

*Summertest*

AN ORDINANCE RELATIVE TO THE FINAL REZONING TO  
P.U.D. OF CERTAIN REAL PROPERTY LOCATED WITHIN THE  
TOWN OF LARKSPUR, COLORADO

WHEREAS, the Town Planning Commission and Town Council have previously held a public hearing, at which time they approved the provisional rezoning to Planned Unit Development (P.U.D.) of certain real property located within the Town of Larkspur, which property is legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, application has been duly made to the Town of Larkspur to finally zone a portion of the Property, which portion is legally described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Exhibition Area").

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR, COLORADO:

Section 1. The zoning classification of the Exhibition Area is hereby changed to zoning classification P.U.D., and the official zoning district map of the Town of Larkspur shall be amended accordingly.

Section 2. Consistent with the final site plan attached hereto as Exhibit "C" and incorporated herein by this reference, and with the provisional zoning currently approved for the Exhibition Area, the Exhibition Area shall have the following permitted uses:

1. Live entertainment, arts, crafts, trade exhibition and seminars.
2. Theme related equestrian events.
3. Sales and preparation facilities for food and drink (on site activity only).

4. Administrative offices, workshops, equipment storage facilities.
5. Ticket sales facilities.
6. Shops and stands for sale of activity related items.
7. Stages and backdrops for theatrical performances.
8. Playgrounds and gaming areas.
9. Principal identification signs not extending more than 35 feet above ground level and not over 300 sq. feet in size.
10. Directional and identifying signs as needed (not to exceed 50 sq. feet per sign).

Section 3. By approval of this ordinance, the Town Council acknowledges receipt of Thirteen Thousand Two Hundred Sixty Dollars and 00/100 (\$13,260.00) from the owner of the Property, as full and total satisfaction of said owner's cash-in-lieu dedication payment for annexation and zoning of the Property. The Town Council also acknowledges receipt of a warranty deed by which the owner of the Property has dedicated approximately 1.497 acres to the Town, said acreage constituting a 20 ft. strip of land from the Renaissance Festival property along Perry Park Road.

Section 4. The owner of the Property shall obtain all necessary approvals of the driveway to the Property, and shall construct said driveway and make improvements to Perry Park Road consistent with the driveway plan attached hereto as Exhibit "D" and incorporated herein by this reference. Construction of the driveway and improvements, including necessary drainage improvements, shall be completed on or before October 1, 1984.

Section 5. The Town does not, by virtue of approving this ordinance, grant approval to the owner of the Property to build permanent structures on the Property, and no building permit shall be issued the owner of the Property, his successors or assigns, prior to the Town's approval of building plans. Any application to build permanent structures shall be processed as an amendment to the finally-approved P.U.D. site plan.

Section 6. If, pursuant to Paragraph 6.10 of the annexation contract entered into between the Town and the owner of the Property dated May 16, 1984, the extension of the Town's water system to the Property is required, the owner of the Property, and his successors and assigns, shall submit construction plans for such extension to the Town's Engineer on or before January 15, 1985, and shall commence construction of such extension on or before April 15, 1985, weather permitting.

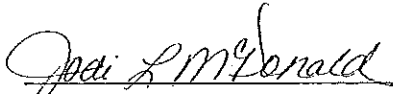
Section 7. The owner of the Property, and his successors and assigns, shall implement those measures indicated by the drainage study, traffic study, emergency medical contract, and security proposal submitted to the Town of Larkspur prior to conducting festival activities after 1984.

Section 8. The owner of the Property, and his successors and assigns, shall indemnify the Town from any and all loss and damage Town may suffer as a result of claims, demands, costs, including any costs occasioned by a condemnation action, or judgments against it arising out of the existence of certain deeds of trust encumbering property dedicated and conveyed by the owner of the Property to the Town.

Section 9. By reason of the fact that the Town of Larkspur is in need of additional ground water resources and that this ordinance will promote the acquisition of additional ground water resources, it is hereby declared that an emergency exists, and this ordinance is necessary for the preservation of the public peace, health, and safety and that it shall take effect upon adoption.

INTRODUCTED, READ, ADOPTED, and ORDERED PUBLISHED this 25<sup>th</sup> day of July, 1984.

ATTEST:

  
Town Clerk


  
Mayor

EXHIBIT "A"

A tract of land situated in Sections 29 and 32, Township 9 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the center 1/4 corner of above said Section 32 and considering the East-West centerline of above said Section 32 to bear S 89°16'51"E with all bearings contained herein relative thereto;

Thence S 89°16'51"E along said centerline a distance of 1420.59 feet to the true point of beginning;

Thence N 1°01'08"E a distance of 3093.33 feet to the South Right of Way line of County Road No. 60;

Thence Easterly along said Right of Way line for the following 3 courses:

1. Thence S 74°15'34"E a distance of 852.46 feet;
2. Thence S 49°51'26"E a distance of 23.21 feet;
3. Thence S 41°30'21"E a distance of 597.86 feet to the East line of Section 32;

Thence S 1°01'08"W a distance of 2414.92 feet to the East 1/4 corner of Section 32;

Thence N 89°16'51"W a distance of 1246.60 feet to the point of beginning;

Containing 82.10 acres, more or less.

EXHIBIT "B"

A tract of land situated in Section 32, Township 9 South, Range 67 West of the 6th Principal Meridian, Town of Larkspur, Douglas County, Colorado, more particularly described as follows: Commencing at the center 1/4 corner of above said Section 32 and considering the East-West centerline of said Section 32 to bear S 89°16'51"E with all bearings contained herein relative thereto; thence S 89°16'51"E along said centerline a distance of 1420.59 feet; thence N 1°01'08"E a distance of 440.00 feet to the true point of beginning; thence continuing N 1°01'08"E a distance of 1461.44 feet to the South line of the Colorado Summerfest parking area; thence S 88°58'52"E along said South line a distance of 1246.58 feet to the East line of Section 32; thence S 1°01'08"W along said East line a distance of 800.00 feet; thence N 88°58'52"W a distance of 630.00 feet; thence S 1°01'08"W a distance of 661.44 feet; thence N 88°58'52"W a distance of 616.58 feet to the true point of beginning; containing 32.257 acres, more or less.

AGREEMENT

THIS AGREEMENT is made by and between the TOWN OF LARKSPUR, a Colorado municipal corporation, P.O. Box 53, Larkspur, Colorado, (hereinafter referred to as the "Town"), RAYMOND O. MITHUN, JR., 3266 Robinson's Bay Rd., Wayzata, Minnesota, 55391, (hereinafter referred to as "Mithun") and COLORADO RENAISSANCE FESTIVALS, INC., 1720 Terrace Drive, St. Paul, Minnesota, 55113 (hereinafter referred to as ("Renaissance") (hereinafter collectively referred to as the "Parties").

WHEREAS, Mithun is the fee simple owner of certain property recently annexed into the Town, which property is legally described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter the "Land"); and

WHEREAS, as a condition to the annexation of the Land by the Town, and as a prerequisite to final P.U.D. zoning approval, Mithun is required by Town Ordinance and that certain Annexation Contract executed by Mithun and Town on May 16, 1984 (the "Contract") to pay certain fees prior to receiving water service from Town; and

WHEREAS, by means of a License Agreement between the Town and Renaissance (as Mithun's lessee) dated April 26, 1980, ("Renaissance Agreement"), certain rights and duties were established relating to the ownership and use of the non-tributary ground water underlying the property leased by Renaissance ("Renaissance Site"); and

WHEREAS, the Town and Mithun by means of the Contract established certain rights and duties relating to the ownership and use of the non-tributary ground water underlying the Land, thereby altering in certain respects the arrangement set out in the Renaissance Agreement; and

WHEREAS, the Town, Mithun, and Renaissance are desirous of more clearly setting forth their collective understanding regarding the payment of water-related fees by Mithun, and regarding the use of the non-tributary ground water underlying the Renaissance Site and the Land;

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. System Development and Tap Fees. Mithun agrees to pay to Town the sum of Nine Thousand One Hundred and 00/100 Dollars (\$9,100.00), in satisfaction of the Town's system development and tap fees established by Town's Ordinance No. 5.07. Said payment shall entitle Mithun to two 3/4" water taps through which Mithun may draw up to and including 325,829 gallons of water per year for use on the Land at a rate not to exceed ten gallons per minute. The Nine Thousand One Hundred and 00/100 Dollars (\$9,100.00) fee shall be due and payable upon connection to the Town's water system, except that, in the event the Nine Thousand One Hundred and 00/100 Dollars (\$9,100.00) fee is not paid on or before June 1, 1985, the amount of the system development and tap fees shall be subject to renegotiation. So long as use of the Land does not generate a demand for water in excess of this amount, no additional charge shall be imposed by the Town for system development or water taps. At such time as use of the Land generates a demand for water in excess of 325,829 gallons of water per year or at a rate in excess of ten gallons per minute, Mithun shall be required to purchase such additional taps as may be necessary to serve the Land, at then current Town rates.

2. Water Dedication and Reservation. In consideration of inclusion and use of the Land in the Town, Mithun has, by deed dated May 16, 1984, conveyed to the Town all right, title, and interest in the non-tributary water underlying the Land. In accordance with §6.3 of the Contract, while it is agreed that the water so deeded becomes part of the Town's water supply, subject to use at any location within the Town as demand dictates, an amount of water equal to fifty (50) acre feet of water per year or fifty (50) percent of the water actually produced or attributable to production from the Land and the Renaissance Site, whichever is less, shall be allocated to provide water service to the Land and the Renaissance Site. The intent of this reservation is to preserve to the Land and to the Renaissance Site sufficient water to permit these properties to be utilized in a manner which would require greater volumes of water than are necessary to serve the Renaissance Site and the Land as they are currently zoned. Nothing in this paragraph shall be construed to preclude Town from fully using water which has been dedicated to Town by Mithun at any location within the Town as demand dictates, prior to such time as the Town approves an amendment to or change in the zoning classification of either the Renaissance Site or the Land which would necessitate additional water service to either property.

3. Timing of Additional Water Delivery Town shall take all necessary actions and shall utilize its best efforts to make available any additional water required by a different land use, up to the maximum amount which is to be allocated to the Land or to the Renaissance Site, within twelve (12) months after zoning approval or such longer period as is necessitated by the well permit approval process, construction of any additions to the Town's municipal water system necessary to serve either property, or by any other cause which is beyond the Town's control. Any additional fee required of Mithun as a result of increased water usage shall be paid prior to the construction of any new water system facilities which are necessitated by Mithun's increased water usage.

4. Existing Renaissance Site Water Licensing Agreement. It is understood and agreed that, to the extent the provisions of this Agreement are inconsistent with the License Agreement dated April 12, 1980, recorded in the Douglas County Clerk's office at Book 386, Page 711, the provisions of this Agreement shall control. Specifically, the reservation to the owner of the Renaissance Site of fifty (50) acre feet of water per year or fifty (50) percent of the water actually produced or attributable to production from the Renaissance Site, whichever is less, shall now be applicable to both the Renaissance Site and the Land. By way of example only, if forty (40) acre feet of water per year were attributable to production from the Renaissance Site, and thirty (30) acre feet of water per year were attributable to production from the Land, a total of thirty-five (35) acre feet of water per year would be allocated to the water demands of both the Renaissance Site and the Land combined. By way of further example, if seventy (70) acre feet of water per year were attributable to production from the Renaissance Site, and sixty (60) acre feet of water per year were attributable to production from the Land, a total of fifty (50) acre feet of water per year would be allocated to the water demands of both the Renaissance Site and the Land combined.

5. Notice. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, addressed as follows:



To Town: Town of Larkspur  
P.O. Box 53  
Larkspur, CO 80118

To Mithun: Raymond O. Mithun  
3266 Robinson's Bay Road  
Wayzata, MN 55391

To Renaissance: Colorado Renaissance  
Festivals, Inc.  
1720 Terrace Drive  
St. Paul, MN 55113

or at such other addresses as said parties may hereafter or from time to time designate by written notice to the other party given in accordance with this paragraph. Notice shall be considered given when actually delivered or mailed and shall be considered received on the earlier of the day on which such notice is actually received by the party to whom such notice is addressed or the third day after such notice is given.

6. Amendment. This Agreement may be modified, amended, changed, or terminated in whole or in part, only by an agreement in writing duly authorized and executed by the Parties.

7. Waiver. The waiver of any breach of any of the provisions of this Agreement by either party shall not constitute a continuing waiver or a waiver of any subsequent breach by said party either of the same or of another provision of this Agreement.

8. Exclusive Agreement. This Agreement constitutes the entire agreement between the Parties and no statement, promise, or inducement made by either party or the agent of either party that is not contained in this Agreement shall be valid or binding.

9. Headings for Convenience Only. The paragraph headings, captions, and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

10. Severability. Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof

in any given circumstance, shall not affect the validity of the remainder of this Agreement.

11. Binding Effect. This Agreement shall be immediately binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

12. Time of the Essence. Time is of the essence for the performance of each and every provision hereof.

13. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

ATTEST:

TOWN

Jodi L. Myrland  
Town Clerk

By: [Signature]  
Mayor, Town of Larkspur

MITHUN

[Signature]  
Raymond O. Mithun, Jr.

ATTEST:

RENAISSANCE

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
President, Colorado  
Renaissance Festivals, Inc.

DAVID E. ARCHER  
& ASSOCIATES, INC.  
REGISTERED LAND SURVEYOR  
222 FRONT ST.  
CASTLE ROCK, COLO. 80104  
PHONE 688-4642

EXHIBIT A

PROPERTY DESCRIPTION:

A tract of land situated in Sections 29 and 32, Township 9 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the center  $\frac{1}{2}$  corner of above said Section 32 and considering the East-West centerline of above said Section 32 to bear S 89°16'51"E with all bearings contained herein relative thereto;

Thence S 89°16'51"E along said centerline a distance of 1420.59 feet to the true point of beginning;

Thence N 1°01'08"E a distance of 3093.33 feet to the South Right of Way line of County Road No. 60;

Thence Easterly along said Right of Way line for the following 3 courses:

1. Thence S 74°15'34"E a distance of 852.46 feet;
2. Thence S 49°51'26"E a distance of 23.21 feet;
3. Thence S 41°30'21"E a distance of 597.86 feet to the East line of Section 32;

Thence S 1°01'08"W a distance of 2414.92 feet to the East  $\frac{1}{2}$  corner of Section 32;

Thence N 89°16'51"W a distance of 1246.60 feet to the point of beginning;

Containing 82.10 acres, more or less.

DAVID E. ARCHER  
& ASSOCIATES, INC.  
REGISTERED LAND SURVEYOR  
105 WILCOX ST.  
CASTLE ROCK, COLO. 80104  
PHONE 688-4642

June 18, 1984  
Job No. 83-687

EXHIBIT B

PROPERTY DESCRIPTION: AREA P

A tract of land situated in Sections 29 and 32, Township 9 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the center  $\frac{1}{4}$  corner of above said Section 32 and considering the East-West centerline of said Section 32 to bear S 89°16'51"E with all bearings contained herein relative thereto;

Thence S 89°16'51"E along said centerline a distance of 1420.59 feet;

Thence N 1°01'08"E a distance of 1901.44 feet to the true point of beginning;

Thence continuing N 1°01'08"E a distance of 1191.89 feet to the South Right of Way line of County Road No. 60;

Thence Easterly along said Right of Way line the following 3 courses:

1. Thence S 74°15'34"E a distance of 852.46 feet;
2. Thence S 49°51'26"E a distance of 23.21 feet;
3. Thence S 41°30'21"E a distance of 597.86 feet to the East line of Section 32;

Thence S 1°01'08"W along said East line a distance of 520.00 feet;

Thence N 88°58'52"W a distance of 1246.58 feet to the true point of beginning;

Containing 27.777 acres, more or less.