENTS OR COLLATERAL, THE OWNER MAY CONVEY TITLE TO ANY OR ALL OF LOTS 1-233 TO A DEVELOPER(S) IN CONNECTION WITH A BULK SALE OF FIVE OR MORE LOTS TO EACH DEVELOPER(S), AND ANY SUCESSOR DEVELOPER(S) WILL CONTINUE TO BE SUBJECT TO THE TRANSFER LIMITATION SET FORTH IN THIS NOTE.

- H. A new plat note shall be added to read:

THE OWNER WILL PAY A DEVELOPMENT SERVICES FEE TO THE CITY OF CASTLE PINES NORTH IN THE AMOUNT OF \$300,000.00, PAYABLE AS FOLLOWS: \$100,000.00 SHALL BE PAID CONTEMPORANEOUSLY WITH RECORDING THIS FINAL PLAT, AND THE REMAINING \$200,000.00 SHALL BE PAID UPON THE EARLIER TO OCCUR OF (1) CONVEYANCE OF FIVE OR MORE LOTS IN A SINGLE TRANSACTION OR ONE OR MORE WITH MULTI-FAMILY LOT(S) TO AN UNAFFILIATED THIRD-PARTY PURCHASER OR (2)

RESIDENTIAL BUILDING PERMIT ISSUANCE, IN WHICH CASE THE PAYMENT WILL BE MADE IN INSTALLMENTS AS RESIDENTIAL BUILDING PERMITS ARE ISSUED ON A PER LOT BASIS CALCULATED AT THE RATE OF \$780.00 PER SINGLE FAMILY RESIDENTIAL UNIT AND \$50.00 PER MULTI-FAMILY RESIDENTIAL BUILDING PERMIT. IF ANY PORTION OF THE DEVELOPMENT SERVICES FEE IS PAID IN INSTALLMENTS, AND FIVE OR MORE LOTS OR ONE OR MORE WITH MULTI-FAMILY LOT(S) ARE SUBSEQUENTLY CONVEYED TO AN UNAFFILIATED THIRD-PARTY PURCHASER, ANY UNPAID BALANCE WILL BECOME IMMEDIATELY DUE AND PAYABLE.

I. A new plat note shall be added to read:

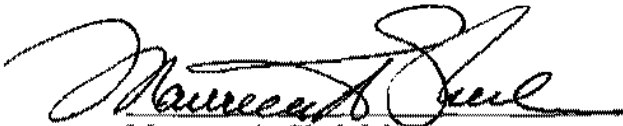
THE OWNER WILL PAY A COST MITIGATION FEE IN THE AMOUNT OF \$334,000, PAYABLE IN INSTALLMENTS AS RESIDENTIAL BUILDING PERMITS ARE ISSUED ON A PER LOT BASIS CALCULATED AT THE RATE OF \$1,000.00 PER SINGLE FAMILY RESIDENTIAL BUILDING PERMIT AND \$250.00 PER MULTI-FAMILY RESIDENTIAL UNIT, OF WHICH \$50,000.00 WOULD BE PAID TO THE CITY OF CASTLE PINES NORTH FOR A SCHOOL GRANT FUND AND THE REMAINDER WOULD BE PAID TO THE DOUGLAS COUNTY SCHOOL DISTRICT WITH THE FUNDS DIVIDED BETWEEN THE CITY AND DOUGLAS COUNTY AT THE TIME OF PAYMENT.

2. The Applicant must satisfactorily address all City Engineering Department comments provided in the comment review letter dated October 6, 2008. Final approved Construction Documents for development shall be consistent with the approved Final Plat.

3. The Applicant shall pay ALL fees and costs incurred by the City and its consultants, including without limitation legal fees and costs, for review and processing of the Final Plat application within forty-five (45) days of receiving an invoice from the City. If the fees and costs are not paid within forty-five (45) days of receiving an invoice, the City may withhold issuance of building permits or further land use approvals for property within the Final Plat until the invoices have been paid.


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INTRODUCED, READ AND ADOPTED AT A SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES NORTH, COLORADO, THE 29th DAY OF OCTOBER, 2008.



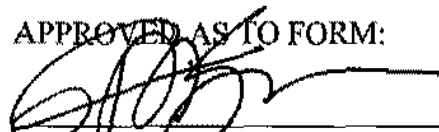
Maureen A. Shul, Mayor

ATTEST:



Douglas J. Gilbert
Interim City Clerk

APPROVED AS TO FORM:



Erin M. Smith
City Attorney

Exhibit A

Legal Description of the Property

LEGAL DESCRIPTION

LAGAE RANCH

A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF (S 1/2) OF SECTION 3, THE EAST ONE-HALF (E 1/2) OF SECTION 9 AND THE NORTH ONE-HALF (N 1/2) OF SECTION 10, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 3; THENCE N00°36'25"W ALONG THE WEST LINE OF THE SOUTH HALF OF SAID SECTION 3, BEING THE BASIS OF BEARINGS AND ALL BEARINGS CONTAINED BEING RELATIVE, A DISTANCE OF 1291.32 FEET; THENCE S89°31'01"E, A DISTANCE OF 778.70 FEET; THENCE S89°29'13"E, A DISTANCE OF 2707.69 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. 507°06'15"W, A DISTANCE OF 2174.99 FEET;
 2. 500°06'03"W, A DISTANCE OF 86.48 FEET;
- THENCE S70°55'23"W, A DISTANCE OF 1527.63 FEET; THENCE S86°20'43"W, A DISTANCE OF 2928.26 FEET; THENCE N01°53'42"W, A DISTANCE OF 1656.35 FEET; THENCE N88°54'13"E, A DISTANCE OF 1214.66 FEET TO THE TRUE POINT OF BEGINNING .

CONTAINING 248.861 ACRES OF LAND, MORE OR LESS.
THE AREA INCLUDES LAGAE ROAD AS RECORDED IN BOOK 2326 AT PAGE 1152.