

ORDINANCE NO. 2184

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO APPROVING AN APPLICATION TO REZONE AN APPROXIMATELY 12.4 ACRE PROPERTY GENERALLY LOCATED AT 600 9TH STREET FROM C-1, C-2, AND M-2 TO PLANNED UNIT DEVELOPMENT (PUD) DISTRICT AND APPROVING THE COORSTEK 9TH STREET PUD OFFICIAL DEVELOPMENT PLAN.

WHEREAS, CoorsTek, Inc., 711 Washington Investment, LLC, and 612 10th Street Investment, LLC (collectively, the “Property Owners”), have submitted an application to rezone approximately 12.4 acres of property generally located south of 7th Street, east of Washington Avenue, north of 10th Street, and west of Ford Street and generally described as 600 9th Street (the “Subject Property”), from C-1, C-2, and M-2 to Planned Unit Development (PUD) district and to obtain approval of the Coorstek 9th Street PUD Official Development Plan (the “Coorstek ODP” and, together with the rezoning request, the “Application”); and

WHEREAS, the Property Owners are the fee owner of the Subject Property; and

WHEREAS, on July 22, 2021, in accordance with Section 18.48.020 of the City of Golden Municipal Code (the “Code”), a properly noticed neighborhood meeting was held on the proposed rezoning; and

WHEREAS, pursuant to Section 18.48.040 of the Code, the Planning Commission of the City of Golden (the “Commission”) held a public hearing on the Application on February 2, 2022, which hearing was continued to February 23, 2022, April 6, 2022, April 18, 2022, and April 28, 2022; and

WHEREAS, on April 28, 2022, the Commission adopted Resolution PC21-12a, recommending approval with conditions of the Application; and

WHEREAS, after reviewing the record of the Commission public hearing, and after considering the testimony, evidence and argument presented at the City Council public hearing, City Council finds and determines that the Application is complete, that the Applicant has met the procedural requirements for rezoning contained in Section 18.28.320 and Chapter 18.48 of the Code, and that the Application meets the standards set forth in Sections 18.28.350 (Standards for approval of ODP) and 18.48.060 (Standards for zoning and rezoning) of the Code; and

WHEREAS, Article 68 of Title 24, C.R.S., as amended, and Chapter 18.66 of the Code (collectively, the “Vested Property Rights Regulations”) provide for the establishment of vested property rights through approval of a site specific development plan, and further provide that what constitutes a site specific development plan shall be determined by City Council either pursuant to ordinance or regulation or upon agreement entered into by City Council and the landowner; and

WHEREAS, the Vested Property Rights Regulations authorize City Council to enter into an agreement with a landowner providing that property rights shall be vested for a period

exceeding three years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions; and

WHEREAS, simultaneously with this ordinance, City Council is considering Ordinance No. 2186—“An Ordinance of the City Council of the City of Golden, Colorado Approving a Vesting Agreement For Coorstek 9th Street PUD Official Development Plan” (the “Vesting Agreement Ordinance”) which, if approved, will establish the Coorstek ODP and the Vesting Agreement For Coorstek 9th Street PUD Official Development Plan (the “Vesting Agreement”) as a site specific development plan and create vested property rights to develop the Subject Property in the manner contemplated by the Vesting Agreement and Sections I and II of the Coorstek ODP; and

WHEREAS, public notices of the public hearings before the Commission and City Council were properly given by, as applicable, posting the Subject Property, publication in a newspaper of general circulation within the City, and notification of nearby owners and residents in accordance with applicable provisions of Chapter 18.28, Chapter 18.48, and Section 18.66.030 of the Code.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. City Council adopts the Planning Commission’s findings of fact in this case, as detailed in the Resolution PC21-12a.

Section 2. The above Recitals of the City Council are hereby incorporated into this ordinance.

Section 3. The zoning classification of the Subject Property is hereby rezoned from C-1, C-2 and M-2 to PUD district.

Section 4. The CoorsTek 9th Street Official Development Plan, attached hereto as **Exhibit A**, is hereby approved, subject to the following conditions of approval:

- a. Amend “Legal Descriptions” on Sheet 01 of the Coorstek ODP to include the legal description for the alley vacated by Ordinance 2185, which ordinance was approved by City Council simultaneously with this ordinance, and otherwise update said legal descriptions to accurately reflect all prior alley and street vacations.
- b. Amend Subsection V.B.7 of Sheet 02 of the Coorstek ODP with the addition of the following underlined language: “‘Workforce Housing’ means a Dwelling Unit that is either rented or owned that is restricted to households with an annual income of between eighty and one hundred twenty percent of AMI or lower and for which a household pays no more than 30% of its gross income for housing costs. In order for a

Dwelling Unit to be considered Workforce Housing, it must be subject to a Restrictive Covenant.”

- c. Amend Subsection V.C.3 of Sheet 02 of the Coorstek ODP with the addition of the following underlined language: “The Workforce Housing may be provided via any individual or combination of the following delivery methods: (a) new construction, whether as a stand-alone project or as part of a larger project; (b) acquisition of existing Market Rate Dwelling Units, and subjecting the same to a Restrictive Covenant; and/or (c) cash in-lieu payment by the Owners to a City of Golden specified fund dedicated to the provision of Workforce Housing in an amount equal to an in-lieu fee adopted by the City for that purpose, or, if no such fee has been adopted, then in an amount mutually agreed upon between the Owners and the City as being sufficient to deliver the required Workforce Housing. Any required Workforce Housing delivered pursuant to subsection (b) above must meet the housing quality standards in Title 24, Section 928.401 of the Code of Federal Regulations.”
- d. Amend Subsection VIII.C.5.a of Sheet 03 of the Coorstek ODP with the addition of the underlined language and deletion of the stricken language: “On-site Photovoltaics (PV): Photovoltaic energy shall be installed within the District to meet a minimum of 10% of the District buildings’ total modeled annual electrical consumption. This standard may be achieved through an alternative approach with the approval of the Director Planning Commission. Compliance with this standard shall be required in connection with the completion of each Phase.”
- e. Amend Subsection VIII.C.5.c of Sheet 03 of the Coorstek ODP with the addition of the underlined language and deletion of the stricken language: “Building Electrification: All newly constructed buildings within the District shall use electricity for HVAC, water heating, and residential use cooking. Natural gas shall only be allowed for commercial cooking operations, energy backup generation, and commercial process uses (i.e., labs, brewery operations, etc.). ~~No onsite fossil fuels shall be used for the foregoing purposes.~~”
- f. Any vested property rights contemplated by the Coorstek ODP, including Section I and II of the Coorstek ODP, shall be established only upon approval by City Council of the Vesting Agreement Ordinance and Vesting Agreement; and, prior to and as a condition of recordation of the Coorstek ODP, the Property Owners shall revise the Coorstek ODP as directed by City staff to ensure the Coorstek ODP is consistent with City Council’s decision on the Vesting Agreement Ordinance and Vesting Agreement and the finally-approved terms and conditions of the Vesting Agreement.
- g. Prior to and as a condition of recordation of the Coorstek ODP, the Property Owners shall resolve and make any technical and grammatical corrections to the Coorstek ODP as directed by City staff.

- h. Amend Section V of Sheet 02 of the Coorstek ODP with the addition of the following provision: “If the City adopts a policy requiring workforce or affordable housing or an in-lieu, impact, or similar fee for the funding of workforce or affordable housing (a “City Housing Policy”) that would apply to the District but for the Vested Property Rights, then upon expiration of the term of the Vested Property Rights as to this Section V, the Owners shall be required to complete delivery of all Workforce Housing Units that were triggered prior to the expiration of said term in accordance with the terms and conditions of this Section V unless the City and Owners otherwise agree. For purposes of this provision, Owners’ obligation to deliver a Workforce Housing Unit shall be deemed “triggered” upon, as applicable, the date of the City’s approval of a site development plan for the triggering Market-Rate Dwelling Units (or if a site development plan is not required for said units, then approval of a building permit for said units) or the date of completion of each of Phases One, Two, and Three (provided such completion date occurred on or before the expiration date of the term of the Vested Property Rights). In addition, any Workforce Housing Dwelling Units or cash in-lieu payment provided by Owners under this Section V shall be credited against any workforce or affordable housing or in-lieu, impact, or similar fee requirements imposed within the District under a City Housing Policy following expiration of the term of the Vested Property Rights as to this Section V in a reasonable amount mutually agreed upon by the Director and Owners.”
- i. Amend Section V of Sheet 02 of the Coorstek ODP to require (rather than allow as an option) payment by Owners of a cash-in-lieu of nine (9) Workforce Housing Dwelling Units, which payment shall be made at the time of issuance of the certificate of occupancy for the first building in Phase 1. The cash-in-lieu fee shall be equal to an in-lieu fee adopted by the City; provided, however, that the total cash-in-lieu payment for nine (9) Workforce Housing Dwelling Units shall not exceed \$3,150,000.00.
- j. Amend Section V of Sheet 02 of the Coorstek ODP to require that Owners provide a performance bond to ensure compliance with any Workforce Housing requirements triggered during Phase 4 of the development. The performance bond shall be provided by Owners to the City at the time of site development plan approval for the triggering Market-Rate Units (or, if a site development plan is not required for said units, then at the time of building permit approval for said units).
- k. Amend Subsection VI.C.2 of Sheet 02 of the Coorstek ODP with the addition of the underlined language and deletion of the stricken language: “The total budget for District Art (the “District Art Budget”) shall equal the greater of \$1,500,000.00 ~~\$750,000~~ or 2% of the total hard costs spent on construction of the first new building constructed in the District, which amount shall be established at the time of issuance of a certificate of occupancy for such building.”

Section 5. This ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 6. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 7. The repeal or modification of any provision of the Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 8. Effective Date. This ordinance shall become effective five (5) days after publication following final passage in accordance with Section 5.9 of the Charter for the City of Golden, Colorado.

INTRODUCED, READ, AND PASSED AS AN ORDINANCE, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, the 24th day of May, 2022.

READ, PASSED, AND ADOPTED AS AN ORDINANCE ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, the 7th day of June, 2022.

Laura M. Weinberg
Mayor

ATTEST:

Monica S. Mendoza, CMC
City Clerk

APPROVED AS TO FORM:

Kathie Guckenberger
City Attorney

I, Monica S. Mendoza, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular business meeting of the City Council of said city, held on the 24th day of May, 2022 and was published as a proposed ordinance on the city website as the law directs seven days or more prior to its passage. A public hearing was held on the 7th day of June, 2022, and the said proposed ordinance was read on second reading. The ordinance was passed by the City Council and ordered published on the City of Golden website, as the law directs on the 7th day of June, 2022.

Witness my hand and official seal of the City of Golden, Colorado, on the 7th day of June, 2022.



ATTEST:

MONICA S. MENDOZA

Monica S. Mendoza, City Clerk of the City of Golden,
Colorado

EXHIBIT A
COORSTEK ODP

(ATTACHED)