



ORDINANCE NO. 3.101

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE TOWN OF LARKSPUR, AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT IN CONNECTION THEREWITH, AND ZONING SUCH LANDS BY APPROVING THE PLANNED DEVELOPMENT PLAN AND GUIDE FOR BEAR VIEW PLANNED DEVELOPMENT AND DIRECTING THAT THE LARKSPUR ZONING MAP BE AMENDED ACCORDINGLY

WHEREAS, Ian I. W. Steyn Trust, a Colorado Trust (“Steyn”) and Bear View LLC, a Colorado limited liability company (“Bear View”) (Steyn and Bear View are referred to collectively, as “the Applicant”) filed with the Town Clerk a Petition For Annexation dated November 5, 2008 (“the Petition”) seeking to annex certain lands described in the Petition (“the Property”) to the Town of Larkspur, Colorado. A description of the Property is attached as Exhibit A; and

WHEREAS, on November 5, 2008, the Town Council of the Town of Larkspur, Colorado adopted Resolution No. 08-15 and set the matter for a public hearing on December 18, 2008 to determine whether the proposed annexation complied with Section 31-12-104 and Section 31-12-105, C.R.S., or such parts thereof as may be required to establish eligibility under the terms of Section 31-12-101, C.R.S., et seq.; and

WHEREAS, on December 18, 2008 the public hearing was continued, with the consent of the Applicant, and from time to time thereafter to and including December 17, 2009 to consider whether the Property should be annexed to the Town of Larkspur, Colorado; and

WHEREAS, the Town Council incorporates herein its findings and conclusions contained in Resolution 9-13, as if fully set forth herein; and

WHEREAS, on December 17, 2009, after a public hearing, the Town Council of the Town of Larkspur, Colorado adopted Resolution 9-13 finding and concluding, *inter alia*, that the Property is eligible for annexation to the Town of Larkspur, Colorado; and

WHEREAS, in connection with the Petition, the Applicant and the Town have negotiated an Annexation and Development Agreement, as of December 17, 2009 (“the Annexation Agreement”), a copy of which is available for review in the office of the Town Clerk; and

WHEREAS, the Council concludes that it is in the best interest of the Town to annex the Property to the Town; and

WHEREAS, in connection with the annexation of the Property, the Applicant has requested that the Property be zoned as a Planned Development District and toward that end has submitted a Planned Development Plan and Guide for Bear View Planned Development (“the Plan and Guide”), copies of which are available for review in the office of the Town Clerk; and

WHEREAS, the Plan and Guide were reviewed by the Town of Larkspur Planning Commission and on October 12, 2009 the Planning Commission adopted Resolution 2009-10-12, recommending that the Town Council deny the Plan and Guide; and

WHEREAS, as part of its public hearing to consider whether the Property should be annexed to the Town of Larkspur, the Town Council of the Town of Larkspur has also considered whether the Plan and Guide should be approved;

THE TOWN COUNCIL HEREBY FINDS AS FOLLOWS:

1. The Council conducted a public hearing pursuant to proper notice, commencing on June 4, 2009 and continuing thereafter from time to time to and including December 17, 2009, at which time the Council considered the Application, the recommendation of the Planning Commission, the evidence presented by the Applicant and the public comment relating thereto. The Council's considerations and determination are based on those hearings and the written and graphic materials provided by the Applicant.
2. The Plan and Guide are in substantial conformance with the Larkspur Comprehensive Plan, also referred to as the Larkspur Master Plan, as amended.
3. The Plan and Guide comply with the Colorado Planned Unit Development Act of 1972, §§24-67-101, et seq., Colorado Revised Statutes.
4. The Plan and Guide are in the best interests of the Town because they:[Select 1 or more of the following that apply:]
 - a. Provide necessary commercial, recreational, and educational facilities.
 - b. Ensure that the uniform treatment of dwelling type, bulk, density, and open space within each zoning district will not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the zoning laws.
 - c. Encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings.
 - d. Encourage a more efficient use of land and of public services, or private services in lieu thereof, and reflect changes in the technology of land development.
 - e. Conserve the value of the land.
 - f. Provides a procedure which can relate the type, design, and layout of commercial development to the particular site, thereby encouraging preservation of the site's natural characteristics.
 - g. Encourage integrated planning or order to achieve the above benefits.
5. The Plan and Guide will allow greater flexibility and innovations in the development and site designs than is typically possible under the conventional zone district regulations.
6. The foregoing findings are made by the Town Council provided that the following terms and conditions are applied to the Plan and Guide:
 - a. All fees and costs shall be paid before the annexation ordinance and map are recorded

with Douglas County Clerk and Recorder.

- b. Town staff will complete a technical review and cleanup of the Annexation Agreement dated December 17, 2009 and the Planned Development Guide with Exhibits dated December 15, 2009 applying corrections and changes as presented by the Town Planner, Town Attorney, and Applicant's Attorney by email memorandum and using the Existing Uses Notebook as a deciding document.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LARKSPUR HEREBY ORDAINS AS FOLLOWS:

1. The property described in Exhibit A, attached hereto and incorporated herein by reference, shall be and hereby is annexed to, incorporated in and made a part of the Town of Larkspur, Colorado, subject to the terms and conditions of the Annexation and Development Agreement.
2. The annexation of such property to the Town of Larkspur shall be complete and effective on the effective date of this ordinance, subject to the terms and conditions of the Annexation and Development Agreement, except for the purpose of General Property Taxes, and shall be effective as to General Property Taxes on and after the first day of January, 2010.
3. The Mayor is hereby authorized and directed to enter into and execute the Annexation and Development Agreement on behalf of the Town of Larkspur.
4. The Plan and Guide for the Bear View Planned Development District is hereby approved, subject to the following conditions:
 - a. Town staff will complete a technical review and cleanup of the Annexation Agreement dated December 17, 2009 and the Planned Development Guide with Exhibits dated December 15, 2009 applying corrections and changes as presented by the Town Planner, Town Attorney, and Applicant's Attorney by email memorandum and using the Existing Uses Notebook as a deciding document.
5. The Town Clerk is hereby directed to record this Ordinance, the Annexation Agreement, and the Plan and Guide associated with the Bear View Planned Development District with the Douglas County Clerk and Recorder.
6. Repeal

Existing ordinances or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

7. Validity

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town of Larkspur hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

8. Effective Date

Annex Ord-12.16.09

Pursuant to the provisions of Section 3.14 of the Larkspur Town Charter, this ordinance shall take effect five (5) days after posting. The Clerk is directed to post the ordinance the day following its approval.

INTRODUCED, PASSED AND ADOPTED AT A SPECIAL MEETING OF THE TOWN COUNCIL OF THE TOWN OF LARKSPUR AFTER PUBLIC HEARING AND SIGNED THIS 17th DAY OF DECEMBER, 2009.

Votes Approving:	<u>7</u>
Votes Opposed:	<u>0</u>
Absent:	<u>0</u>
Abstained:	<u>0</u>

ATTEST:

**TOWN COUNCIL OF THE
TOWN OF LARKSPUR, COLORADO**

_____/s/_____
Manfred Krimmer
Town Clerk

By: _____/s/_____
Sherilyn West
Mayor

POSTED BY MK
12/18/09