

ORDINANCE NO. 23-01

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES, COLORADO
EXTENDING VESTED PROPERTY RIGHTS ASSOCIATED WITH A
FOURTH AMENDMENT TO THE CANYONS PLANNED
DEVELOPMENT AND A THIRD AMENDMENT TO THE CANYONS
ANNEXATION AND DEVELOPMENT AGREEMENT**

WHEREAS, the Canyons property consists of approximately 3,342 acres and is generally located in the southeast quadrant of Interstate I-25 and Hess Road (“Canyons Property”); and

WHEREAS, in 2009, the City of Castle Pines (“City”) annexed the Canyons Property, and approved initial zoning through the Canyons Planned Development (“Canyons PD”) via Ordinance No. 09-17; and

WHEREAS, in connection with annexation of the Canyons Property, North Canyons LLLP, a Colorado limited liability limited partnership (“Owner”), Judge Inc., a Colorado corporation (“Judge”), Canyons Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, and the City entered into that certain Annexation and Development Agreement dated October 22, 2009 (“Development Agreement”); and

WHEREAS, since 2009, portions of the Canyons Property have been sold, further subdivided and are in process of development; and

WHEREAS, in 2011, Judge conveyed all of its interest in the Canyons Property to the Owner; and

WHEREAS, through a First Amendment to the Canyons PD, the City previously approved a rezoning to allow for up to 1,000 additional multi-family residential units within Planning Areas 1, 2, and 3 and to increase and modify certain land dedication requirements; and

WHEREAS, in conjunction with the First Amended PD, the City and Owner executed a First Amended Development Agreement dated April 9, 2019 recorded in the Douglas County Clerk and Recorder’s office at Reception No. 2019029198 (“First Amended Development Agreement”); and

WHEREAS, through a Second Amendment to the Canyons PD, the City approved rezoning to allow for an additional 1,500 dwelling units within Planning Areas 10 and 12-19 along with increases and modifications to land dedication requirements (“Second Amended PD”); and

WHEREAS, in conjunction with the Second Amended PD Plan, the Owner and the City executed a second amendment to the Development Agreement dated January 13, 2020 recorded in the Douglas County Clerk and Recorder’s office at Reception No. 2020004049 (“Second Amended Development Agreement”); and

WHEREAS, through a Third Amendment to the Canyons PD, the City approved rezoning to allow schools as a permitted use in Planning Areas 7, 13 and 14, without an associated amendment to the Development Agreement (“Third Amended PD”); and

WHEREAS, the City, with the consent of the Owner, has submitted for approval to the City a fourth amendment to the Canyons PD to rezone Planning Areas D, E, and G, designated as Farm, to Planning Areas PA-20, PA-21, PA-22, and PA-23, to be designated as Community Benefit (“Fourth Amended PD”); and

WHEREAS, in conjunction with the Fourth Amended PD, the Owner and City have negotiated the terms of a third amendment to the Development Agreement (“Third Amended Development Agreement”), a copy of which is on file in the Castle Pines Community Development Department and is incorporated herein by reference; and

WHEREAS, the portion of The Canyons property affected by the Third Amended Development Agreement and Fourth Amended PD is legally described in Exhibit A, attached hereto and incorporated herein, and referred to herein as “the Property”; and

WHEREAS, in accordance with Section 6.3 of the Agreement, the Third Amended Development Agreement and Fourth Amended PD Plan may be processed as a site specific development plan in accordance with Section 34 of the City of Castle Pines Zoning Ordinance (“Zoning Ordinance”) and Section 24-68-101, C.R.S., *et seq.*; and

WHEREAS, the Owner wishes to pursue and obtain vested property rights for the duration of the vested rights term set forth in the Agreement (through December 29, 2049) through designation of the Fourth Amended PD and Third Amended Development Agreement as site specific development plans (collectively referred to herein as the “Site Specific Development Plan”); and

WHEREAS, public notice has been properly given of such proposed Site Specific Development Plan by publication in a newspaper of general circulation within the City of Castle Pines; and

WHEREAS, in accordance with the Zoning Ordinance, a public hearing was held before the City Council at which time evidence and testimony were presented to the City Council concerning said Site Specific Development Plan and the request to obtain vested property rights with respect thereto; and

WHEREAS, City Council has determined that the Fourth Amended PD Plan and Third Amended Development Agreement contain sufficient restrictions and are each sufficiently well-defined to justify vesting of each for a period in excess of three (3) years; and

WHEREAS, City Council further finds that the size of the development contemplated under the Fourth Amended Development Agreement and the Third Amended PD Plan, the

substantial investment and time required to complete the development of the Property, the potential for phased development and the possible impact of economic cycles and varying market conditions during the course of development justify vesting of the Fourth Amended PD Plan and Third Amended Development Agreement in excess of three (3) years; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to conduct a public hearing in order to provide staff, the Applicant, interested parties, and the public an opportunity to present testimony and evidence regarding the vested rights application; and

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects, or denies the proposed vested rights application.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines, Colorado:

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. The City Council hereby approves the Fourth Amended PD Plan and Third Amended Development Agreement collectively as a Site Specific Development Plan within the meaning of Section 24-68-102, C.R.S., and Section 34 of the Zoning Ordinance based on the following findings:

- a. The size of the Property will require phasing of the project over an extended period of time and therefore justifies the period of vested property rights; and
- b. The phasing and development of the project may be negatively impaired or affected by economic cycles and varying market conditions beyond the control of the owners and developers if vested property rights are not granted; and
- c. The owners and developers have already provided substantial investments in time, resources and money to develop the Canyons property as envisioned by the PD Plan and should be entitled to rely on previous City approvals as the property develops.

Section 3. Approval of the Site Specific Development Plan creates vested property rights pursuant to Section 24-68-103, C.R.S., and Section 34 of the Zoning Ordinance and in accordance with and subject to the terms of the Development Agreement.

Section 4. As provided in the Zoning Ordinance, notice of the approval and creation of vested property rights achieved through this Ordinance shall be made by publication no later than fourteen days following approval of this Ordinance.

Section 5. The vested property rights created by this Ordinance shall be vested and will continue until **December 29, 2049**.

Section 6. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 7. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Castle Pines, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. Publication and Effective Date. The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City’s official website and posting at the City Clerk’s office pursuant to Section 1-3-40 of the Municipal Code.

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 24th day of JANUARY, 2023.

READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day of FEBRUARY, 2023.



ATTEST:

Tobi Duffey

Tobi Duffey, MMC, City Clerk

Tracy Engerman

Tracy Engerman (Mar 1, 2023 23:23 MST)

Tracy Engerman, Mayor

Approved as to form:

Linda C Michow

Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on January 24, 2023; published by title only in the *Douglas County News-Press*, together with

the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on February 14, 2023”; and finally passed and adopted by the City Council on February 14, 2023, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on February 15, 2023.

ATTEST:



Tobi Duffey, MMC, City Clerk



Exhibit A
Legal Description of the Property
(attached)

A PARCEL OF LAND SITUATED IN SECTIONS 2, 3, 10, 11, 14 AND 15, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF CASTLE PINES, COUNTY OF DOUGLAS, STATE OF COLORADO, ALSO BEING A PORTION OF PARCEL 2A OF THE CANYONS SUPERBLOCK PLAT NO. 2, AMENDMENT NO. 1, AS RECORDED AT RECEPTION NO. 2021093665, IN THE RECORDS OF THE CLERK AND RECORDER'S OFFICE OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: BEARINGS ARE BASED UPON THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15 ASSUMED TO BEAR NORTH 89°20'06" WEST, A DISTANCE OF 1,306.50 FEET FROM THE NORTH-NORTH SIXTY-FOURTH CORNER COMMON TO SAID SECTIONS 14 AND 15 MONUMENTED BY A #5 REBAR WITH A 1-1/4"-DIAMETER YELLOW PLASTIC CAP, ILLEGIBLE, TO THE CENTER-NORTH-NORTHEAST SIXTY-FOURTH CORNER OF SAID SECTION 15, MONUMENTED BY A #6 REBAR WITH A 2"-DIAMETER ALUMINUM CAP, STAMPED "PLS 23515, 2002";

BEGINNING AT SAID CENTER-NORTH-NORTHEAST SIXTY-FOURTH CORNER;
THENCE ALONG THE WEST LINE OF SAID PARCEL 2A THE FOLLOWING TWENTY-FIVE (25) COURSES:

1. NORTH 01°02'28" WEST, A DISTANCE OF 674.06 FEET;
 2. NORTH 89°31'53" WEST, A DISTANCE OF 5.81 FEET;
 3. NORTH 02°06'30" EAST, A DISTANCE OF 89.03 FEET;
 4. NORTH 87°53'30" WEST, A DISTANCE OF 200.00 FEET;
 5. NORTH 80°46'00" WEST, A DISTANCE OF 403.10 FEET;
 6. NORTH 12°22'00" WEST, A DISTANCE OF 694.62 FEET;
 7. NORTH 15°42'55" EAST, A DISTANCE OF 286.49 FEET;
 8. NORTH 13°10'36" EAST, A DISTANCE OF 219.82 FEET;
 9. NORTH 64°02'52" WEST, A DISTANCE OF 145.35 FEET;
 10. NORTH 02°06'30" EAST, A DISTANCE OF 369.49 FEET TO A POINT OF TANGENT CURVATURE;
 11. NORTHERLY 997.96 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 11,360.00 FEET AND A CENTRAL ANGLE OF 5°02'00", SUBTENDED BY A CHORD WHICH BEARS NORTH 04°37'30" EAST, A DISTANCE OF 997.64 FEET;
 12. NORTH 07°08'30" EAST, A DISTANCE OF 1,478.18 FEET;
 13. NORTH 17°30'02" EAST, A DISTANCE OF 119.03 FEET;
 14. NORTH 36°16'28" EAST, A DISTANCE OF 78.57 FEET;
 15. NORTH 75°42'58" EAST, A DISTANCE OF 52.95 FEET;
 16. NORTH 38°27'09" EAST, A DISTANCE OF 78.12 FEET;
 17. NORTH 36°39'22" WEST, A DISTANCE OF 38.26 FEET;
 18. NORTH 60°50'11" WEST, A DISTANCE OF 62.80 FEET;
 19. NORTH 26°07'43" WEST, A DISTANCE OF 72.63 FEET;
 20. NORTH 07°08'30" EAST, A DISTANCE OF 540.25 FEET;
 21. SOUTH 83°30'59" EAST, A DISTANCE OF 299.66 FEET;
 22. NORTH 48°16'26" EAST, A DISTANCE OF 114.63 FEET;
 23. NORTH 24°38'27" WEST, A DISTANCE OF 293.06 FEET;
 24. NORTH 52°10'54" WEST, A DISTANCE OF 256.60 FEET;
 25. NORTH 07°08'30" EAST, A DISTANCE OF 358.01 FEET;
- THENCE THE FOLLOWING SIX (6) COURSES:
1. SOUTH 81°56'58" EAST, A DISTANCE OF 1,010.16 FEET;
 2. NORTH 22°10'52" EAST, A DISTANCE OF 381.35 FEET;

3. SOUTH 84°06'24" EAST, A DISTANCE OF 246.59 FEET;
 4. SOUTH 06°18'29" EAST, A DISTANCE OF 459.90 FEET;
 5. NORTH 84°06'50" EAST, A DISTANCE OF 693.89 FEET;
 6. SOUTH 66°23'53" EAST, A DISTANCE OF 220.70 FEET TO THE EAST LINE OF SAID PARCEL 2A, ALSO BEING A POINT OF NON-TANGENT CURVATURE;
- THENCE ALONG THE EAST AND SOUTH LINES OF SAID PARCEL 2A THE FOLLOWING TWENTY-THREE (23) COURSES:
1. SOUTHERLY 547.97 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 769.50 FEET AND A CENTRAL ANGLE OF 40°48'04", SUBTENDED BY A CHORD WHICH BEARS SOUTH 08°42'50" WEST, A DISTANCE OF 536.47 FEET;
 2. SOUTH 11°44'40" EAST, A DISTANCE OF 327.44 FEET TO A POINT OF TANGENT CURVATURE;
 3. SOUTHERLY 533.63 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 525.00 FEET AND A CENTRAL ANGLE OF 58°14'15", SUBTENDED BY A CHORD WHICH BEARS SOUTH 17°22'27" WEST, A DISTANCE OF 510.95 FEET;
 4. SOUTH 46°29'35" WEST, A DISTANCE OF 65.62 FEET TO A POINT OF TANGENT CURVATURE;
 5. SOUTHERLY 535.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 555.00 FEET AND A CENTRAL ANGLE OF 55°14'52", SUBTENDED BY A CHORD WHICH BEARS SOUTH 18°52'09" WEST, A DISTANCE OF 514.67 FEET;
 6. SOUTH 08°45'17" EAST, A DISTANCE OF 157.15 FEET TO A POINT OF TANGENT CURVATURE;
 7. SOUTHERLY 239.49 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 435.00 FEET AND A CENTRAL ANGLE OF 31°32'39", SUBTENDED BY A CHORD WHICH BEARS SOUTH 07°01'02" WEST, A DISTANCE OF 236.48 FEET;
 8. SOUTH 22°47'22" WEST, A DISTANCE OF 253.23 FEET TO A POINT OF TANGENT CURVATURE;
 9. SOUTHERLY 325.57 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 969.50 FEET AND A CENTRAL ANGLE OF 19°14'26", SUBTENDED BY A CHORD WHICH BEARS SOUTH 13°10'09" WEST, A DISTANCE OF 324.04 FEET;
 10. SOUTH 03°32'56" WEST, A DISTANCE OF 297.01 FEET TO A POINT OF TANGENT CURVATURE;
 11. SOUTHERLY 237.98 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 829.50 FEET AND A CENTRAL ANGLE OF 16°26'17", SUBTENDED BY A CHORD WHICH BEARS SOUTH 11°46'04" WEST, A DISTANCE OF 237.17 FEET;
 12. SOUTH 19°59'13" WEST, A DISTANCE OF 117.60 FEET TO A POINT OF TANGENT CURVATURE;
 13. SOUTHERLY 390.37 FEET ALONG THE ARC OF THE CURVE TO THE LEFT, HAVING A RADIUS OF 985.50 FEET AND A CENTRAL ANGLE OF 22°41'44", SUBTENDED BY A CHORD WHICH BEARS SOUTH 08°38'20" WEST, A DISTANCE OF 387.82 FEET, TO A POINT OF REVERSE CURVATURE;
 14. WESTERLY 52.23 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 35.00 FEET AND A CENTRAL ANGLE OF 85°30'14", SUBTENDED BY A CHORD WHICH BEARS SOUTH 40°02'35" WEST, A DISTANCE OF 47.52 FEET;
 15. SOUTH 82°47'42" WEST, A DISTANCE OF 87.86 FEET TO A POINT OF TANGENT CURVATURE;
 16. SOUTHWESTERLY 628.48 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 545.00 FEET AND A CENTRAL ANGLE OF 66°04'20", SUBTENDED BY A CHORD WHICH BEARS SOUTH 49°45'32" WEST, A DISTANCE OF 594.23 FEET;
 17. SOUTH 16°43'22" WEST, A DISTANCE OF 62.48 FEET;
 18. SOUTH 33°43'35" EAST, A DISTANCE OF 910.59 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 11;
 19. SOUTH 00°14'30" EAST CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 600.31 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 10;
 20. SOUTH 01°53'13" EAST ALONG THE EAST LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15, A DISTANCE OF 71.46 FEET;
 21. SOUTH 33°43'35" EAST, A DISTANCE OF 728.41 FEET TO THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF

SAID SECTION 14;

22. SOUTH 89°48'36" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 384.44 FEET TO SAID NORTH-NORTH SIXTY-FOURTH CORNER;

23. NORTH 89°20'06" WEST ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 15, A DISTANCE OF 1,306.50 FEET TO SAID CENTER-NORTH-NORTHEAST SIXTY-FOURTH CORNER, ALSO BEING THE POINT OF BEGINNING;

EXCEPT LOT 1 OF IREA HAPPY CANYON SUPERBLOCK PLAT AS RECORDED AT RECEPTION NO. 2014018961, IN THE RECORDS OF THE CLERK AND RECORDER'S OFFICE OF

THE COUNTY OF DOUGLAS, STATE OF COLORADO, BEING A PORTION OF SAID SECTIONS 10 AND 15, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT SAID SOUTHEAST CORNER OF SECTION 10; THENCE NORTH 51°09'32" WEST, A DISTANCE OF 125.83 FEET TO THE EASTERLY CORNER OF SAID LOT 1,

ALSO BEING THE **POINT OF BEGINNING**;

THENCE ALONG THE PERIMETER OF SAID LOT 1 THE FOLLOWING SIX (6) COURSES:

1. SOUTH 56°16'25" WEST, A DISTANCE OF 534.55 FEET;
2. NORTH 33°43'35" WEST, A DISTANCE OF 416.27 FEET;
3. NORTH 56°16'25" EAST, A DISTANCE OF 105.02 FEET;
4. NORTH 31°38'21" EAST, A DISTANCE OF 369.76 FEET;
5. NORTH 56°16'25" EAST, A DISTANCE OF 93.42 FEET;
6. SOUTH 33°43'36" EAST, A DISTANCE OF 570.40 FEET TO THE POINT OF BEGINNING;

THE ABOVE-DESCRIBED PARCEL CONTAINS A NET AREA OF 13,008,167 SQUARE FEET (298.626 ACRES), MORE OR LESS.