

ORDINANCE NO. 23-09

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES, COLORADO,
APPROVING THE PARKWAY PLAZA PLANNED DEVELOPMENT PLAN,
CASE NO. RPD-2022-002, AND AMENDING THE OFFICIAL ZONING MAP**

WHEREAS, Rick Engineering Company (the "Applicant"), on behalf of CP Commercial, LLC ("CP Commercial") and with the consent of the City of Castle Pines (the "City"), has applied to the City to rezone the approximately 10.325-acre property legally described in Exhibit A and generally located at the southwest intersection of Castle Pines Parkway and Lagae Road from Business (B) Zone District to Planned Development (PD) Zone District; and

WHEREAS, CP Commercial and the City each own a portion of the Property; and

WHEREAS, the application, Case No. RPD-2022-002, is accompanied by a planned development plan titled Parkway Plaza Planned Development (the "PD Plan"), a copy of which is on file with the Castle Pines Community Development Department and is incorporated herein by reference; and

WHEREAS, the PD Plan authorizes, among other things, Self-Storage Use on Lots 1A and 2A, Lagae Family Trust Minor Development Final Plat, Amendment No. 1, recorded at reception number 2022055309 of the Property (the "Self-Storage Project"); and

WHEREAS, public notice of the proposed rezoning of the Property has been properly given in accordance with the City of Castle Pines Zoning Ordinance ("Zoning Ordinance"); and

WHEREAS, in accordance with the Zoning Ordinance, a public hearing on the proposed rezoning was held before the Planning Commission at which time evidence and testimony concerning the rezoning proposal were presented to the Planning Commission, and following such hearing the Planning Commission provided a recommendation to City Council on the proposed rezoning; and

WHEREAS, in accordance with the Zoning Ordinance, a public hearing was held before City Council at which time evidence and testimony concerning the rezoning proposal were presented to City Council; and

WHEREAS, the record for this case includes, but is not limited to, the Zoning Ordinance, the City of Castle Pines Comprehensive Plan, as amended, and all other applicable ordinances, resolutions and regulations, together with the PD Plan, accompanying maps, reports, studies and all other submittals of the Applicant, any written evidence or correspondence submitted at the public hearing, and the staff report pertaining to this application; and

WHEREAS, the criteria of approval for the PD Plan set forth in Section 15 of the Zoning Ordinance require City Council to consider, among other things, whether the general impact of the

rezoning would adversely impact the provision of public facilities and services (“Criterion 1503.04”); and

WHEREAS, during the public hearing before City Council, the Applicant, on behalf of CP Commercial, acknowledged that the City’s general municipal operations and services is funded in large part by a sales and use tax imposed on taxable transactions and that the PD Plan’s Self-Storage Project would not generate sales tax revenues for the City; and

WHEREAS, to enable City Council to make a finding of compliance with Criterion 1503.04, the Applicant, on behalf of CP Commercial, voluntarily agreed during the public hearing before City Council to the condition of approval specifically set forth in subsection (1) of Section 2 of this Ordinance; and

WHEREAS, City Council has determined that the proposed rezoning and the PD Plan, subject to the conditions set forth in this Ordinance, further the public health, safety, convenience and general welfare of the community and meet the criteria of approval set forth in Section 15 of the Zoning Ordinance; and

WHEREAS, approval of this Ordinance on first reading is intended to confirm that the City Council desires to continue the public hearing in order to provide staff, the Applicant, interested parties, and the public an opportunity to present testimony and evidence regarding the 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 rezoning.

THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, ORDAINS:

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 rezoning of the Property from Business (B) Zone District to Planned Development (PD) Zone District and the PD Plan, subject to the following conditions, which shall be satisfied prior to recordation of the PD Plan:

- (1) To mitigate the costs incurred by the City for providing municipal services to the Self-Storage Project, CP Commercial shall execute a development agreement with the City pursuant to which CP Commercial shall voluntarily agree to make payments to the City based on a per storage unit fee. The development agreement shall be in a form and shall include such terms and conditions as are acceptable to City Council in its reasonable discretion. The failure of CP Commercial to satisfy this condition on or before ninety (90) days after the effective date of this Ordinance, shall be deemed a violation of the Zoning Ordinance. If such a violation occurs, the City may avail itself to the remedies and penalties provided for in the

Zoning Ordinance and may also initiate a rezoning of the Property back to the Business (B) Zone District without objection from the Applicant and CP Commercial.

- (2) The Applicant and CP Commercial shall pay all fees and costs incurred by the City and its consultants in review and processing of the application prior to recordation of the PD Plan.
- (3) The Applicant and CP Commercial shall resolve and correct any minor technical issues as directed by City staff.
- (4) Any conditions of approval made by motion of City Council.

Section 3. The Zoning Map of the City of Castle Pines shall be amended to conform to and incorporate the PD Plan.

Section 4. 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 5. 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 6. 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 11th day of JULY, 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 8th day of AUGUST, 2023.


Tracy Engerman (Aug 24, 2023 10:41 MDT)

Tracy Engerman, Mayor



ATTEST:

Tobi Duffey, MMC, City Clerk

Approved as to form:

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 July 11, 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 July 25, 2023”; and finally passed and adopted by the City Council on August 8, 2023, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on June 7, 2023.

ATTEST:

Tobi Duffey, MMC, City Clerk

Exhibit A
Legal Description of the Property

Lots 3, 4, 5, 6, and Tract A, Lagae Family Trust Minor Development, and
Lots 1A and 1B, and Tract B, Lagae Family Trust Minor Development, Amendment No. 1.

The Property also is legally described as follows:

PARCEL LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 7 SOUTH, RANGE 87 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS:

BEARINGS ARE BASED ON THE THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, BEING CONSIDERED TO BEAR NORTH 00°36'25" WEST, A DISTANCE OF 2521.89 FEET BETWEEN THE FOLLOWING DESCRIBED MONUMENTS:

—THE WEST QUARTER CORNER OF SAID SECTION 3 BEING A FOUND 3.25" ALUMINUM CAP PLS 10734 MATCHING MONUMENT RECORD FILED 7/31/17.

—THE SOUTHWEST CORNER OF SAID SECTION 3 BEING A FOUND 3.25" ALUMINUM CAP PLS 14168 MATCHING MONUMENT RECORD FILED 8/6/90.
COMMENCING AT SAID WEST QUARTER CORNER;

THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 3 SOUTH 00°36'25" EAST, A DISTANCE OF 780.62 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF CASTLE PINES PARKWAY AND THE POINT OF BEGINNING;

THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1,250.00 FEET, A CENTRAL ANGLE OF 24°42'26", WHOSE CHORD BEARS SOUTH 81°40'58" EAST A DISTANCE OF 534.87 FEET, FOR A DISTANCE OF 539.04 FEET TO THE WESTERLY END OF THAT PARCEL DESCRIBED AT RECEPTION NO. 01066669;

THENCE ALONG THE WESTERLY AND SOUTHERLY LINE OF SAID PARCEL THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. THENCE SOUTH 33°49'41" EAST, A DISTANCE OF 13.80 FEET;
2. THENCE ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1,262.00 FEET, A CENTRAL ANGLE OF 17°32'32", WHOSE CHORD BEARS NORTH 76°52'50" EAST A DISTANCE OF 384.88 FEET, FOR AN ARC DISTANCE OF 386.39 FEET TO THE NORTHWEST CORNER OF THAT PARCEL DESCRIBED AT RECEPTION NO. 2019053545;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL THE FOLLOWING SEVEN (7) COURSES AND DISTANCES:

1. THENCE SOUTH 62°31'19" EAST, A DISTANCE OF 9.61 FEET;
2. THENCE SOUTH 69°24'31" EAST, A DISTANCE OF 6.00 FEET;
3. THENCE NORTH 88°52'56" EAST, A DISTANCE OF 9.99 FEET;
4. THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 144.50 FEET, A CENTRAL ANGLE OF 11°58'20", WHOSE CHORD BEARS SOUTH 51°27'31" EAST A DISTANCE OF 30.14 FEET, FOR AN ARC DISTANCE OF 30.19 FEET;
5. THENCE SOUTH 37°43'12" EAST, A DISTANCE OF 29.08 FEET;
6. THENCE SOUTH 34°01'33" EAST, A DISTANCE OF 128.19 FEET;
7. THENCE SOUTH 41°26'10" EAST, A DISTANCE OF 90.74 FEET TO THE SOUTHERLY POINT OF SAID PARCEL AND THE WESTERLY RIGHT-OF-WAY OF LAGAE ROAD;

THENCE ALONG SAID RIGHT-OF-WAY SOUTH 33°49'34" EAST, A DISTANCE OF 285.20 FEET TO THE NORTHERLY LINE OF TRACT Q, LAGAE RANCH FILING 1, FIRST AMENDMENT, RECEPTION NO. 2017072361, BEING ALSO THE NORTHERLY LINE OF LAGAE RANCH FILING 1, RECEPTION NO. 200802081;

THENCE ALONG SAID NORTHERLY LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. THENCE NORTH 89°29'13" WEST, A DISTANCE OF 484.39 FEET TO THE NORTHWEST CORNER OF SAID TRACT Q;
2. THENCE CONTINUING ALONG SAID NORTHERLY LINE OF LAGAE RANCH FILING 1 NORTH 89°31'01" WEST, A DISTANCE OF 778.70 FEET TO SAID WESTERLY LINE OF THE SOUTHWEST QUARTER;

THENCE ALONG SAID WESTERLY LINE NORTH 00°36'25" WEST, A DISTANCE OF 450.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 449,745 SQUARE FEET OR 10.325 ACRES, MORE OR LESS.