

Planning Commission

Agenda

**February 9, 2023
City Hall, Council Chambers
749 Main Street
6:30 PM**

Members of the public are welcome to attend and give comments remotely; however the in-person meeting may continue even if technology issues prevent remote participation.

- 1) **You can call in to +1 253 215 8782 or +1 346 248 7799 Webinar ID # 823 1948 7837 Passcode 773858**
- 2) **You can log in via your computer. Please visit the City's website here to link to the meeting: www.louisvilleco.gov/planningcommission**

The Commission will accommodate public comments during the meeting. Anyone may also email comments to the Commission prior to the meeting at: planning@louisvilleco.gov

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes
 - a. November 10, 2022
 - b. December 8, 2022
 - c. January 12, 2023
5. Public Comment on Items Not on the Agenda
6. Continued Business – Public Hearing Items

Persons planning to attend the meeting who need sign language interpretation, translation services, assisted listening systems, Braille, taped material, or special transportation, should contact the City Clerk's Office at 303 335-4536 or MeredythM@LouisvilleCO.gov. A forty-eight-hour notice is requested.

Si requiere una copia en español de esta publicación o necesita un intérprete durante la reunión, por favor llame a la Ciudad al 303.335.4536 o 303.335.4574.

- a. **Planned Unit Development Amendment – Coal Creek Ranch Filing 3 and Coal Creek Ranch Filing 3, Replat A** – Adoption of Resolution 3, Series 2023 recommending approval of a Planned Unit Development Amendment to amend fence regulations for the Coal Creek Ranch Filing 3 and Coal Creek Ranch Filing 3, Replat A subdivisions. **CONTINUED FROM JANUARY 12, 2023**
 - i. Case Planner: Lisa Ritchie, AICP, Planning Manager
 - ii. Applicant: City of Louisville
7. New Business - Public Hearing Items
 - a. **Planned Unit Development Amendment – Cornerstone**– Adoption of Resolution 5, Series 2023 recommending approval of a Planned Unit Development Amendment to amend fence regulations for the Cornerstone subdivision.
 - j. Case Planner: Lisa Ritchie, AICP, Planning Manager
 - ii. Applicant: City of Louisville
 - b. **Municipal Code Amendment – Gasoline and Automobile Service Station Cap** - Adoption of Resolution 6, Series 2023 recommending approval of an ordinance amending Title 17 of the Louisville Municipal Code capping the maximum number of gasoline and automobile service stations located within the City of Louisville.
 - i. Case Planner: Rob Zuccaro, AICP, Director of Community Development
 - ii. Applicant: City of Louisville
8. Planning Commission Comments
9. Staff Comments
10. Items tentatively scheduled for the meeting on March 9, 2023:
 - a. Centennial Heights West and Enclave PUD Fence Amendments
11. Adjourn

Planning Commission

Meeting Minutes

**November 10, 2022
City Hall, Council Chambers
749 Main Street
6:30 PM**

Call to Order – Chairperson **Brauneis** called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Commission Members Present: Steve Brauneis, Chair
Dietrich Hoefner, Vice Chair
Keaton Howe
Jeff Moline
Allison Osterman

Commission Members Absent: Ben Diehl, Secretary
Tamar Krantz

Staff Members Present: Rob Zuccaro, Dir. of Community
Development
Elizabeth Kay Marchetti, Senior Planner
Ellie Hassan, Planner II

Approval of Agenda

The agenda is approved by all members.

New Business – Discussion

A. Review of Recommended Inclusions in the 2023 City Council Work Plan

Discussion by Commissioners:

Moline says he is excited to see the comprehensive plan update in the works and is very comfortable having the dark sky lighting on there as well.

Howe says priority two helps the commission evaluate proposals and is in favor of it.

Zuccaro mentions that staff is working on a commercial energy efficient building code.

Hoefner says he is excited about this update.

Osterman says she supports the proposed work plan and does not have any additional comments.

City of Louisville

Community Development 749 Main Street Louisville CO 80027
303.335.4592 (phone) www.LouisvilleCO.gov

Brauneis is excited about dark sky lighting and seeing that in the work plan.

Election of Planning Commission Secretary

Howe nominates Commissioner Moline for the position. **Hoefner** seconds that nomination. Motion passes by a roll call vote.

Public Comments on Items Not on the Agenda

None is heard.

Public Hearing Items

- A. Adoption of Resolution 13, Series 2022 recommending denial of the Redtail Ridge Preliminary and Final Plat: Redtail Ridge Filing No. 1 Preliminary and Final Subdivision Plat for a 389.10-acre property, located northwest of US 36 and Northwest Parkway and Southeast of S 88th Street and Campus Drive. *Continued from October 13, 2022*

Applicant: Sterling Bay

Case Planner: Rob Zuccaro, Dir. of Community Development

Hoefner recuses himself from discussion since he has a conflict of interest.

Discussion by Commissioners:

Howe mentions that he was not present at the last meeting but watched the entire recording. He thought it was a good discussion and the motion of denial is in alignment with his vote.

Howe moves and **Osterman** seconds a motion to approve the denial of Resolution 13, Series 2022 as drafted by staff. Motion ties 2-2 with a roll call vote.

Name	Vote
Steve Brauneis	No
Jeff Moline	No
Keaton Howe	Yes
Allison Osterman	Yes
Motion passed/failed:	Ties

Brauneis says that because the vote came to a tie of 2-2, if it were different circumstances where all of us were hear, we would have to continue our discussion until somebody waivered. In this case, because we know that there is one person who is not here, we can save the discussion, and when we have a future full commission, we can have the vote again.

Zuccaro says they can continue this to December 8th and the commission will hopefully have five members. If that does not happen, you may want to schedule a special meeting so that this can be concluded. The commission does have to continue to a date certain.

Brauneis says lets focus on December 8th date.

Moline moves and **Howe** seconds a motion to continue this agenda item to the December 08, 2022 meeting. Motion passes unanimously by a roll call vote.

Public Hearing Items – New Business

- A. General Development Plan (GDP) Amendment, Planned Unit Development (PUD) Amendment, and a Replat With Easement Vacations –1501 S Boulder Rd – A request for a GDP Amendment, a PUD Amendment, and a replat with easement vacations for a mixed-use development of 38 residential units across 13 multi-family buildings and 40,562 square-feet of commercial area across four buildings at Block 11, North End – Replat of North End Parcel 1, Outlot H and Outlot K Replat.
Applicant: Michael Markel, Owner
Case Planner: Ellie Hassan, Planner II

All notice was met as required and there is no commissioner conflict of interest.

Staff Presentation:

Hassan begins her presentation by sharing that the property is 4.57 acres and is zoned for Planned Community commercial and residential. The site is bordered by Hecla Way to the north, Blue Star Lane to the east, South Boulder Rd to the south, and a commercial property to the west. It is located within the 73.8-acre North End development, which was originally approved in December 2006 through a Subdivision Plat, General Development Plan, and Planned Unit Development. The property was part of Planning Area 1 in the GDP. It was replatted in 2012 to create Block 11.

In 2017, the City approved a third GDP Amendment, final plat, and final PUD for Block 11. The third GDP Amendment authorized 38 residential units in Planning Area 1 and 40,000 square feet of commercial. The final plat for Block 11 established utility and drainage easements on the property but did not create separate lots. The Planned Unit Development proposed a mixed-use neighborhood consistent with the densities proposed in the third GDP amendment.

The Applicant is requesting a fourth GDP Amendment to accommodate changes to permitted housing types. The maximum number of residential dwelling units and commercial square footage will not change. The tables shown are for the changes to the Land Use Area summary, which allocates all residential acreage to multifamily residential and eliminates single family and townhome/duplex housing types. The map of land uses in Planning Area 1 has been revised to reflect multifamily residential only as well. The use is shown as a honeycomb pattern on the map.

The applicant is requesting a replat to subdivide Block 11 into three lots. The replat accommodates two multifamily lots and a single commercial development lot. New access and utility easements are proposed that coincide with alleyways

proposed on the PUD Amendment. The existing easements were platted as part of the 2017 subdivision plat. The applicant proposes the vacation of easements that are no longer needed from the original plat, as shown in red. This will be further evaluated at the City Council hearing.

The PUD Amendment proposes construction of 17 buildings, including 4 commercial retail/office buildings on the southern half of the site towards South Boulder Road and 13 residential multi-family buildings containing 38 dwelling units on the northern half of the site.

The site layout is similar to the 2017 PUD Amendment and includes a north-south private drive that connects South Boulder Road and Hecla Way. An east-west access drive into the site off Blue Star Lane is located in a similar location to the existing 2017 PUD. The PUD Amendment proposes alleyways for access to the residential buildings. Areas on the site are connected through a network of drive aisles and internal walkways. The walkways connect to the adjacent streets and trail to the west. Walkways are 5ft in width and 6.5ft in width in areas adjacent to parking spaces. Existing drainage infrastructure is maintained in the southern 35ft drainage easement.

A total of 92 spaces are provided for the 38 residential units. Parking is provided through two-stall garages in each unit, along with two driveway spaces for buildings 11 and 12. A total of 148 parking spaces are provided for the office and retail uses on the site. Some spaces are used for snow storage seasonally; however, the required 142 spaces will still be available. 16 bicycle spaces are proposed where 15 are required, as shown in red. Bicycle spaces are proposed adjacent to commercial buildings in convenient locations off the sidewalks. The site provides the required number of EV spaces per Section 17.20.170 of the Municipal Code. EV charging spaces are separated out per use, as seen in the PUD parking plan tables on Sheet 5.

As mentioned, there are four commercial buildings on site. Building 1 is a two-story structure with retail on the first floor and office on the second floor. Each floor is 5,471 square feet or 10,942 square feet total. The location of the building is shown in red on the key map in the top left.

The building has varying forms to add architectural interest and depth to the building. Most materials on the forms are contiguous between the first and second stories. The forms consist of stucco, cementitious lap siding, and board and batten siding. Small amounts of metal siding are used on the east and west elevations on the first story.

Building 2 is two-stories and also contains retail on the ground floor and offices on the second floor. The building has 7,295 square feet per floor or 14,590 square feet total. Building 2 consists of mostly flat roofs with butterfly roofs on the east and west sides of the building. It has the same materials as building 1,

excluding the metal siding accent areas. The building has similar varied forms, which are broken up by a combination of the entry fascias and a transitioning of stucco to other materials between many first and second story areas.

Building 3 is an 8,539 square-foot three-story structure with 3,472 square feet retail on the ground floor with 4,164 square feet of office on the second and 633 square feet of office on the third floor. The height of the building is 40ft 5in and exceeds the 40ft maximum per the GDP, requiring a waiver. Building 3 contains varied forms, with a mix of flat roofs and shed roofs. A majority of the building is a two-story mass, with a smaller central three-story element with a balcony facing out towards the residential properties to the north. The first story has brick siding on the first floor with a portion extending onto the second and third story. The brick is broken up by board and batten between the first and second story. Fiber cement panels are included in the second and third story facades.

Building 4 is a 4,365 square-foot one-story retail structure with an outdoor patio area to the southwest of the building. The building's form is more simplistic than other commercial buildings on site and is broken up by material changes and fascia elements over the windows. The roof is mostly flat with a shed roof on the southern portion. Materials consist of brick siding, cladding, and Cementitious lap siding.

There are 13 residential buildings proposed on the northern half of the site. There are 38 units total across duplexes, triplexes, and 4-plexes. The units are proposed in either modern or farmhouse architectural styles, as shown in the elevations on this slide. The residential buildings use materials including board and batten, horizontal siding, fiber cement panels, brick, and stucco. The materials match those used on the commercial buildings and in other North End developments.

Because the scope is a mix of commercial and residential uses, staff determined the CDDSG requirements would only be applicable to the commercial portion of the site on Lot 3, which is highlighted on the map. Perimeter landscaping was required along South Boulder Road, and the lot is required to meet building site landscaping and parking lot landscaping requirements.

The South Boulder Road frontage proposes 17 trees where 16 are required. Per the tree survey, 5 existing dead trees along South Boulder Road are proposed for removal and 4 existing trees are proposed to remain. A total of 148 commercial parking spaces are provided, which requires 19 parking lot landscape trees. A total of 20 trees are provided in parking islands and areas adjacent to parking spaces.

The CDDSG also requires that 25% of the area around a building perimeter is landscaped with a 6ft wide planting area. All four commercial buildings have at least 25% of the perimeter bordered by a 6ft or wider planting area. Landscaping

around the residential portions of the site include new tree and shrub plantings between the driveways and between alleyway and sidewalk spaces at the entrances to units. While not subject to CDDSG requirements, elements such as a planting area around the building perimeter are incorporated. The development proposes a courtyard as a pedestrian amenity. The courtyard is located between commercial buildings 2 and 3 in the center of the site and is accessible to the rest of the site. The paving consists of pavers in plank and herringbone patterns. The colors of the pavers match the adjacent building colors. The courtyard also proposes landscaping, trash receptacles, and stone seat walls, which are shown in dark grey.

The PUD Amendment maintains the same general phasing concept as the last amendment, but changes the number of units and commercial area in each phase. The phases allow for residential and commercial buildings to be constructed concurrently, with the provision that residential building permits in each phase are not issued until the foundation inspection for the commercial buildings in each phase is approved. This application is subject to the inclusionary housing ordinance adopted last summer. The applicants are pursuing the fee in lieu option. City Council approval is required in order to pursue this option and it will be further evaluated at their public hearing.

Traffic studies for the overall north end development in 2006 and 2011 assumed for 362 residential units and 6,500 of commercial. Over time north end developed with a maximum of 350 units and 40,000 SF of commercial area, which is less than the amount in the reports. Public Works finds that the traffic assumptions are adequate to accommodate this development.

The applicant requests zoning waivers from the maximum height established in the GDP, which is listed as 40ft for both multifamily and commercial uses. A table of height waivers is listed on the slide. Building 3 proposes a 5-inch increase to the 40ft height limit. The height increase allows for a shed roof form that is compatible with other roof forms on the site. The third story element adds variation and architectural interest to the site while providing additional office space vertically rather than increasing the building footprint.

Three residential buildings also require height waivers. The elevations on this slide show the height of the building relative to adjacent structures. The waivers allow for modern, higher ceiling residential structures that provide a garage and living area at the main level with two stories of living area above, creating efficient and improved designs. The density, height, and design are compatible with the existing North End Block 12 multifamily units adjacent to the property as well. For these reasons, staff supports requested height waivers.

Staff finds the application meets the purpose and applicability statements in Chapter 17.72 of the Louisville Municipal Code. The GDP Amendment encourages coordinated community design by allowing a mixed-use buffer zone

between a major arterial of South Boulder Road and the residential uses in the North End neighborhood. Staff finds the final plat for North End, Block 11 conforms in all respects to the requirements of Title 16 of the Louisville Municipal Code. The plat complies with the Comprehensive plan by supporting an urban pattern that is more compact and walkable through the creation of alleyways and smaller lots. The plat is compliant with the GDP since it meets minimum lot sizes permitted in the North End GDP.

Staff finds the PUD is compatible with the GDP, with the included height waivers for four of the buildings. The commercial portion of the PUD is compliant with the CDDSG and meets parking and landscaping requirements. The PUD is compatible with Section 17.28 of the Municipal Code as well. The development is compliant with the Comprehensive Plan's framework for urban corridor properties. The site is also compatible with the South Boulder Small Area Plan policies, as discussed in the next slides.

The South Boulder Road Small Area Plan has policies related to building height. The Building Height Plan anticipates development along South Boulder Road to be primarily one and two stories for the south half of the property, and two to three stories for the north half of the property.

Residential buildings on the north half of the property are proposed at three stories. The Small Area Plan states conditions for a third story, including design, public improvements, and limited impacts on view sheds or shadows on surrounding properties. The three-story design allows the site to have more compact, modern designs. The height and massing is compatible in scale with the neighboring North End Block 12 residential buildings as well. The buildings have a minimum 35ft north-south separation between each structure, which mitigates impacts of shadows. Staff therefore supports the 3-story building heights.

Commercial buildings in the first half of the site are one to two stories in height, with a small, approximately 630 square foot three-story portion proposed in the center of building 3. The building height is similar in height to the roof forms of building 2, which is a two-story structure. Staff therefore finds that the impact of the third story element could be analyzed similarly to the conditions required to add a second story in the Small Area Plan. The design is compatible with the existing North End architecture with the materials and forms used, such as the shed roofs and variation on the building façade depth. The building has a setback of 100ft from South Boulder Road and 58ft from the nearest residential building, which mitigates impacts from shadows and view sheds. The element helps add architectural interest to the building and is compatible architecturally with the rest of the buildings in the development through the shed roof and fiber cement panels. In addition, the commercial buildings vary from 1-3 stories tall, which provides building height variation on the southern area of the site. Because of this, staff finds that the third story element is compatible with the small area plan.

Staff Recommendation:

Staff recommends approval of Resolution No. 16, Series 2022, requesting a General Development Plan Amendment, a Planned Unit Development Amendment, and a Final Plat with easement vacations for a mixed-use development consisting of 38 residential units and 40,562 square feet of commercial area at Block 11 of North End.

Commissioner Questions of Staff:

Hoefner asks what the key differences are from the last version that was approved.

Hassan says this includes attached units versus the previous included detached units but there are different bedroom sizes.

Brauneis asks if she can describe the difference with dropping the townhouse designation and moving it to what it is now.

Hassan says the original plan came with townhomes and these were individually platted units. Now, these are all under one solid platting.

Hoefner says regarding traffic, the public seems to be more concerned with speeding versus the traffic pattern. Has staff looked into that?

Zuccaro says the concern is with the existing roadway and that would be something outside of the scope of this proposal.

Hoefner says he thought there was an extension between Sweet Clover Ln into Hecla Way.

Zuccaro says staff did not ask about this with the applicant but we could ask the applicant to look into it such as a speed bump.

Howe asks if there is any kind of requirements with our city forester for proposals like this.

Hassan says this proposal was reviewed by our parks and rec department.

Howe asks that if the fee in lieu was not approved by city council and required them to do affordable housing, with this come back to the commission with a new PUD?

Zuccaro says no, the affordable housing is administered outside of the PUD process.

Howe asks if staff can talk about the lighting along South Boulder Rd and the pedestrian path that runs north and south.

Hassan says there are pole lights and individual lights for each residential unit has mounted lighting. There are also pole lights for the residential alleyway and parking spaces. There are only entryway lights along South Boulder Rd.

Moline says one public comment we got pertained the intersection of South Boulder and Blue Star. Future improvements to that intersection would fall to the city's responsibility and not be related to this proposal.

Zuccaro says this roadwork was built with this density in mind. We would not recommend that capacity is needed because the land uses and density are not changing. If this were to be built out and these roadworks were not operating appropriately, it would be the city's responsibility to make the improvements.

Howe asks if there are any net zero requirements for these buildings.

Zuccaro says we do not have net zero requirements for commercial.

Applicant Presentation:

Melissa Sherburne, 262 Belford St, Frisco, CO 80443, Markel Homes

Sherburne begins her presentation by introducing the Markel Homes team as well as gives a background on Markel Homes. She gives an overview of what communities Markel serves in the Boulder County area.

Sam Coutts, Ripley Design

Coutts shows in an aerial image where this proposal is located and reviews the GDP Amendment's previous plan versus the current proposal. The previous site plan and current proposal have 38 dwelling units and 40,000+ sq ft of commercial. She shows farmhouse architecture as well as modern architecture for the duplexes, triplexes, and 4-plexes.

As mentioned in staff's presentation, he explains the building height for Building 3, 13, 14, and 17. Each of these buildings will be 40' from the proposed average grade. A neighboring, existing building has a height of 37' 11 1/4" and this proposed building would be at 36' 6", having an 89' 0" distance between the two.

He ends his presentation discussing city policy. The following items are in relation to the comprehensive plan's urban pattern:

- Streets / Parcels
 - Smaller blocks and parcels, alley loaded properties, and multi-purpose development as envisioned by the urban pattern area of the comprehensive plan.
- Building Design and Orientation
 - Sidewalks and plazas to enhance pedestrian experience.
- Civic & Public Infrastructure
 - Mix of residential and office/retail to provide services to the community and encourage walkability.

For South Boulder Rd's small area plan, this proposal meets its design principles by having places to go and places to stay, it is easy to get to and easy to get around, it is knitting the community together, and it is a development that contributes.

Commissioner Questions of Applicant:

Moline asks if they can walk him through the landscape maintenance and the responsibility of the development team with maintenance.

Coutts says this will be under and maintained by an HOA.

Moline asks how the property has currently been managed.

Jason **Markel**, with Markel Homes, says North End is under an HOA. Block 11 will have its own HOA and will be under the guidelines of the master HOA of North End. The sub association will be responsible for maintaining and planting.

Moline asks who is responsible for maintained on block 11.

Markel says we use maintenance companies and we manage it.

Brauneis asks if he can speak to the multi-family versus townhomes.

Markel says the HOA is the reasoning behind that. Once we wanted to get the detached single family out of that zone, we have an HOA that can be uniform across the block.

Brauneis asks what your current understanding of net zero and multi-family.

Markel says we do a decent amount of net zero for single family but when you switch to multi-family, it is different because of party walls. Party walls are harder to obtain net zero.

Hoefner talks about commercial vacancies. What is your optimism of filling 40,000 sq ft of commercial space?

Markel says we are planning to adhere to the phasing requirements. He has hope because of the phasing process, they will be able to get those vacancies filled.

Howe asks if he can comment on affordable housing and why they are choosing the fee in lieu option.

Markel says when we come forward with multi-family, some units are market value and some are affordable. It presents a major challenged to get the building financed. It is better for all the residents to have the entire building affordable.

Brauneis asks what the fee in lieu cost would be.

Markel says he is not sure and would have to check with staff. It is a square footage calculation.

Howe asks if they can comment on the water runoff and where the water retention would be.

Markel says they already have the water detention accounted for this block.

Brauneis asks if he can speak to the lead buildings that Markel homes has done. Can you tell us the locations of those?

Markel says we get Blue, Sage, Silver Creek, North End, all mostly single-family homes.

Public Comment:

Mark Cathcart, 1763 Sweet Clover

Cathcart does not want this application held up. He has concerns about the traffic. He mentions traffic from Plaza Rd to South Boulder Rd and gives reasons of how traffic could affect the city. He thinks it could be problematic selling those three lots separately.

Tim Merkel, 1849 Sweet Clover Ln

Merkel says 50% of the North End's master HOA budget goes to landscaping. He passes a document to the commissioners showing what their landscaping standards are and requests that the applicant adopt these standards for the tree lawn.

Brian Topping, 1550 White Violet Way

Topping says he would like to see this developed as soon as possible. He comments further on the proposal and what it could do for the area.

Jojo Follmar, 1712 Steel St, Apt 7302

Follmar says she is in favor of more affordable housing and is disappointed with the fee in lieu. She appreciates the sustainability goal and would like to push that further if possible.

Sherry Sommer, 910 S Palisade Ct

Sommer says she does not think this should be rushed but bought out. The issues with dust is no reason to rush an application. She advocates not to have the change for townhomes. She would like to see more green space. She does not like the fee in lieu and does not agree with the height waiver.

Kevin King, 1505 Hecla Way, #302

King says the community did not get the most updated version of the plan that was shown in the presentations. He comments on the speed when driving through Hecla Way. He is concerned that the heights of these buildings could cause problems for the upper units.

Marie Boric, 1505 Hecla Way, #202

Boric comments on the speed on Hecla Way. She wants this application pushed through as fast as possible. She proposes benches for this area.

Moline moves and **Howe** seconds a motion to add the material submitted by Tim Merkel into the public record. Motion passes unanimously by voice vote.

Closing Statement by Applicant:

Coutts addresses tree lawns and thinks that is completely doable and Markel is comfortable adopting Tim Merkel's tree lawn standards. He mentions because of these approved documents, we cannot just pour a foundation and change it from commercial to a residential use. In regards to open space, open space just means more that it is not a building. It does not have to mean more green space. This follows the comprehensive plan for an urban environment.

Moline asks if he can talk more about the urban orientation.

Coutts shows the previous site plan image and share the comparison image for the current proposal.

Moline asks if the front units on Hecla will be front-loaded.

Coutts says no those would be alley loaded.

Michael **Markel**, with Markel Homes, thanks staff for their time and attention as well as his team. He describes his vision for this property and his pride on what kind of development he wants to build in Louisville. They want to building commercial and try to get the right owners in those spaces that is right for Louisville. We are the only builder who build energy start condominiums along the Front Range. We want to make sure that the buildings we build will be

occupied. He discusses market level costs for these units and the costs for building.

Howe asks if he can comment on the concurrency of the development of the three lots.

Markel says they try to figure out how they can divide so it is in bite size chunks. In talking with development lenders, they like to see spaces separated and phased out. There will have to be some kind of separation for the HOA because that is what they want to see.

Brauneis asks which buildings would be energy star certified.

Markel says our residential multi-family will be energy star certified.

Closing Statement by Staff:

Hassan says they checked the development applications webpage and the latest version of the North End PUD was not on their. The only changes that was not on there were changes to the building height elevations.

Zuccaro says the plan set that is online has the exact same site plan and elevations. We worked with the applicant on height elevation waivers, which is what is not shown on the website but it is in the packet.

Discussion by Commissioners:

Howe says this is a great proposal and seems like there is a lot of support from the community. He is in support of this. It would be nice to have a little more green in the parkway.

Moline says he is in support of this. He likes the approach of having phases and the residential being mixed with the commercial. He would be in favor of having a condition in regards to the tree lawn along Hecla and Blue Star. He is in support of the urban orientation that we wanted to see in our comp plan.

Hoefner says he sees the height waiver as not being substantial. He is encouraged to see duplexes and triplexes in this proposal. On traffic, he agrees that the majority of them are outside of this application. He is finding himself in support.

Osterman is leaning towards being in favor given the support of the community. In terms of the changes in the housing types, that seems appropriate for the area. She thinks the request for the height waiver is reasonable. Regarding the inclusionary housing, she is disappointed the developer is going the fee in lieu option but they can do that because of the code.

Brauneis is in favor of this proposal. He is disappointed that there is not on site affordable housing but that is how our code is written. He suggests going to city council with the traffic comments.

Howe says it would be nice to have lighting consistent with South Boulder Rd.

Brauneis says it seems that will already be in place.

Hoefner moves and **Howe** seconds a motion to approve Resolution No. 16, Series 2022 with the condition that before the applicant goes before city council, they would incorporate the tree lawn plan that was submitted into the packet this evening. Motion passes unanimously by a roll call vote.

Hoefner moves and **Moline** seconds a motion to continue Resolution No. 15, Series 2022 to the December 08, 2022 meeting. Motion passes unanimously by a voice vote.

Planning Commission Comments

Brauneis mentions that he really enjoyed the various trees planted throughout the city.

Howe comments on the intersection of South Boulder Rd and Via Appia. It is much friendlier to pedestrians.

Staff Comments

None is heard.

Discussion Items for Next Meeting

- A. Coal Creek Ranch Filing 3 PUD Amendment - Fences

Adjourn

The meeting adjourned at 9:13 PM.

Planning Commission

Meeting Minutes

**December 08, 2022
City Hall, Council Chambers
749 Main Street
6:30 PM**

Call to Order – Chairperson **Brauneis** called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Commission Members Present: Steve Brauneis, Chair
Jeff Moline, Secretary
Keaton Howe
Allison Osterman
Tamar Krantz

Commission Members Absent: Dietrich Hoefner, Vice Chair

Staff Members Present: Rob Zuccaro, Dir. of Community
Development
Elizabeth Kay Marchetti, Senior Planner
Ellie Hassan, Planner II

Approval of Agenda

The agenda is approved by all members.

Approval of Minutes

The minutes from the September 22, 2022 and October 13, 2022, meetings are approved by all members. Commissioner Howe abstains from voting on the October meeting minutes.

Public Comments on Items not on the Agenda

None is heard.

Regular Business – Discussion

Adoption of Resolution 13, Series 2022 recommending denial of the **Redtail Ridge Preliminary and Final Plat**: Redtail Ridge Filing No. 1 Preliminary and Final Subdivision Plat for a 389.10 acre property, located northwest of US 36 and Northwest Parkway and Southeast of S 88th Street and Campus Drive.
Continued from October 13, 2022 and November 10, 2022.

City of Louisville

Community Development 749 Main Street Louisville CO 80027
303.335.4592 (phone) www.LouisvilleCO.gov

Applicant: Sterling Bay

Case Manager: Rob Zuccaro, Director of Planning & Building Safety

Hoefner recuses himself from discussion since he has a conflict of interest.

Discussion by Commissioners:

Moline says he is going to continue to not support the motion as he has previously commented in past meetings.

Brauneis says with the exception of Old Town, people have been opposed to nearly every commercial and residential subdivision that now comprises the Louisville we know and love. Though many of us would love to be on the design team for any given project, that is not the role of Planning Commission for this process. The current proposal includes 155 acres of public land, and the potential for connectivity with the Ardmore Open Space. That connectivity is important and one we could lose. The Campus Drive extension would be built in phase one, providing safety we desperately need for the Monarch School. He wishes they were discussing conditions to include a sustainability action plan, funding mechanisms for future traffic improvements, and reduced grading on site. Instead, we are just telling the developer that we simply want more from them and giving them a list of ideas that many are which are economically impossible. We have more vacant retail space than any time in recent history. Our message of denial comes at a time when we are also hoping that developers will help us redevelop areas like the McCaslin corridor. While this project has its issues, he does think it has a lot to offer Louisville and that further delay does not ensure a better outcome for the City. Because of these reasons, he is voting against the motion.

Krantz says she hopes they come back with an application that is more compliant with the GDP.

Krantz moves and **Howe** seconds a motion to adopt Resolution 13, Series 2022 recommending denial of the Redtail Ridge preliminary and final plat. Motion passes 3-2 by a roll call vote.

Name	Vote
Steve Brauneis	No
Jeff Moline	No
Keaton Howe	Yes
Allison Osterman	Yes
Tamar Krantz	Yes
Motion passed/failed:	Pass

New Business – Public Hearing Items

A. Planned Unit Development Amendment – 1411 S Arthur Ave –

Consideration of a Planned Unit Development Amendment to allow for the construction of an 84,164 sq ft office/flex-industrial building with waivers,

including the removal of underground parking spaces, building size decrease, and redesigned parking, landscaping, and drainage. *Continued from November 10, 2022.*

Applicant: Andy Johnson, DAJ Design

Case Planner: Elizabeth Kay Marchetti, Senior Planner

All notice was met as required and there is no commissioner conflict of interest. Commissioner Howe mentions that he can remain impartial to this proposal.

Staff Presentation:

Kay Marchetti begins her presentation by showing an aerial photo of the site. The site is approximately 5.76 acres and is zoned PCZD. Arthur Avenue bounds the site on the south while existing commercial buildings bound the site on the southwest and east sides. The land to the north is in unincorporated Boulder County and is used for single-family detached homes. The northwest corner is adjacent to the 96th Street right of way. Across Arthur Avenue to the south are large footprint, 2-story buildings used by commercial and light industrial businesses. The site was originally subdivided via the Colorado Technological Center filing number one plat in 1979. It is now subject to the 2019 Business Center at CTC Replat I. The 2019 GDP Amendment G rezoned the land to PCZD and allowed specific commercial uses so the Commercial Development Design Standards and Guidelines apply.

The two-story building is located in the north and western portions of the lot, which generally slopes upward from south to north. The proposed office/flex-industrial use is allowed and fits well in the CTC context. The layout of the building creates a visual break at the northwest end to open up the site to views west. The second floor, glass enclosed walkway spans the ground level plaza and connects the northern portion of the structure to the southern portion. The roof is flat and generally has a southern orientation so that future solar rooftop panels could easily be accommodated. The proposed use in this location aligns with city policy and the GDP that governs the site.

The proposed layout complies with these regulations by providing two automobile/bicycle and two pedestrian access points to the site from Arthur Ave. The proposed walks connect to the existing sidewalk on Arthur Ave and offer convenient pathways to and from the building while effectively separating auto and pedestrian traffic. The pathways provide easy access to the outdoor gathering and lawn game spaces in the northwest portion of the development. The parking lot design accommodates two-way vehicular traffic and provides convenient access to all portions of the building. The drive aisle along the north provides separate parking and loading for the flex-industrial spaces and helps keep truck traffic separate from pedestrians and cyclist. The 40 bicycle parking spaces, highlighted in yellow, provide indoor storage for employees and outdoor racks for visitors in convenient locations near main entrances. The emergency vehicle turnaround, highlighted in orange, doubles as an access point to the

Bennett's property to the north and is in the same location as in the previously approved PUD. Lastly, the proposal meets the requirements regarding spaces for electric vehicle charging.

The proposed building's footprint at 52,735 sq ft is larger than the previous-approved version of 38,495 sq ft. However, the gross square footage of the building has decreased from 102,393 sq ft to only 84,164 sq ft. The same color palette and materials are proposed as in the previously approved version with the use of painted metal panels, concrete, and glass in grays, browns, and black accents. The structure's bulk is reduced through horizontal and vertical variations in the façade and the roofline. The two-story structure is compatible with the other two-story structures in the area. The architecture effectively orients much of the office space and all of the outdoor gathering spaces toward the west. The expanded outdoor plaza allows views to the west from the parking lot and sidewalk along Arthur Ave. The building is set far to the north and west sides of the lot leaving much of the site as landscaping and parking area. From the perspective of Arthur Ave, it provides a sense of openness and distance between the building and the neighboring structures. Along with the previously approved waivers, all of these architectural design choices result in a compliant proposal.

The proposal complies with the review criteria as the high water use zone, which is the tree lawn on Arthur Avenue, is taking up the least amount of land and the low and very low water using areas make up the largest amount of the site. The plant grouping, quantities, and proposed materials effectively reduces the demand for irrigation.

The plan complies with these standards by proposing dense, formal landscaping around the building while somewhat less formal landscaping is proposed around the lot perimeters. The plan calls for more trees in several areas of the site than are required to make up for the lack of trees along the northern border. The landscaping along the southern perimeter with tall shrubs and trees will effectively screen much of the parking lot. There is no known soil subsidence or flood plain in or on the site and 134 trees and 805 shrubs are planned, where today there is mostly only grass. The landscape will create significant shade and reduce demand for heating and cooling.

She then discusses the two new, requested waivers. The first waiver requests that there not be a 30-foot wide planting buffer along the entire length of the north lot line. This image depicts the entire easement area along the northern boundary, in orange. The building footprint is in blue and the narrow, dashed, red line is the building setbacks. This is an aerial photo from Google maps and depicts the existing conditions with the north lot line of the site and the approximate length and width of the 30-foot deep easement. Also shown are the approximate distances to the two single family detached homes to the north. Please note that the ground continues to slope up towards these two homes so that the closest home is approximately eight feet higher than the subject site.

The applicant proposes that the northern portion of the site, with some of the least steep slopes on the whole site is better suited to create a long-flat area to accommodate flex/industrial users without requiring significant cutting or filling of that area of the site. The 30-foot buffer area is proposed for a drive aisle to meet the flex-industrial loading and parking needs. The bottom image is a color rendering of the landscape plan and shows that, where feasible, some larger shrubs are planned at the north property line that don't interfere with views to the west. The proposed condition is nearly the same as was approved with the previous version of the PUD. Given the long distance and slope between the proposed building and the nearest two residences, and the fact that the location is best suited for a long, flat design that results in less land disturbance, staff recommends approval of the waiver.

In regards to the second proposed waiver, this image shown in the presentation is from page two and shows the proposed layout of the western entry to the site along with the four parking stalls proposed to be approximately 70 feet away from the entry as shown by the orange arrow. For an explanation of the larger context, you can see the Drainage Basin four to the northeast and drainage basin two to the southwest. There are four drainage basins that stretch across the front of the site, parallel to Arthur Avenue. The drainage plan for the site was designed to take advantage of the natural slope and reduce the amount of cutting and filling that one or two large drainage basins would require. By planning multiple, smaller drainage basins that work in concert with the proposed slopes of the parking area and drive aisles, the same goals for storm water management are achieved with less earth moving. There is also approximately 281 feet between this entry and the one to the east, which supports the goals of minimizing conflict between entry points and safe internal circulation for vehicles, pedestrians, and cyclists. Given that only four of the 205 proposed parking spaces are affected and the negative impact to the drainage plan should the entry be moved, staff recommends approval of this waiver as the benefits of the larger site design outweigh any possible safety risks posed by these four parking spaces.

Per Section 17.20.080 of the LMC, applicants may request of city council a parking reduction and the applicant is requesting a change to the parking ratio from four spaces per 1,000 square feet to 2.9 parking spaces per 1,000 square feet. The applicant offers that the new normal of office environments is that many employees are now on site only two or three days per week. Furthermore, flex-industrial users typically have a smaller work force than office users; the demand for parking is expected to be significantly reduced. The code requires 282 spaces and 205 are proposed. Given the rationale offered by the applicant, staff is recommending approval of this request.

Staff analyzed the application and its two waivers as they relate to the PUD criteria in Section 17.28.120 of the Louisville Municipal Code and with the CDDSG and thinks that the application is in compliance.

Staff Recommendation:

Staff recommends approval of Resolution 15, Series 2022 regarding a PUD amendment to allow an office/flex-industrial building at 1411 S Arthur Avenue.

Commissioner Questions of Staff:

Krantz asks if the reduction of parking spaces would be a waiver request on the PUD.

Kay Marchetti says waivers cannot be granted for parking.

Zuccaro mentions that it is a different set of criteria.

Krantz says she does not understand a part B of the staff analysis. She reads what part B says.

Kay Marchetti explains what was meant in the staff analysis.

Osterman says part of the use will be office and the other will be flex/industrial.

Do we have a breakdown of the sq ft of each use?

Kay Marchetti says that is on the cover page of the PUD.

Howe says how much of this proposed sq ft change is for the buildings versus the underground parking lot.

Kay Marchetti says a parking area would not be counted towards habitable sq ft.

Brauneis says there is concern with the neighboring properties and having an adequate buffer of trees. Why would we not want to provide that buffer?

Kay Marchetti says if we are talking about views, the neighbors are not impeded at all if they are looking at the north. Because these neighbors are at a higher grade, they will always be looking into that development. There are no trees that could be tall enough.

Howe says if we build a 40-foot building, it will not impede these neighbors view to the west.

Kay Marchetti says that is correct. Their view south will look different though.

Applicant Presentation:

Andy Johnson, DAJ Design, 922 Main St, Unit A, Louisville, CO 80027

Johnson begins his presentation by discussing the design concept of the building. He reviews the original proposal and what has been amended. The following compares the original and the amended.

- Building Area- Original: 102,393 sq ft; Amended: 84,164 sq ft gross, 70,610 sq ft net
- Building Footprint – Original: 38,495 sq ft; Amended: 52,735 sq ft
- Landscape Area – Original: 138,666 sq ft; Amended: 94,653 sq ft
- Open Space – Original: 100,171 sq ft; Amended: 119,226 sq ft
- Handscaped Area – Original: 112,341 sq ft; Amended: 103,619 sq ft
- Parking Proposed – Original: 195; Amended: 205
- Water Easement – Remains the same with a 30' easement north of property line

He mentions the uses, which the building would have a combination of flex industrial, office, and an amenity space. A breakdown of parking spaces is shown. There are a total of 205 spaces. There will be 15 EV ready, 21 EV install, and 31 EV capable. As for ADA parking, there will be two standard and four van. There will be 12,753 sq ft of public land dedication, which makes up 5% of the property. He then reviews where the emergency access is located on the property and how drainage is distributed throughout the property.

In regards to the 2021 IECC, their goal is to prepare and design for 100% electrification. He reviews how this proposal is sustainable. He concludes his portion of the presentation showing where the landscape will be on the property. There will be more distributed trees and they are offering more than what is required.

Jeff Welber, Alliance Investments, 2585 S Gilpin St, Denver, CO 80210

Welber explains the reasoning behind the use choices.

Commissioner Questions of Applicant:

Howe says there are eight separate industrial flex sites. Can they be retrofitted into larger sites if needed?

Welber says they could.

Howe says they have .5 megawatts for solar capacity. If you did have vacancies, would you ever consider collaborating with the city and selling that energy?

Welber says that could be a possibility.

Krantz says when driving down 96th St, can you see that glass walkway?

Johnson says from the north, you can see that.

Brauneis confirms that there is no commitment in regards to solar.

Johnson says we have to consider who will actually be occupying these spaces since these will be core and shell spaces. The idea is that with the development of the project, we set the goals up with the tenant finishes.

Brauneis asks if they are planning to connect to natural gas.

Johnson agrees.

Howe comments that the road passing the west side, the right turn out would be as safe as they think since it could be more of a blind corner. He asks them to keep this in mind.

Johnson says previously in 2012 or 201, there was a study conducted for that access point looking at all of those considerations. An intersection was ruled out.

Krantz asks if they showed where the EV parking spaces are.

Johnson says our EV spaces will be distributed during the permit process.

Krantz says we received a public comment concerned about the lack of buffer to the north.

Johnson says we have had conversations with this landowner in the past. At the upper right corner of the site to the right access point, there is actually a brand new barn there. It effectively blocks at least forty feet of space and it is quite tall. Without any plantings, he thinks that area is very well taken care of.

Krantz mentions that this homeowner says they only have well water, which is not sufficient enough to create their own screening. With this development, would they now have access to use your water?

Johnson explains why it would be difficult to use this development's water.

Howe asks who maintains the emergency access.

Johnson says the owner of the property will maintain it.

Public Comment:

Moline moves and **Krantz** seconds a motion to add the two emails for public comment into the record. Motion passes by a voice vote.

Joshua Cooperman, 216 Griffith St

Cooperman comments about the waiver of the buffer along the north part of the property. He agrees with the architecture and sustainability goals of this proposal. He does not support the waiver. He is concerned about land conservation.

Jojo Follmar, 1712 Steel St, Apt 1302

Follmar agrees with Cooperman about the waiver and is excited about the sustainability efforts.

Sherry Sommer, 910 S Palisade Ct

Sommer is pleased with the applicant asking for less parking spaces. She is said to see if the underground parking being changed to service parking. She agrees with the previous comments regarding the buffer.

Closing Statement by Applicant:

Brauneis asks whose property the water conservation easement is on.

Johnson says the easement is on the neighboring properties land. He mentions this design has been in the process for four years. He thanks staff for the work they have done.

Closing Statement by Staff:

None is heard.

Discussion by Commissioners:

Moline says he is excited to see this again. He is impressed by the architecture of this proposal and is happy it will be seen in a more prominent area. He agrees with staff's analysis with the proposal and waivers. He is comfortable approving this as it was proposed. He agrees that the northern area is a challenge.

Howe says originally he was skeptical about the success of this work model. He likes the unique design of this, the EV parking, and finds the parking is appropriate for the type of uses this will have. He agrees with the sustainability goals. He is split over the land dedication. He would be excited to see this constructed and developed.

Osterman says she is excited about this application and it makes sense to incorporate the flex industrial use. She is impressed with the sustainability efforts. She was questioning the waivers and whether or not they are justified, but after hearing from staff and the applicant, there is a rationale for those waivers.

Krantz says she is more concerned about the 30-foot waiver. She would like the applicant to come back and re-design so that there is no waiver. She also suggests that the commission ask the applicant to say where the EV parking spaces will be.

Brauneis says he wishes it was a pure office space but he appreciates the uses have changed in order to have the development work for them. He discusses the past purpose of the tech center in the 1970s. He is okay with the parking waiver. He is in favor of it at this time.

Howe mentions he does not think a condition is needed regarding designated EV parking spaces because the applicant can add those locations for their City Council presentation.

Brauneis says in regards to EV, that is not required to know beforehand.

Zuccaro says the ordinance does not require the spaces to be known at the time of PUD but at the time of the building permit.

Krantz says she agrees with the EV parking spaces. She would still like to discuss the 30-foot buffer waiver.

Brauneis says in his opinion, the applicant has described the complexity of that space and he thinks the buffer was originally for these two difference uses. The current residential spaces are so far away. The 30-foot buffer exists but they just cannot plant on it.

Krantz says she does not require a drive aisle to be a buffer.

Moline moves and **Howe** seconds a motion to approve Resolution 15, Series 2022. Motion passes 4-1 by a roll call vote.

Name	Vote
Steve Brauneis	Yes
Jeff Moline	Yes
Keaton Howe	Yes
Allison Osterman	Yes
Tamar Krantz	No
Motion passed/failed:	Pass

New Business – Public Hearing Items

- B. Final Plat and Planned Unit Development – 578 + 632 S Pierce –**
Consideration of a Final Plat and Planned Unit Development to allow construction of a 31,220 square foot flex-industrial building and a final subdivision plat to consolidate Lots 2 and 3, Block 3 of the CTC Filing 1 Subdivision and create one lot.

Applicant: Mark Ford, The Ford Studio

Case Planner: Ellie Hassan, Planner II

All notice was met as required and there is no commissioner conflict of interest.

Staff Presentation:

Hassan begins her presentation by saying that the properties are located along the east side of South Pierce Avenue in the CTC industrial park. 578 S Pierce is the northern property and 632 S Pierce Ave is the southern property. The cumulative site area is 2.53 Acres and is zoned industrial. The Original plat was approved in 1979 as the CTC First Filing. A Planned Unit Development and Special Review Use for an 8,700 square-foot pet care facility at 578 S Pierce Avenue was approved in 2020, but was never developed.

The site currently consists of two lots. The applicants are looking to consolidate Lots 2 and 3 into one lot with a new address along S Pierce Avenue. A 15-foot wide maintenance and access easement is proposed, which grants access to the existing 22.5-foot drainage easement on the east side of the property.

The application proposes a 31,220 sf, two-story flex industrial building that faces South Pierce Avenue. It can be divided for up to 7 tenants, with each tenant space containing a second-story mezzanine and the end units on the north and south will contain a second-story west-facing balcony. The building is roughly centered on the lot with parking areas distributed around the building with a loading dock and truck access area in the rear of the site. A trash enclosure is also located on the rear of the site across from the building.

99 parking spaces and 10 bicycle parking spaces are proposed, which meets the minimum ratio for flex buildings. On the front of the building, there is a proposed pedestrian amenity area, with a future sculpture in the center. A stormwater detention pond is proposed on the northeast corner of the site.

The building will be constructed primarily with metal panels and stucco, with larger glazing areas and accents of composite wood on the inner walls of the balcony areas.

Entryways for each tenant are accented by anodized aluminum storefronts with fascia canopies. The north and south tenant spaces have a metal panel cantilever on the second story massing, creating interest in contrast to the stucco on the first story. The side and rear elevations contain glazing primarily on the second story. Stucco is also more predominant on the side and rear elevations, as shown on the lower image. Colors of the building materials are mostly neutral shades of grey with wood accents in the balcony cantilever. This creates a color pallet compatible with the surrounding area.

Staff's analysis finds that the application is compliant with the final plat criteria, as well as the PUD criteria in Section 17.28.120. The project is also compliant with the IDDSG and the CTC special district framework in the Comprehensive plan.

The applicant requests two landscape waivers from the IDDSG. The first is a waiver from Section 5.2.A, which requires perimeter landscaping to have a ratio of one tree per 30 linear feet of property line. Applicants request a waiver to allow 2 trees on the north perimeter, and 7 trees on the south perimeter where 10 and 9 trees are required respectively.

The north perimeter also contains the detention pond, as well as existing asphalt from the shared access easement, which prohibit installation of the required trees on the north property line. The applicants instead propose 27 trees on the eastern perimeter landscaping, where only 14 trees are required. This brings the total perimeter tree count on the north, south, and east perimeter up to 36 total trees where 33 are required. On the southern property line, there are existing utility lines shown in blue, which limit tree planting locations. The applicants propose 16 mountain mahogany shrubs in the gaps of the southern landscape perimeter area in lieu of the tree plantings. Staff supports the waiver request because the northern landscaping is provided elsewhere on the site and provides significant screening. The southern portion of the site provides large shrubs, which also helps with the screening and buffering that trees would provide.

A second waiver is requested for section 5.4.D of the IDDSG, which requires a 10ft wide planting area adjacent to 50% of the building frontage. A perimeter area of between 3.2 and 8 feet in width is proposed along about 60% of the building frontage. Although narrower than required, the landscape area exceeds the perimeter length requirement and staff supports this waiver.

Applicants are also requesting a waiver from another portion of section 5.4.D, which requires the building perimeter planting area to have 1 tree per 30 linear feet. Per the applicant's waiver request letter, the geotechnical report for the project recommends limited planting against the building due to expansive soils. Trees on the south and west sides of the building would also be subject to reflective heat from the building, causing heat stress. In lieu of planting the 15 trees along the building perimeter, four trees are proposed in landscape areas near the front of the building.

The planting area also contains 107 shrubs in rock mulch, which exceeds the minimum requirement of 1 shrub per 25 square-feet of mulch. The proposed shrubs are appropriate for the hotter south and west sides of the building and creates a strong visual impact through groupings of the same shrub species. The relocated trees and proposed shrubs provide a visual buffer to the building, and staff therefore support this waiver request.

Staff Recommendation:

Staff recommends approval of Resolution No. 17, Series 2022 recommending approval of a Final Plat and PUD Amendment for Lots 2 and 3, Block 3, CTC Filing 1.

Commissioner Questions of Staff:

Krantz asks if staff can show where the EV parking spaces will be.

Hassan says they do comply with the minimum requirements of EV parking. She shows where the approximate locations would be.

Brauneis asks if we have any van accessible requirements for ADA parking.

Hassan says she is not aware of any.

Applicant Presentation:

Vahe Christianian, 918 White Hawk Ranch Dr, Boulder, CO, 80303

Christianian thanks staff for their support. This project has been a year in the making. His hope is to occupy 6,000-7,000 sq ft of the space and then rent out the rest of the space. His goal is to have this be a higher tech, green, and more efficient building. He discusses the landscaping plan and how many trees will be planted.

Commissioner Questions of Applicant:

Krantz says they are not planning trees on the perimeter but he is compensating by planting more additional trees elsewhere. What is the net difference?

Hassan says they are eleven trees different for the perimeter.

Krantz asks if the long line of trees are the same species.

Christianian says he thinks it is more attractive to have them be the same. It gives them more of a modern look.

Howe asks if he can go into more detail about the sustainability of the building
Mark **Ford**, The Ford Studio, says they will be implementing solar PV. They are also providing EV stations throughout the parking. They are exceeding the 2021 IECC requirements.

Brauneis asks how much they are exceeding the IECC.

Ford says he does not have those documents showing how much but he thinks they are about 10% more efficient.

Public Comment:

Brauneis moves and **Howe** seconds a motion to add the email for public comment into the record. Motion passes by a voice vote.

Joshua Cooperman, 216 Griffith St

Cooperman says he would like us to conserve as much land as possible in the CTC area. He is concerned about the waiver and expresses his concerns.

Closing Statement by Applicant:

None is heard.

Closing Statement by Staff:

None is heard.

Discussion by Commissioners:

Krantz says she finds herself in favor of this application. Given our recent discussion on our commitment to sustainability, she does not want to see any reduction in the green space. Through some conditions, we could have the applicant plant the ten trees.

Moline says he is supportive of this. We are not discussing that there is a deficit of overall open space.

Zuccaro clarifies this topic. The applicant does comply with the open space coverage requirements. They do not meet the tree perimeter requirement. They are exceeding their requirement of number of trees and landscape coverage.

Moline mentions that it is important that a proposal like this is beneficial to pedestrians such as creating more sidewalks. He thinks this plan does that. He is supportive of this proposal.

Osterman says she does not have any concerns with the application and is inclined to support it.

Howe says he likes the design and building materials. He appreciates the applicant's effort to how many trees will be planted. Overall, this project will add value to this vacant land.

Brauneis talks about the ten-foot line around the building was designed for a suburban look and feel. At this point, he is comfortable waiving that 10-foot requirement. He is in favor of the application.

Moline discusses the benefit of having landscaping up against the building in order to help break it up between other buildings. It is not necessarily for the habitat.

Howe thinks it is great that the developer is going above and beyond in regards to energy.

Krantz asks about the tree count again in regards to what is on the PUD.

Hassan explains the tree count for this proposal.

Moline says he does not think the tree count needs to be added as a condition. He is comfortable with the applicant's proposed landscaping plan.

Osterman agrees with Commissioner Moline.

Krantz agrees that she cannot see where they could add more trees in their current landscaping plan. She suggests types of plants that could be added that would not require more watering.

Zuccaro says it is a six-tree deficit. He mentions that the applicant is exceeding the minimum landscape coverage.

Brauneis asks if staff can speak to quantity for quality.

Zuccaro says typically the purpose of the trees are for shade as well as visual buffering.

Krantz says she understands the purpose of the landscaping plan and is in support of them.

Howe moves and **Moline** seconds a motion to add the building material board into the record. Motion passes unanimously by a voice vote.

Howe moves and **Moline** seconds a motion to approve Resolution 17, Series 2022. Motion passes unanimously by a roll call vote.

Planning Commission Comments

Krantz says she wonders how we receive the email comments and wonders if these emails can be automatically forwarded to the commissioners.

Brauneis says he does not want to receive every email be forwarded to his without them coming in bulk. In addition, if you do that, we would have to have a cutoff of when we can receive emails.

Krantz says when she gets emails from City Council, they send back an immediate response saying that the email will be included in the public record.

Brauneis asks if they are reading emails in real time.

Zuccaro says it is a mix. City Council members have Louisville emails so it is getting those emails. Staff does not forward those in real time. The commissioners would have to use their personal emails. Staff can also forward emails to City Council if it goes directly to staff.

Moline asks if there is a concern that an email would be sent to one commissioner but not to all.

Zuccaro says that could become an issue. City Council knows that if an email goes directly to one person, they forward that email to city staff. He mentions that he can see the concern for the commissioners to have enough time to look at the emails when some applications receive a lot of public comment. he gives options of ways to read all the emails such as coming to the meeting early or taking a recess in order to read them then.

Howe says staff could create a pool of emails and then commissioners could patch into that as well.

Brauneis says he is concerned that would be more staff time. He is more open to taking a recess.

Staff Comments

None is heard.

Discussion Items for Next Meeting

- A. Coal Creek Ranch Filing 3 PUD Amendment – Fences

Adjourn

The meeting adjourned at 9:34 PM.

Planning Commission

Meeting Minutes

**January 12, 2023
City Hall, Council Chambers
749 Main Street
6:30 PM**

Call to Order – Chairperson **Brauneis** called the meeting to order at 6:30 PM.

Roll Call was taken and the following members were present:

Commission Members Present: Steve Brauneis, Chair
Dietrich Hoefner, Vice Chair
Jeff Moline, Secretary
Keaton Howe
Tamar Krantz
Cullen Choi

Commission Members Absent: Allison Osterman

Staff Members Present: Lisa Ritchie, Fire Recovery and
Planning Manager
Elizabeth Kay Marchetti, Senior Planner

Approval of Agenda

The agenda is approved by all members.

Approval of Minutes

Brauneis has asked staff to make revisions to the November and December minutes. The commission will vote on the revised minutes at the February meeting.

Election of Chair, Vice Chair, and Secretary

Howe moves and **Krantz** seconds a motion to keep Brauneis as Chair, Hoefner as Vice Chair, and Moline as Secretary. Motion passes unanimously by a roll call vote.

Public Comments on Items not on the Agenda

None is heard.

New Business – Public Hearing Items

- A. **Second Replat of the Enclave** – Adoption of Resolution 1, Series 2023 recommending approval with one condition of the Second Replat of the Enclave: A replat affecting five lots, which combines four lots into two new lots and adjusts one lot line.

Applicant: Thomas Yarnell, Landowner

Case Manager: Elizabeth Kay Marchetti, Senior Planner

All notice was met as required and there is no commissioner conflict of interest.

Ritchie mentions that there are many public attendees for the third agenda item. She is asking for the commission to continue that item for the next meeting.

Brauneis says the commission will get to the technicalities of that continuance once they get to that agenda item.

Staff Presentation:

Kay Marchetti begins her presentation by showing the commission an aerial photo of the property. The replat area is approximately 2.43 acres and is zoned PCZD-residential. Pine Court is the sole access to these five lots and four of the lots are bound on the south by land associated with the commercial development to the south. City owned open space bounds two of the lots to the west. The site was originally subdivided via the Enclave final plat in 1986. It is now subject to the 1987 Replat of the Enclave.

There are three families requesting this replat: the Yarnells, the Neslunds, and the Bowens. Two of the lots have been vacant since they were platted in 1987. The Bowens purchased Lot 17 in 1996 and in December 2021, they purchased Lot 16. The Yarnells purchased Lot 14 in 1996 and in December 2021, they purchased Lot 15. The Neslunds purchased Lot 13 in 1995 and during construction, it was discovered that the foundation was incorrectly poured and would not be able to meet the required side yard setback. To fix the zoning non-conformity, a small portion of Lot 14 was deeded over to Lot 13 but a replat was never applied for or approved by the City.

The Bowens applied to create the new Lot 17A by dissolving the lot line between Lots 16 and 17. This would result in a 59,564 sq ft lot and would require a modification of Section 16.16.050 of the Louisville Municipal Code because the size exceeds the max lot size of 40,703 sq ft per the Enclave PUD. The Yarnells requested to create the new Lot 14A by dissolving the lot line between the old lots 14 and 15, which does not require any modifications of the city subdivision regulations. The Neslunds are requesting the lot line adjustment between the old Lots 13 and 14 to create a compliant lot. Each of these require a vacation or change to the existing drainage easements, an exhibit of which is going to be brought to the City Council for a final decision.

The only aspect of the application that staff finds to be inconsistent with City subdivision regulations is the creation of the new lot 17A. The Enclave PUD

establishes a lot size maximum of 40,703 sq ft and the new lot would be 18,861 sq ft larger than permitted. The applicant requests a modification from the regulations to allow a lot larger than the zoning allows. However, the context of this request does not meet the approval criteria for a modification. Modification criteria are based on whether there is something unique about a lot (in terms of topography, shape, size) that would make it difficult for a lot to be developed and whether the modification would alter the essential character of the neighborhood or district. In this case, there is nothing strange about lot 16 or 17. Considering the average lot size in the Enclave is 11,920 sq ft, staff finds that a 59,000 sq ft lot does not protect the character of that established neighborhood.

Staff proposes a conditional approval where the applicant submits a revised replat that shows either the lot line between the old Lots 16 and 17 remaining the same, or the lot line being only adjusted so that both new lots comply with the underlying zoning. The applicant has indicated that a revised replat document will be submitted prior to a hearing before the City Council, which shows the lot line being adjusted so that both Lots 16A and 17A are compliant.

Staff analyzed the application and its modification request against the subdivision and modification criteria of the Louisville Municipal Code. Staff finds that the application would comply if the applicant revises the replat so that no modification is required.

Staff Recommendation:

Staff recommends approval of Resolution 1, Series 2023 with the following condition: Prior to a City Council hearing, the applicant submit to the City a revised plat that either relocates the lot line between Lots 16 and 17 so that both lots comply with the lot size standards of the Enclave PUD or maintain the location of the existing lot line between Lots 16 and 17.

Commissioner Questions of Staff:

Brauneis asks if the applicant has agreed to this condition.

Kay Marchetti says yes, he has been working on revising the replat.

Krantz asks if staff can show her where in the code this does not meet. Which criteria requires a modification?

Kay Marchetti says it does not meet the Enclave PUD maximum lot size criteria.

Krantz asks if they need to apply modification criteria to a change in a plat.

Kay Marchetti says chapter 16 allows for modifications and the criteria for that is in Section 16.24.30. This requires a modification so we have to apply the modification criteria.

Ritchie says if you are approving a subdivision plat that does not comply with anything in Title 16 or 17, it would need a modification.

Choi asks if staff or the applicant provided the impacts on stormwater.

Kay Marchetti says this proposal was reviewed by Public Works and they commented and gave direction to the surveyor accordingly.

Ritchie says that at the building permit submittal, a grading plan is required for review and approval.

Hoefner mentions that Lot 16 already has a small street frontage. Is there a way to re-draw the lines so that both lots apply and Lot 16 has meaningful street frontage?

Kay Marchetti says it is possible but from a geometric perspective, the code says that cul-de-sacs should have a wider frontage than what appears today. Staff has researched to see why Lot 16 doesn't comply. Given the amount of space behind that cul-de-sac, a single lane drive aisle can easily be developed. We have encouraged the applicant to discuss with the Fire Department whether the lot front meets the departments needs.

Howe says if we did combine Lots 16 and 17, what kind of construction would we be allowing?

Kay Marchetti says as of right now, Enclave does not have any lot coverage maximums. In theory, you could have a building going all the way to the setbacks.

Choi asks if staff and Public Works run calculations for stormwater management if the entire acre footprint was built upon.

Kay Marchetti says no and that would not normally be a part of a subdivision process. This would be reviewed during the building permit process. She mentions that the applicant's goal is to keep Lot 16 vacant.

Applicant Presentation:

Tom Yarnell, 1222 W Pine Ct

Yarnell shows the commission a pre-fire aerial view of West Pine Court's cul-de-sac in the Enclave neighborhood. Below is how long the families have lived in this neighborhood:

- Neslund's: 27 years
- Yarnell's: 26 years
- Bowen's: 10 years

He and the Enclave neighborhood have enjoyed the views of the foothills across the Davidson Mesa as well as the character and serenity of West Pine Court for decades. In November and December of 2021, The Bowens and Yarnells purchased the two vacant Lots 15 and 16 to preserve the privacy, views, and character the neighborhood. The previous owners of these lots had grossly neglected the lots over the years.

On December 30, 2021, the Marshall Fire destroyed the Neslund's and Yarnell's homes and significantly damaged the Bowens' home. Fifty of the 56 homes in the neighborhood were destroyed and eight of the ten homes on West Pine Court were destroyed. Due to the close proximity, the Yarnell's burning home set the Neslund's home on fire but because of the larger separation of the homes, Lots 12 and 17 did not burn. The Yarnell's now want to rebuild their home on the 14/15 consolidated lot with defensible space between their home and the

Neslund's and Bowen's homes. Approving this application will help prevent fires from spreading in the future

In November 2021, prior to purchasing the two vacant lots, the Yarnell's and Bowen's had informal and pre-application meetings with City staff regarding the possibility of consolidating Lots 14/15 and 16/17. The Neslund's joined the application to document a lot line adjustment that had been legally deeded, but never platted.

After many, many months of survey and application updates to meet City requirements, we finally submitted our application to the City on Oct 12, 2022. Following the staff referral, there were a few minor corrections requested by December 09, 2022 to get to this commission meeting. On December 29, 2022, we were informed that staff, in the process of preparing their report, decided against recommending approval for Lots 16/17 consolidation. They were adding a condition of approval (COA) due to the 1.37 acres, comparing Lot 17A's size to the 1986 PUD maximum of .934 acres. They requested our collective response and updated documents by January 03, 2023 to support the staff report for the commission hearing. Staff found that the larger lot did not "protect the character and the social and economic stability of all parts of the city", and further "is not consistent with the intended character of the neighborhood."

Prior to the city council hearing, we will submit to the City a revised plat that either relocates the lot line between Lots 16 and 17 so that both lots comply with the lot size standards of the Enclave PUD or maintain the location of the existing lot lines between Lots 16 and 17. The Bowens have agreed to drop the request for Lot 16/17 consolidation, but have requested a small 16/17 lot line adjustment. This adjustment will result in Lot 16A being compliant with the PUD maximum lot size. The surveyor has been directed to, and is in the process of, updating the second replat. This minor update will be available well before the planned February 21, 2023 City Council hearing. The vacation easement exhibit does not have to be changed.

Below is the original land use application request.

- Five lots to three lots
- Consolidate Lots 14/15
- Consolidate Lots 16/17
- Would require subdivision modification for lot size
- Adjust 13/14 lot line to match legal description
- Structure size limit on new Lots 14A and 17A

Below is the revised request to comply with staff's COA.

- Five lots to four lots
- Consolidate Lots 14/15
- Adjust Lots 16/17 lot line

- Adjust Lots 13/14 to match legal description
- Structure size limit on new Lots 14A and 16A

He then shows the current replat of Enclave and the updated plat in progress to address the COA.

He ends his presentation discussing his reasons for approval. He says that they all want approval, but the Yarnells cannot proceed with the design, permitting, and rebuilding of the home they lost in the fire until this is resolved. This will help preserve the view corridor and character of West Pine Court for not only the owners, but the entire neighborhood. This will also maintain the aesthetic appeal of the Enclave subdivision within the City. The resulting increased home spacing will reduce the future fire risk to our homes. Traffic and parking have long been an issue in the cul-de-sac and adding two additional homes will exacerbate the issue. The two vacant lots (15/16 are 1.42 acre combined) have been a part of the neighborhood since its inception and had the same owners from July 1988 until the end of 2021 when the Yarnells/Bowens purchased from them.

The entire Enclave neighborhood, including and well beyond the required 750 ft notification radius, is fully aware of this request and hearing. He and staff have received nothing but positive support for this application.

Commissioner Questions of Applicant:

Howe says regarding the contingency, how different is it from the original lot line?

Yarnell shows the commission the original lot line. It will be 13.5ft. The lot lines cannot be re-drawn to make this compliant.

Krantz asks if the end result will be the same for the Bowens whether or not they combine the two lots or just move the lot line.

Yarnell talks about property taxes and how Boulder County is valuing these lots. **Patti Bowen** says they did successfully appeal the taxes this year. The County originally assessed the lot by twice what we paid for. If we can show Boulder County that we are putting efforts in extending the yard, they may reassess it to be residential.

Yarnell discusses Boulder County's assessment and how that has affected their property taxes.

Krantz says it would be great to hear the neighborhood support. She is still stuck on the modification criteria in regards to combining these two lots.

Ritchie says in staff's interpretation of the code, the modification criteria applies in this case. She explains when the modification criteria would apply.

Krantz asks if modifying the PUD was an option.

Ritchie says that would require approval from all the property owners within the Enclave subdivision or they would have to approve a PUD for these lots.

Krantz asks if they have to meet all the modification criteria.

Ritchie says they have to meet all the criteria that is applicable.

Krantz asks the applicant if they could precede without the condition.

Bowen says their original intent of purchasing the lot was preserving the views. We have no intent to build or see it developed. In regards to the adjustment of the lot line, we would add a couple of feet to the curb. We decided that we would keep the lots separate and hope that we can pay the taxes for a few more years.

Brauneis asks if the condition as written is their preferred method moving forward.

Bowen says yes. We could re-consider but we would like for this to be resolved as fast as possible.

Yarnell mentions that they have received many emails showing their support for this proposal.

Richard **Neslund** says the current objection of expanding Lots 16/17 is that exceeds the allowable lot size. He speaks on property taxes. He mentions that the neighborhood is in support of this proposal and how this would benefit the community.

Public Comment:

Moline moves and **Hoefner** seconds a motion to add the written public comments into the record. Motion passes unanimously by a voice vote.

Louis Delaware, 1139 W Enclave Cir

Delaware says he is in favor of this proposal. He would like Lot 16A to have a nice view. He cannot see somebody putting a short driveway there. He has no issue of the consolidation.

Roy and Becky Nelson, 1134 W Enclave Cir

Nelson says he is in favor of this proposal. He asks about increasing the size for the Bowens on that open lot.

Carol Neslund, 1224 W Pine Ct

Neslund speaks on behalf of Joan Truesdale, located at 1226 W Pine Ct. Joan supports this proposal.

Closing Statement by Applicant:

Yarnell says it has been a long battle to get here. We have decided to go forward with not consolidating the lots so that we can move forward.

Closing Statement by Staff:

Kay Marchetti mentions that staff appreciates the collaboration they had with the applicant.

Ritchie says reviewing modification criteria is unusual to be coming to Planning Commission. Modification criteria is different in that you have to start with demonstration of a unique circumstance and showing a hardship. All modification criteria has to be met. This is in Chapter 17.28.230. She summarizes what this chapter says.

Discussion by Commissioners:

Hoefner says he is looking forward to approving the resolution before us.

Moline expresses his sympathy for the loss of their homes. Being a part of the commission, his responsibility is to evaluate what is currently happening as well as what could happen twenty years from now. He is in support of staff's interpretation of the criteria.

Howe asks the commissioners if they are in support of the adjustment of the proposal. The adjustment of having the lot line slightly altered. That seems straightforward to him and conforms to all the requirements. He is open to accepting the original proposal. It seems like Lot 16's shape is irregular. To build a house, it would have to be built very far to the edges of the lot. It has also been vacant for at least 30 years.

Krantz says she is in favor of approving this with the modification. Looking at the modification criteria, it may be something the applicant would like to proceed with to City Council. There are unique physical circumstances. It does meet the first and second modification criteria. She is not concerned with this becoming a mega lot because the location is at the end and would not affect the overall neighborhood character. The only criteria that may be difficult to back is the hardship one because she is not sure if taxes can constitute as a hardship.

Hoefner reminds them that they must meet all the criteria.

Brauneis says the land is perfectly buildable and remains so. The only thing that is in perpetuity is the creation of these lots.

Choi says he is in support of the application with the condition. He expresses his sympathy to the property owners. He states possible scenarios 15-20 years from now for building a large house on this lot and the planning commission today can't anticipate all of the ramifications of that.

Brauneis says he is in support of the application with the condition as proposed.

Hoefner moves and **Moline** seconds a motion to approve Resolution 1, Series 2023. Motion passes unanimously by a roll call vote.

New Business – Public Hearing Items

- B. **Planned Unit Development Amendment** – Centennial Heights – Adoption of Resolution 2, Series 2023 recommending approval of a Planned Unit Development Amendment to amend fence regulations for the Centennial Heights subdivision.

Applicant: City of Louisville

Case Planner: Lisa Ritchie, Fire Recovery and Planning Manager

All notice was met as required and there is no commissioner conflict of interest.

Staff Presentation:

Ritchie begins her presentation by giving an overview of the Centennial Heights PUD. It was first approved in October 1990 with a fence amendment in February of 1992. There are 120 single-family properties, 39 of them were destroyed in the Marshall Fire. The current PUD regulates all fences to some degree. In

Ordinance 1838, Series 2022, there is a citywide exemption for wood fences adjacent to homes. This was a neighborhood driven proposal.

She reviews the fence regulations cover sheet. The following note will remain unchanged, "Solid fence setbacks for lots shall be 18' in the front yard. Side and rear yard fences may be on the property line." The following note is deleted, "Solid fences shall be a maximum of 72" in height with 1"x6" R.C. (Rough Cedar) vertical boards on 4x4 posts 60 inches O.C.(on center)." The following note is also deleted, "On those lots backing to the OPEN SPACE & PSCO Easement (Lots 24-47) 6' privacy fences along the rear property line shall be located a minimum of 15' from the California Chain Link Fence."

In regards to sheet two, there will be no design regulations such as in the CDDSG, the north and south borders remain unchanged, the west border has the removal of the standard, and the east border is revised to allow a 6' high fence while wood is not permitted.

Staff Recommendation:

Staff is recommending approval of Resolution 2 Series 2023, recommending approval of the draft resolution amending the Centennial Heights PUD fence regulations.

Commissioner Questions of Staff:

Moline asks why the neighbors would want to move away from the 42 in design.

Ritchie says the California chain link traditionally has a wood frame supporting a chain link structure. One of the reasons of moving away from the 42 in design was for keeping dogs in the yard as well as increased privacy.

Choi asks how staff engaged with the neighborhood residents.

Ritchie says after the fire staff developed relationships through neighborhood liaisons. Through this process, we learned that fence regulations were a concern. Neighborhoods basically self-appointed a fence committee. We held an online meeting to discuss the PUD and standards and had an online survey. We followed this up with an additional online meeting to review the results.

Choi asks if staff put forth a process to ensure that there is no additional burden on houses that face one area.

Ritchie says my role has been more of an advisor to the neighborhoods. The outcome was driven by the neighbor's desire. She asks that he ask that question of them when they present.

Choi says in regards to the staff recommendation, would staff be open to having the verbiage talk about noncombustible material as opposed to just wood not being allowed.

Ritchie says staff did discuss that but what does noncombustible really entail? Does that entail vinyl although that does not burn the same way wood does? The neighborhood's preferred language is noncombustible.

Brauneis asks for other examples of noncombustible materials for 6ft fences.

Ritchie says there is a steel fence product, a black rod iron, concrete, "Trex," and vinyl are less combustible than wood.

Howe asks if individual residents are able to change their fence or will this have to be consistent along the entire corridor.

Ritchie says the only portion of the neighborhood that will have a consistent design after this PUD Amendment is the northern border and the portion along Century Drive and Dahlia Way. Everywhere else, there would be no design standard.

Howe says if someone moves into a house along the power line and they want a 6ft combustible cement fence and then the neighbor wants a steel fence, would that be allowed? How do we make it a consistent fence product?

Ritchie says this neighborhood determined that consistency along this corridor was not a priority. This partly that has to do with the fact that some rebuilding is happening right now and other survivors are not yet rebuilding. Along some trail corridors we have highly consistent designs. Staff is not concerned with inconsistency at the neighborhood level because it will not be much different than what we see now for properties.

Howe says since there will be more PUDs coming to the commission, does this set a precedent for the upcoming PUDs?

Ritchie does not believe this sets any kind of precedent because the circumstances are always unique. She discusses how fence permits are reviewed during the permit process. She reminds the commission that a homeowner cannot alter a fence that is not on their property. If that does happen, that would then be a civil matter.

Public Comment:

William Johnson, 108 Vista Ln

Johnson speaks on having a California chain link fence and how that has allowed his dog to escape the yard. He also mentions the problem he has had with coyotes and the benefit of having a 6ft fence. Because of various insurances, the neighbors thought it was better to be flexible with materials. He did not like the aesthetic of the previous fence. Across the corridor, there is no standard of fence material.

Dave Baron, 835 W Mulberry St

Baron thanks staff for spending time coordinating the surveys and the multiple meetings that were had. He discusses how the fire spread so easily because of the fence material. He mentions owners who do not want a fence because they enjoy the open feel but he does need a fence because of their dog. The cedar material is just too flammable.

David Pomeroy, 112 Vista Ln

Pomeroy mentions that his fence caught fire and agrees that the fence material should be noncombustible. He is not bothered by having different fence materials.

Edward Duell, 794 W Pinyon Way

Duell says the California chain link fence has too much of an industrial look. He did not realize a cedar fence is so combustible. He thinks the wording should be intentional since many materials can be combustible. He would like staff and the commission to list 6-8 viable material options to select from. He is glad this is being talked about.

Michael White, 106 Vista Ln

White says he is hoping that staff will review fences throughout the City and not just in the burned areas. He would like all cedar fences to be removed or not allowed moving forward. He is in favor of this proposal.

Closing Statement by Staff:

Ritchie reminds the commission that the neighborhood's desire was to keep the California chain link fence.

Brauneis says regarding the welded wire, he has seen some use of that throughout town.

Ritchie says she can check with the neighbors to see if they are okay with chain link or welded wire.

Brauneis asks what would happen if somebody wanted a six by six post style. Is four by four a minimum?

Ritchie says staff will look at that before we go to City Council.

Brauneis says often times that mentions the horizontal wood post frame at the top. Does that remain a part of the definition?

Ritchie says if someone did not have that horizontal frame, she does not think that would comply with the California chain link design.

Brauneis talks about possible treatments for fences.

Howe says on the power line, the 6in high fence would not be permitted. Are we removing the requirement to put cedar there?

Ritchie says the PUD would not allow cedar because wood is not permitted. She is willing to work with the neighborhood to better define combustibility.

Howe says we are taking away the requirement of using rough cedar but we are not saying that they cannot use rough cedar.

Ritchie says that is correct with the except of the fences along the perimeters.

Krantz says along the power line trail, you cannot put wood. What would be the option for somebody wanting privacy? Is cement the only option?

Ritchie says there are solid steel fences that would be noncombustible.

Choi asks if it is an acceptable idea to craft language around a performance-based specification.

Ritchie says that is what she intends to collaborate with professionals in how to administer these codes and the appropriate regulatory language.

Discussion by Commissioners:

Hoefner says this feels like the right solution for this neighborhood right now. Down the road, we may need to review the fence code requirements but at this time, he is in support of this proposal.

Howe says he agrees that this is going in the right direction. We have to look long term as well whether our fence code should change at a citywide level. He would like to see in the future possible material requirements so that there is some consistency throughout the neighborhoods.

Moline says he is in support of this resolution. He thinks having citywide guidelines on a broader scope for allowed materials would be beneficial. That direction feels better to him than just neighborhood-level design guidelines.

Krantz says it should say noncombustible but maybe having a better definition of explaining what that means would be important.

Choi says he supports the recommendation to remove the requirement for cedar. For the final language that goes to City Council, he would like the language to be more prescriptive on the performance criteria.

Brauneis says he is in favor of this. He agrees with Commissioner Choi that the language should include the performance criteria for the flammability. When it comes to reevaluating welded wire, part of that look provides a certain transparency. He wonders if that should be a part of the performance criteria. He thinks staying away from a list of materials would be better.

Howe asks if Brauneis would like to add a condition about it being noncombustible.

Brauneis does not think it needs to be a condition.

Ritchie says she will bring this up with the neighborhood before this goes to City Council.

Moline moves and **Hoefner** seconds a motion to approve Resolution 2, 2023. Motion passes unanimously by a roll call vote.

New Business – Public Hearing Items

- C. **Planned Unit Development Amendment** – Coal Creek Ranch Filing 3 and Coal Creek Ranch Filing 3, Replat A – Adoption of Resolution 3, Series 2023 recommending approval of a Planned Unit Development Amendment to amend fence regulations for the Centennial Heights subdivision.

Applicant: City of Louisville

Case Planner: Lisa Ritchie, Fire Recovery and Planning Manager

Ritchie requests that this agenda item be continued to the February 9th meeting because some issues have come up at the neighborhood level. She is unsure if these issues will result in a change of the proposal.

Howe moves and **Hoefner** seconds a motion to continue Resolution 3, Series 2023 to the February 9th meeting.

Planning Commission Comments

Howe thanks the Louisville Rec Center for extending membership for fire victims.

Moline welcomes Commissioner Choi.

Staff Comments

Public Notice Posting Locations (Resolution No. 4, Series 2023)

Kay Marchetti tells the commission the following posting locations.

- a. City Hall, 749 Main Street
- b. Library, 951 Spruce Street
- c. Recreation/Senior Center, 900 Via Appia
- d. Police Department/Municipal Court, 992 Via Appia
- e. City Web Site, www.LouisvilleCO.gov

Hoefner moves and **Moline** seconds a motion to approve Resolution No. 4, Series 2023. Motion passes unanimously by a roll call vote.

Open Government & Ethics Pamphlet – 2023 Edition

Kay Marchetti points out that in the meeting packet, the 2023 edition of the open government and ethics pamphlet is available for the commissions.

2023 Meeting Dates

Kay Marchetti mentions that the 2023 meeting dates are in the meeting packet for the commissioners to review and confirm that this year's meeting dates work for them.

Discussion Items for Next Meeting

- A. Cornerstone Fencing PUD Amendment

Adjourn

The meeting adjourned at 9:15 PM.

ITEM:	PUD-0444-2022 – Coal Creek Ranch Filing 3 PUD Amendment – Fence Regulations – CONTINUED FROM JANUARY 12, 2023
PLANNER:	Lisa Ritchie, AICP, Planning Manager
APPLICANT:	Staff Initiated with Neighborhood Input
REQUEST:	Consideration of Resolution 3, Series 2023, recommending approval of a resolution amending fence regulations in the Coal Creek Ranch Filing 3 Planned Unit Development

SUMMARY:

Information added to this staff report following the January 12, 2023 publication is underlined.

On December 30, 2021, the Marshall Fire swept through multiple neighborhoods in the City, resulting in the total loss and significant damage of roughly 600 homes. Recognizing that fences contributed to fire spread in some instances, the City approved Ordinance 1838, Series 2022 (see attached) on September 6, 2022 which provided an automatic exemption from any Planned Unit Development (PUD) standards for certain wood fences, allowing homeowners to install non-combustible fence materials for fences that are immediately adjacent to homes to potentially reduce impact from wildfire.

In the months following the fire, planning staff met regularly with affected neighborhoods to discuss issues related to recovery. Some neighborhoods, including Coal Creek Ranch Filing 3, expressed a desire to amend their fence regulations in order to address combustible designs or other design preferences. Coal Creek Ranch has an active Home Owners' Association (HOA). The HOA led the process to determine neighborhood fence preferences because fences are also regulated in their covenants. The changes to the fence design requirements require a PUD Amendment to ensure the consistency in the regulations. The proposed amendment reflects the preferences determined through their HOA, and the application is being presented on behalf of the neighborhood by staff.

BACKGROUND:

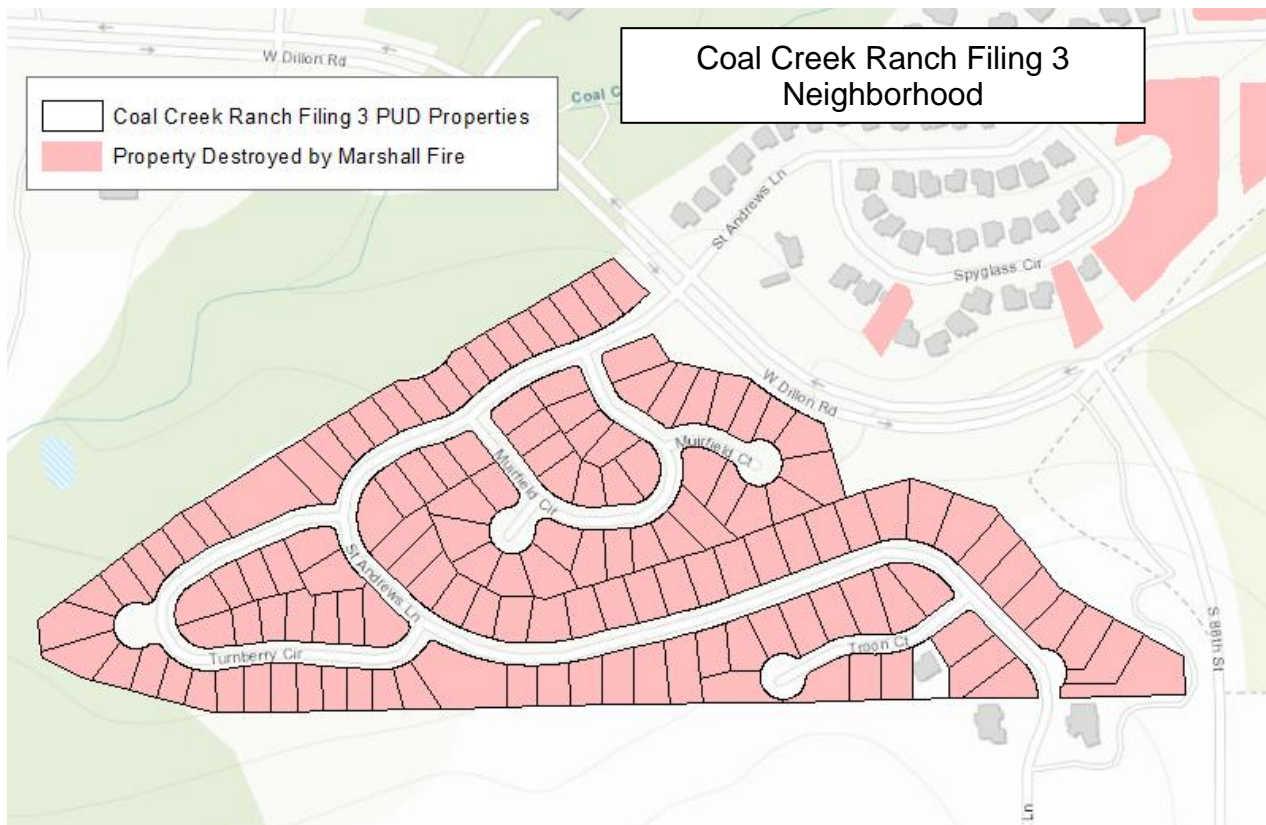
Fence regulations for residential properties are established in Sec. 17.16.120 – *Fences, walls and hedges* in the Louisville Municipal Code. This code was originally adopted in 1973, with amendments occurring over the years, most recently in 1995. In addition to these standards, Planned Unit Developments often contain additional fence standards, including height, materials, and design. The scope of these standards vary, with some PUDs only setting forth neighborhood perimeter fence standards and others setting forth standards for both perimeter and internal fences. The predominate material for PUDs that include design parameters is wood, along with California chain link, which includes wood frame around chain link. The reason most PUDs have some level of fence

regulations is to preserve a particular neighborhood character and quality of fence design.

The Coal Creek Ranch Filing 3 PUD (see attached) was approved on February 6, 1990 and included fence regulations.

Currently, the PUD regulates all neighborhood perimeter fences based on adjacent context, as well as solid interior fence design.

The neighborhood includes 140 single family residential lots, 139 of which were destroyed during the Marshall Fire. Most neighborhood fences were also destroyed.

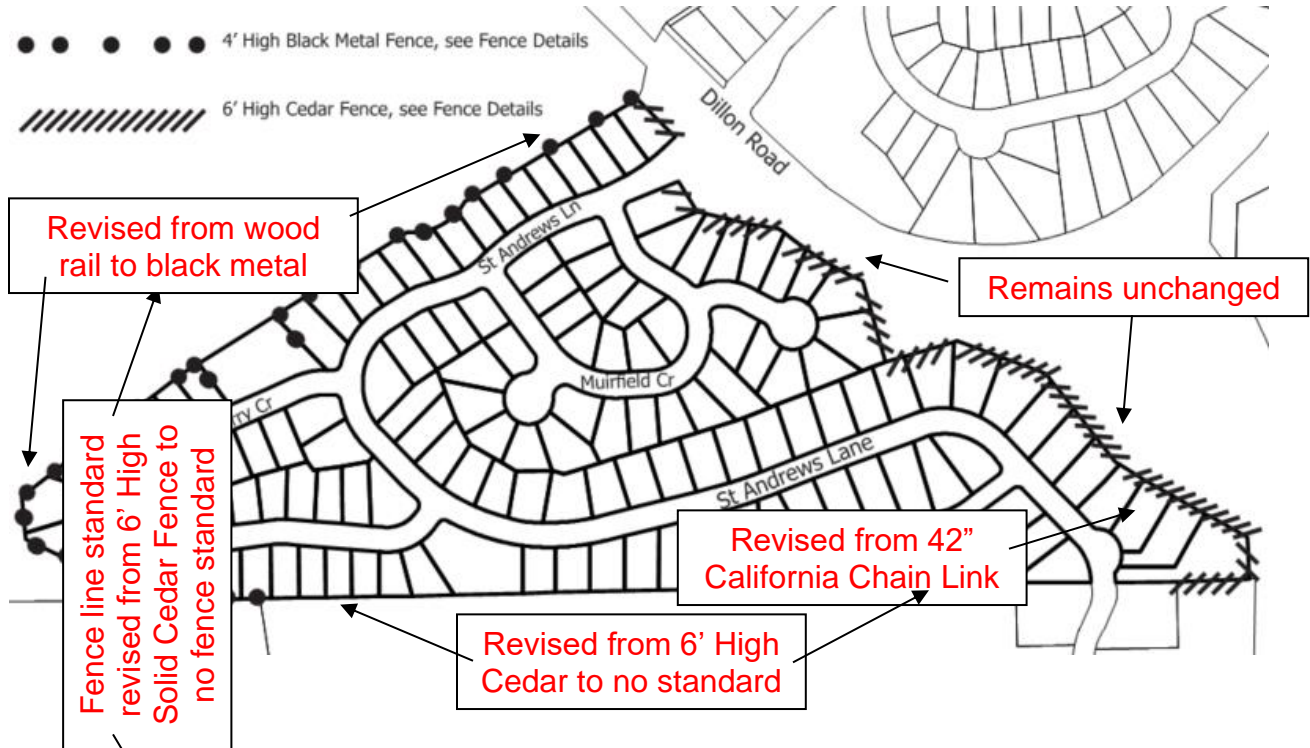


PROPOSAL:

Staff collaborated with the neighborhood HOA to understand preferences for changes to the existing regulations. This process was led by the HOA, however staff conducted an online meeting with the entire neighborhood to discuss the amendment process and staff's role. Staff provided guidance on the process and shared input with the HOA on design considerations, but the final outcome of the draft resolution was primarily determined at the neighborhood level.

The Coal Creek Ranch Filing 3 PUD regulates all fences within the neighborhood to some degree. The PUD Amendment removes regulations for interior fence design, which would allow any fence permitted by the Louisville Municipal Code. The HOA intends to maintain fence design standards for interior fences through their covenants.

The following exhibit reflects the changes proposed for perimeter fences:



ANALYSIS:

The PUD is regulated by Chapter 17.28 of the Louisville Municipal Code. Residential zone districts do not have design regulations related to fences, such as the Commercial and Industrial. Development Design Standards and Guidelines. Therefore fence regulations are customized for each neighborhood through the PUD. A complete response to the PUD criteria in 17.28.120 is provided as an appendix.

Staff provides the following considerations for the revisions:

- Removal of the design standard for interior fences
 - *This provision applies to fences interior to the neighborhood, such as side and rear yard fences. Ordinance 1838, Series 2022 exempts the fences abutting the house that face the street from being wood, therefore this standard only applies to side yard and rear yards, which generally are not visible, therefore lack of continuity in fence design will not negatively impact neighborhood character. The HOA is continuing to work through preferred design requirements within their covenants, and didn't want to delay*

Remains unchanged of the PUD Amendment for perimeter fences.

- Revision to the fence facing the Coal Creek Golf Course to require 48" High Black Metal Fencing, per the fence detail shown on the PUD Amendment exhibit (see attached)

- *This is the preferred design determined through the HOA for this segment of perimeter fence. The previous fence was a 42" high wood three rail painted fence. The neighborhood preferred to keep the open design but require the non-combustible design. Staff finds that this fence design standard is of high quality and will not negatively impact the view of the neighborhood from the golf course.*
- Removal of the 6' High Solid Cedar Fence requirement along the southern border of the neighborhood adjacent to City-owned Open Space
 - *While the PUD required a 6' High Cedar Fence, many property owners installed fences with other designs over the years. Generally, this fence is not highly visible to the public. There was a desire expressed by the HOA to allow flexibility for these homeowners to reflect the pre-fire conditions and to allow non-combustible fences if the homeowners choose. Staff finds this flexibility will not negatively impact the character of the area.*
- Retention of the requirement for a 6' High Cedar Fence along Dillon Road and S. 88th Street – This section of fence is still being discussed at the neighborhood level, and if a revised design is selected, a follow up PUD Amendment may be required. For now, this PUD Amendment as drafted is moving forward to approve the changes settled on to date.
 - *The PUD Amendment maintains the existing design standard along this perimeter, per the detail in the PUD Amendment exhibit. This mirrors the HOA design standard.*

PUBLIC COMMENTS:

A letter is provided by the HOA regarding the PUD Amendment. To date, no other public comments have been received.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 3, Series 2023, recommending approval of a City Council Resolution amending fence regulations in the Coal Creek Ranch Filing 3 Planned Unit Development.

ATTACHMENTS:

1. Resolution 3, Series 2023
2. Draft City Council Resolution
3. Ordinance 1838, Series 2022
4. Coal Creek Ranch Filing 3 PUD
5. Public Comments

APPENDIX: PUD Criteria Analysis – Coal Creek Ranch Filing 3 – PUD Amendment

Criteria 17.28.120 (A)	Finding	Narrative
1. An appropriate relationship to the surrounding area.	Compliant	The revisions maintain appropriate design for the area

<p>2. Circulation in terms of the internal street circulation system, designed for the type of traffic generated, safety, separation from living areas, convenience, access, and noise and exhaust control. Proper circulation in parking areas in terms of safety, convenience, separation and screening.</p>	<p>Not applicable</p>	<p>No changes are proposed that affect circulation</p>
<p>3. Consideration and provision for low and moderate-income housing</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>4. Functional open space in terms of optimum preservation of natural features, including trees and drainage areas, recreation, views, density relief and convenience of function</p>	<p>Not applicable</p>	<p>No changes to open space are proposed</p>
<p>5. Variety in terms of housing types, densities, facilities and open space</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>6. Privacy in terms of the needs of individuals, families and neighbors</p>	<p>Compliant</p>	<p>The PUD Amendment continues to allow privacy through additional flexibility in fence design</p>
<p>7. Pedestrian and bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness</p>	<p>Not applicable</p>	<p>No changes to pedestrian and bicycle infrastructure are proposed</p>
<p>8. Building types in terms of appropriateness to density, site relationship and bulk</p>	<p>Not applicable</p>	<p>No changes to building standards are proposed</p>
<p>9. Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting</p>	<p>Not applicable</p>	<p>No changes to building standards are proposed</p>
<p>10. Landscaping of total site in terms of purpose, such as screening, ornamental types used, and materials used, if any; and maintenance, suitability and effect on the neighborhood</p>	<p>Compliant</p>	<p>The PUD Amendment revisions continue to allow for screening in a manner that is suitable for this neighborhood</p>
<p>11. Compliance with all applicable development design standards and guidelines and all applicable regulations pertaining to matters of state interest, as specified in <u>chapter 17.32</u></p>	<p>Compliant</p>	<p>The PUD Amendment does not conflict with the fence standards</p>

12. None of the standards for annexation specified in <u>chapter 16.32</u> have been violated	Not applicable	The property was previously annexed.
13. Services including utilities, fire and police protection, and other such services are available or can be made available to adequately serve the development specified in the final development plan	Compliant	The proposed changes do not conflict with the ability to serve and protect the neighborhood

Criteria 17.28.120 (B)	Finding	Narrative
1. Development shall be in accordance with the adopted elements of the comprehensive development plan of the city, and in accordance with any adopted development design standards and guidelines.	Compliant	The PUD Amendment is a neighborhood driven design that is in accordance with policy
2. No structures in a planned unit development shall encroach upon the floodplain. Existing bodies of water and existing stream courses shall not be channelized or altered in a planned unit development plan.	Compliant	The property is not located in a floodplain, nor are there any existing bodies of water in the area.
3. No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved specifically by the city.	Compliant	There is no known subsidence on the property.
4. The proposal should utilize and preserve existing vegetation, land forms, waterways, and historical or archeological sites in the best manner possible. Steep slopes and important natural drainage systems shall not be disrupted. How the proposal meets this provision, including an inventory of how existing vegetation is included in the proposal, shall be set forth on the landscape plan submitted to the city.	Compliant	The PUD Amendment will not impact any existing vegetation, drainage or other areas of city interest
5. Visual relief and variety of visual sitings shall be located within a development in the overall site plan. Such relief shall be	Not applicable	No changes are proposed to the layout of the neighborhood

accomplished by building placements, shortened or interrupted street vistas, visual access to open space and other methods of design.		
6. Open space within the project shall be located in such a manner as to facilitate pedestrian use and to create an area that is usable and accessible to residents of surrounding developments.	Not applicable	No changes are proposed to the layout of the neighborhood
7. Street design should minimize through traffic passing residential units. Suggested standards with respect to paving widths, housing setbacks and landscaping are set forth in public works standards of the city and applicable development design standards and guidelines. The system of streets, including parking lots, shall aid the order and aesthetic quality of the development.	Not applicable	No changes are proposed to the layout of the neighborhood
8. There shall exist an internal pedestrian circulation system separate from the vehicular system such that allows access to adjacent parcels as well as to parks, open space or recreation facilities within the development. Pedestrian links to trail systems of the city shall be provided.	Not applicable	No changes are proposed to the layout of the neighborhood
9. The project and development should attempt to incorporate features which reduce the demand for water usage.	Not applicable	No changes are proposed to the layout of the neighborhood
10. Landscape plans shall attempt to reduce heating and cooling demands of buildings through the selection and placement of landscape materials, paving, vegetation, earth forms, walls, fences, or other materials.	Not applicable	There are no landscape plans associated with this PUD
11. Proposed developments shall be buffered from collector and arterial streets. Such buffering may be accomplished by earthen	Compliant	The PUD Amendment retains the 6' solid fence along Dillon Rd and S 88 th Street

<p>berms, landscaping, leafing patterns, and other materials. Entrance islands defining traffic patterns along with landscaping shall be incorporated into entrances to developments.</p>		
<p>12. There shall be encouraged the siting of lot arrangement, building orientation and roof orientation in developments so as to obtain the maximum use of solar energy for heating.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>13. The overall PUD shall provide a variety of housing types.</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>14. Neighborhoods within a PUD shall provide a range of housing size.</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>15. Architectural design of buildings shall be compatible in design with the contours of the site, compatible with surrounding designs and neighborhoods, shall promote harmonious transitions and scale in character in areas of different planned uses, and shall contribute to a mix of styles within the city.</p>	<p>Compliant</p>	<p>The PUD Amendment proposes fence designs that maintain neighborhood character</p>

**RESOLUTION NO. 3
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO THE
COAL CREEK RANCH FILING 3 PLANNED UNIT DEVELOPMENT AMENDMENT
REGARDING FENCE REGULATIONS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, many fences within the Coal Creek Ranch Filing 3 neighborhood were damaged or destroyed as a result of the fire; and

WHEREAS, residents within the neighborhood expressed desire to amend certain fence regulations to allow non-combustible materials and other reflect other design preferences; and

WHEREAS, Staff facilitated outreach and collaboration with the neighborhood to understand their preferences for changes, including online meetings and surveys, and developed the PUD Amendment on their behalf; and

WHEREAS, City Council has the authority to amend the PUD pursuant to Section 17.28.210 of the Louisville Municipal Code; and

WHEREAS, the Planning Commission has considered the application at a duly noticed public hearing on January 12, 2023 and continued to February 9, 2023, where evidence and testimony were entered into the record.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby recommend approval of a Planned Unit Development Amendment to amend fence regulations for the Coal Creek Ranch Filing 3 and Filing 3 Replat A subdivision.

PASSED AND ADOPTED this 9th day of February, 2023.

By: _____
Steve Brauneis, Chair
Planning Commission

Attest: _____
Jeff Moline, Secretary
Planning Commission

**RESOLUTION NO.
SERIES 2023**

**A RESOLUTION APPROVING AN AMENDMENT TO THE COAL CREEK RANCH
FILING 3 FINAL PLANNED UNIT DEVELOPMENT REGARDING FENCE
REGULATIONS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, many fences within the Coal Creek Ranch Filing 3 neighborhood were damaged or destroyed as a result of the fire; and

WHEREAS, residents within the neighborhood expressed desire to amend certain fence regulations to allow non-combustible materials and other reflect other design preferences; and

WHEREAS, Staff facilitated outreach and collaboration with the neighborhood to understand their preferences for changes, including online meetings and surveys, and developed the PUD Amendment on their behalf; and

WHEREAS, City Council has the authority to amend the PUD pursuant to Section 17.28.210 of the Louisville Municipal Code; and

WHEREAS, after a duly noticed public hearing held on January 12, 2023 and continued to February 9, 2023, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Reports dated January 12, 2023 and February 9, 2023, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Coal Creek Ranch Filing 3 Planned Unit Development; and

WHEREAS, City Council has provided notice of a public hearing on said resolution by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, does hereby approve the amendment to the Coal Creek Ranch Filing 3 Final Planned Unit Development as described on Exhibit A:

PASSED AND ADOPTED this ___ day of _____, 2023.

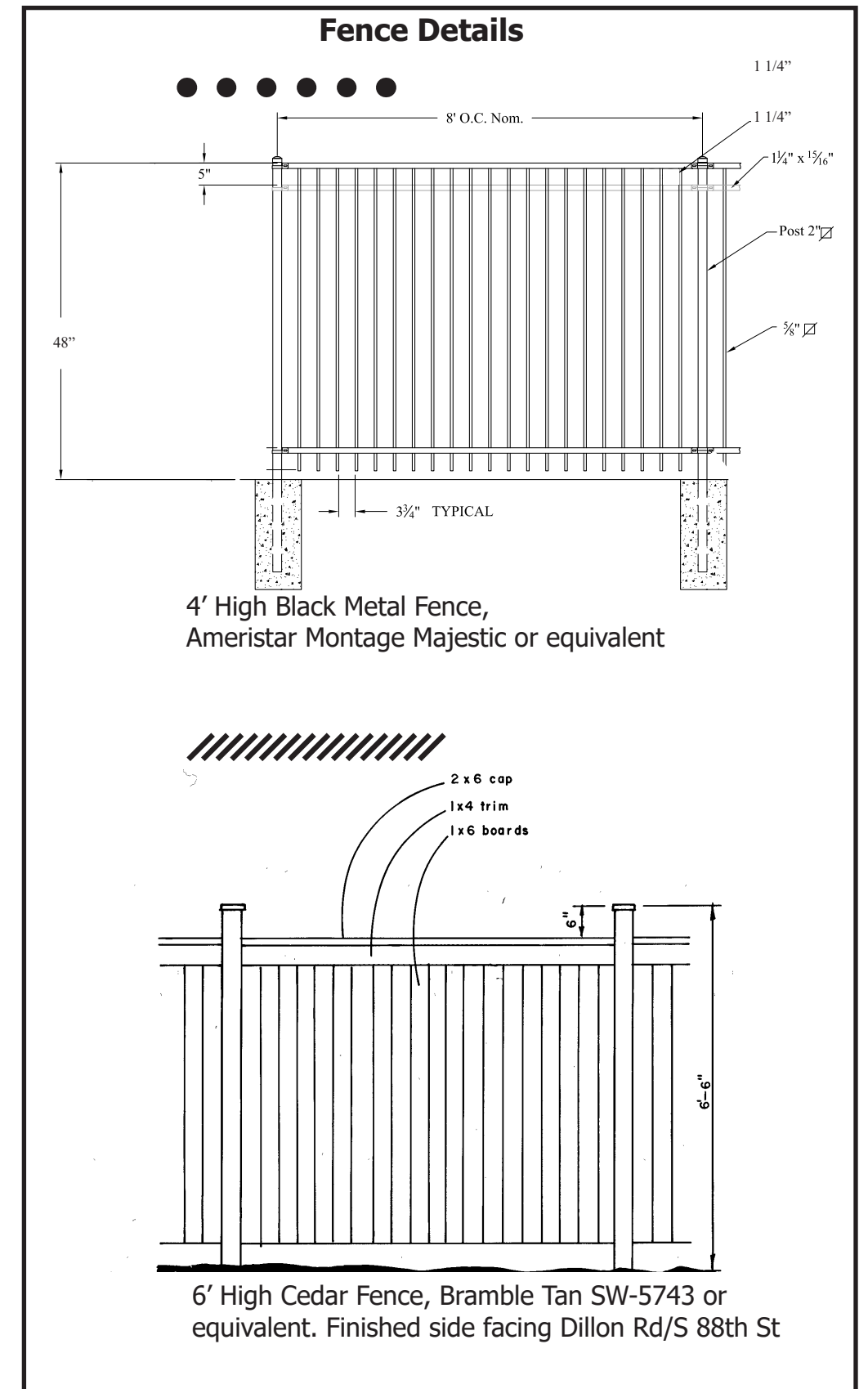
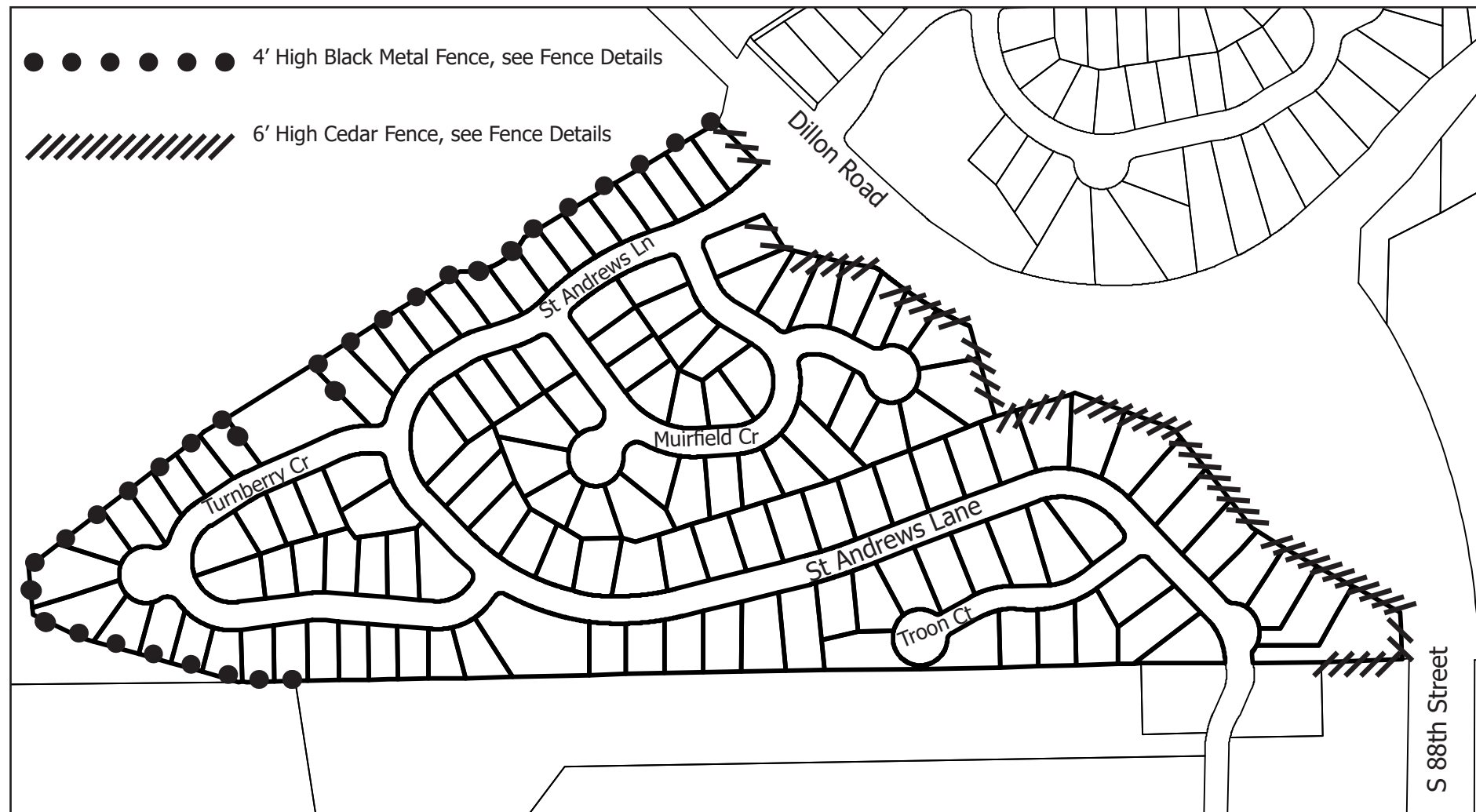
By: _____
Dennis Maloney, Mayor

Attest: _____
Meredyth Muth, City Clerk

Coal Creek Ranch Filing 3 Fence Amendment Exhibit

Notes:

1. This PUD Amendment replaces all fence regulations for the Coal Creek Ranch Filing 3 PUD
2. Fences not regulated by this amendment are subject to the Louisville Municipal Code Section 17.16.120. In all locations, chain link fences are prohibited.



**ORDINANCE NO. 1838
SERIES 2022**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE
CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, there is visible evidence that wood fences contributed to the loss of some homes by providing a conduit for fire to travel from property to property; and

WHEREAS, best practices within the Wildland Urban Interface recommend non-combustible fence material in certain circumstances to limit fire spread; and

WHEREAS, City Council desires to ensure that fences constructed of combustible materials do not contribute to loss of structures from fire; and

WHEREAS, after a duly noticed public hearing held on July 14, 2022, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated July 14, 2022, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Louisville Municipal Code (LMC) set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, THAT:

Section 1. Section 17.16.120 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 17.16.120. – Fences, walls and hedges

- A. No fence, wall, or hedge shall exceed six feet in height except as required for screening, recreational purposes approved by the planning commission, or unique security requirements approved by the planning commission.
- B. No fence, wall, or hedge exceeding four feet in height shall be located in any required front yard.
- C. Regardless of the provisions of subsections A and B of this section, no fence, wall or hedge exceeding 2½ feet in height shall be located in any vision clearance area of a street intersection unless such fence, wall or hedge shall be more than 80 percent open.

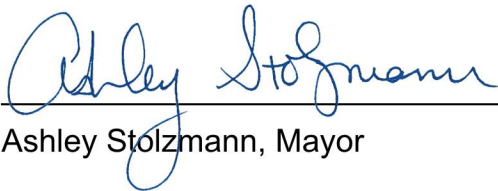
- D. No fence, wall, or hedge shall be located as to extend into street or alley rights-of-way.
- E. If a Planned Unit Development requires a fence constructed of wood or another combustible material, a property owner may install a noncombustible fence for the portion of the fence that connects the principal structure to the side property line, provided that:
 1. The fence matches the height the limit set forth in the Planned Unit Development; and
 2. The fence shall match the design intent for openness or solid construction set forth in the Planned Unit Development.

Section 2. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Louisville Municipal 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 2nd day of August, 2022.



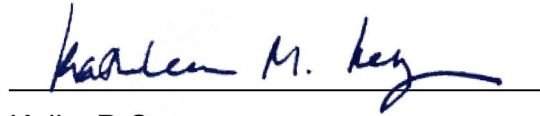
Ashley Stolzmann, Mayor

ATTEST:



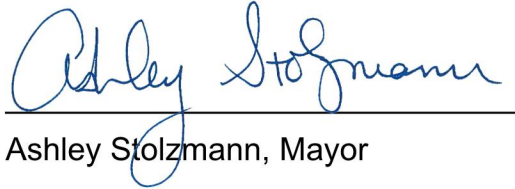
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "P.C. Kelly", written over a horizontal line.

Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this 6th day of
September, 2022.

A handwritten signature in blue ink, appearing to read "Ashley Stolzmann", written over a horizontal line.

Ashley Stolzmann, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Meredyth Muth", written over a horizontal line.

Meredyth Muth, City Clerk

Meredith

received

NOTICE OF PUBLIC HEARING
ORDINANCE No. 1838, SERIES 2022

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Louisville, Colorado, to be held on September 6, 2022 at the hour of 6:00 p.m., at Louisville City Hall, 749 Main Street, Louisville, Colorado 80027 or in an electronic meeting, the City Council will hold a Public Hearing on the final passage and adoption of a proposed ORDINANCE AMENDING TITLE 15, TITLE 16, AND TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS.

Published in the Daily Camera on August 7, 2022 with full ordinance.
Full copies available in the City Clerk's Office, 749 Main Street, Louisville CO 80027.

ORDINANCE NO. 1838
SERIES 2022

AN ORDINANCE AMENDING TITLE 15, TITLE 16, AND TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, there is visible evidence that wood fences contributed to the loss of some homes by providing a conduit for fire to travel from property to property; and

WHEREAS, best practices within the Wildland Urban Interface recommend non-combustible fence material in certain circumstances to limit fire spread; and

WHEREAS, City Council desires to ensure that fences constructed of combustible materials do not contribute to loss of structures from fire; and

WHEREAS, after a duly noticed public hearing held on July 14, 2022, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated July 14, 2022, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Louisville Municipal Code (LMC) set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, THAT:

Section 1. Section 17.16.120 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are stricken through):

Sec. 17.16.120. - Fences, walls and hedges

A. No fence, wall, or hedge shall exceed six feet in height except as required for screening, recreational purposes approved by the planning commission, or unique security requirements approved by the planning commission.

B. No fence, wall, or hedge exceeding four feet in height shall be located in any required front yard.

C. Regardless of the provisions of subsections A and B of this section, no fence, wall or hedge exceeding 2 1/2 feet in height shall be located in any vision clearance area of a street intersection unless such fence, wall or hedge shall be more than 80 percent open.

D. No fence, wall, or hedge shall be located as to extend into street or alley rights-of-way.

E. If a Planned Unit Development requires a fence constructed of wood or another combustible material, a property owner may install a noncombustible fence for up to five feet of the portion of the fence that connects to the principal structure, provided that:

1. The fence matches the height the limit set forth in the Planned Unit Development; and

2. The fence shall match the design intent for openness or solid construction set forth in the Planned Unit Development.

Section 2. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Louisville Municipal 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this _____ day of _____, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

Published: Boulder Daily Camera August 7, 2022-1911106

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Boulder
State of Colorado

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Daily Camera*.
2. The *Daily Camera* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Boulder County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Daily Camera* in Boulder County on the following date(s):

Aug 7, 2022

Melissa Najera
Signature

Subscribed and sworn to me before me this
8th day of August, 2022.

Shayla Najera
Notary Public

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

(SEAL)

Account: 1048836
Ad Number: 1911106
Fee: \$175.56

received
9/11/22

NOTICE OF PUBLIC HEARING
ORDINANCE No. 1838, SERIES 2022

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL
CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT
DEVELOPMENTS

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED this 2nd day of August, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this 6th
day of August, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

Ordinance No. 1838, Series 2022 is revised to read as follows
(amendments are shown in bold underline and bold strikeout):

ORDINANCE NO. 1838
SERIES 2022

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL
CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT
DEVELOPMENTS

Sec. 17.16.120. – Fences, walls and hedges

E. If a Planned Unit Development requires a fence constructed of
wood or another combustible material, a property owner may in-
stall a noncombustible fence for the portion of the fence that con-
nects the principal structure to the side property line, provided that:

1. The fence matches the height the limit set forth in the Planned
Unit Development; and
2. The fence shall match the design intent for openness or solid
construction set forth in the Planned Unit Development.

Published in the Daily Camera on September 11, 2022. Full copies of
the ordinance are available at the City Clerk's Office, 749 Main
Street, Louisville, Colorado.

Published: Boulder Daily Camera September 11, 2022-1919358

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Boulder
State of Colorado

The undersigned, Agent, being first duly sworn
under oath, states and affirms as follows:

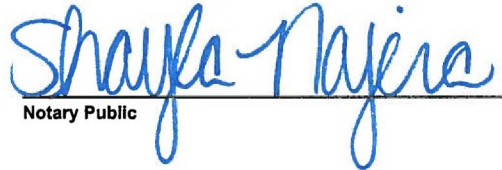
1. He/she is the legal Advertising Reviewer of
Prairie Mountain Media LLC, publisher of the
Daily Camera.
2. The *Daily Camera* is a newspaper
of general circulation that has been published
continuously and without interruption for at least
fifty-two weeks in Boulder County and
meets the legal requisites for a legal newspaper
under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy,
published in the *Daily Camera*
in Boulder County on the following date(s):

Sep 11, 2022



Signature

Subscribed and sworn to me before me this
12th day of September, 2022



Notary Public

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

(SEAL)

Account: 1048836
Ad Number: 1919358
Fee: \$74.80

DESIGN CRITERIA

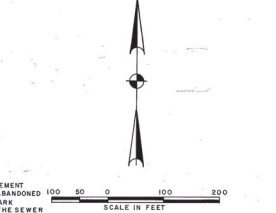
SIDE	BUILDING SETBACK		BUILDING HEIGHT
	REAR	FRONT	
5.0'	20.0'	20.0' *	35' MAX.

* Corner lots one front setback only
 Side yard on street side - 15' min.
 Area of lot 1 from street setback on Dillon Rd. shall be 5' min.
 Front and rear setbacks shall be 15' on lots 1200' deep, 20' on all others, except lots 37, 38, 39, 40, 96, 97, 110 and 118 which have 20' rear setbacks.

LAND USE SUMMARY

LOTS 96-140
 GROSS DENSITY - 4.0 UNITS/ACRE
 TOTAL LOTS - 45
 MEAN LOT SIZE - 2155 S.F.
 MEDIAN LOT SIZE - 8350 S.F.
 MINIMUM LOT SIZE - 6500 S.F.
 MAXIMUM LOT SIZE - 21,500 S.F.

LOTS 1-95
 GROSS DENSITY - 4.4 UNITS/ACRE
 TOTAL LOTS - 95
 MEAN LOT SIZE - 6792 S.F.
 MEDIAN LOT SIZE - 6495 S.F.
 MINIMUM LOT SIZE - 5225 S.F.
 MAXIMUM LOT SIZE - 12,090 S.F.
 OPEN SPACE - 35,435 S.F.



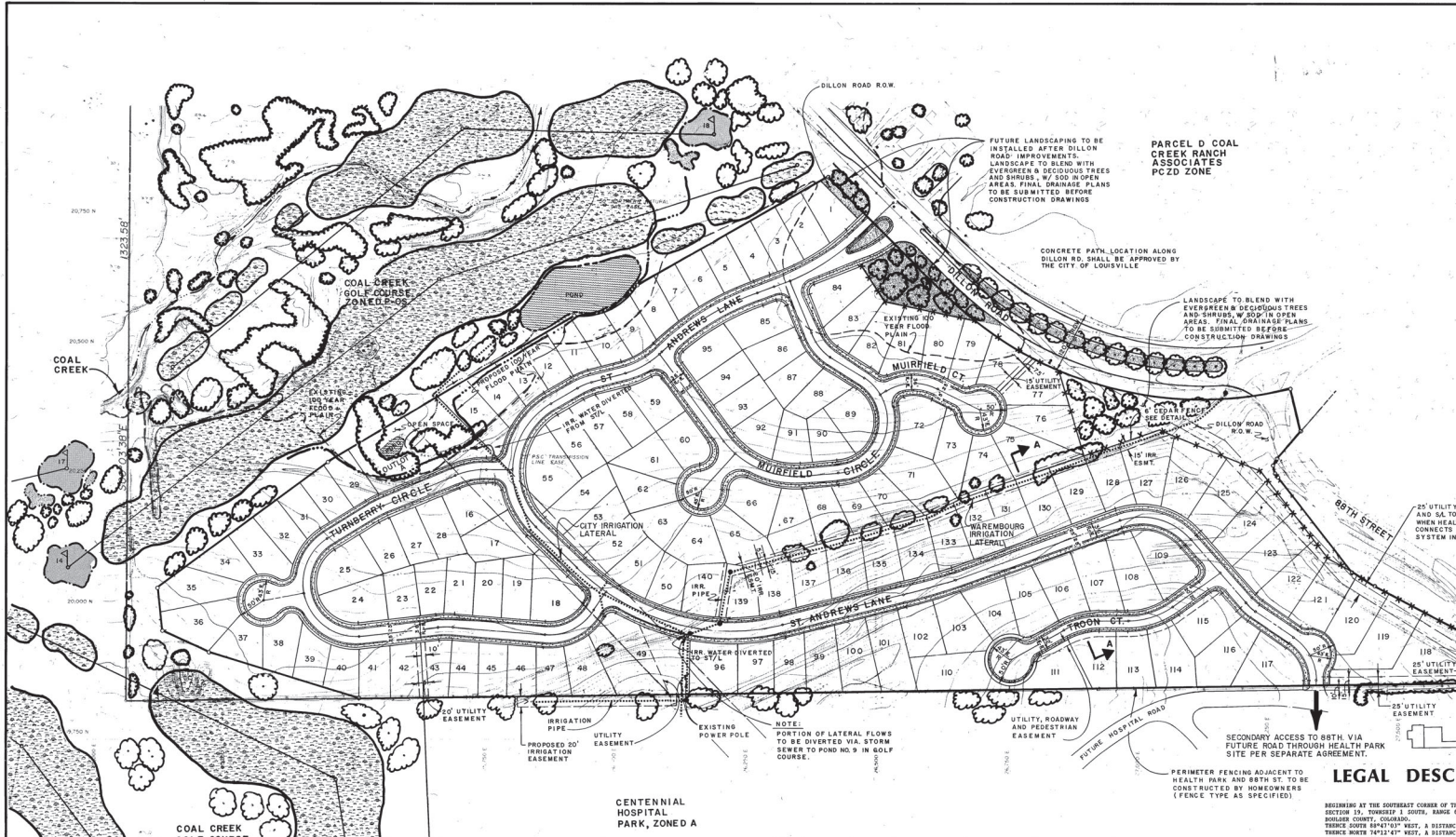
BOULDER COUNTY AGRICULTURAL ZONE

POINT OF BEGINNING

LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 9 WEST, OF THE 1ST PRINCIPAL MERIDIAN, BOULDER COUNTY, COLORADO:

THENCE NORTH 82°41'31" WEST, A DISTANCE OF 2204.75 FEET;
 THENCE NORTH 78°12'41" WEST, A DISTANCE OF 299.70 FEET;
 THENCE NORTH 67°12'41" WEST, A DISTANCE OF 94.50 FEET;
 THENCE NORTH 07°12'41" WEST, A DISTANCE OF 607.20 FEET;
 THENCE NORTH 52°41'13" EAST, A DISTANCE OF 548.00 FEET TO A NON-TANGENT POINT OF CURVATURE;
 THENCE 142.10 FEET ALONG A CURVE TO THE LEFT HAVING A DELTA OF 83°42'23", A RADIUS OF 215.00 FEET, AND A LONG CHORD WHICH BEARS NORTH 62°41'15" EAST, A DISTANCE OF 215.00 FEET;
 THENCE NORTH 65°12'15" EAST, A DISTANCE OF 420.20 FEET;
 THENCE SOUTH 45°12'15" EAST, A DISTANCE OF 212.50 FEET TO A TANGENT POINT OF CURVATURE;
 THENCE 450.50 FEET ALONG A CURVE TO THE LEFT, HAVING A DELTA OF 37°04'52", A RADIUS OF 440.00 FEET, AND A LONG CHORD WHICH BEARS SOUTH 64°12'15" EAST, A DISTANCE OF 442.10 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THAT TRACT OF LAND RECORDED IN A DEED RECORDED IN FILE 191, REC'DITION NO. 220521;
 THENCE ALONG SAID SOUTHERLY BOUNDARY THE FOLLOWING FOUR COURSES:
 THENCE SOUTH 55°41'13" EAST, A DISTANCE OF 29.40 FEET;
 THENCE SOUTH 59°40'51" EAST, A DISTANCE OF 100.30 FEET;
 THENCE NORTH 82°12'41" WEST, A DISTANCE OF 21.50 FEET;
 THENCE NORTH 48°12'41" WEST, A DISTANCE OF 82.71 FEET;
 THENCE SOUTH 14°21'15" EAST, A DISTANCE OF 72.45 FEET TO A POINT ON THE WESTERLY BOUNDARY OF THAT TRACT OF LAND RECORDED IN A DEED RECORDED IN BOOK 111 ON PAGE 212;
 THENCE ALONG SAID WESTERLY BOUNDARY THE FOLLOWING FIVE COURSES:
 THENCE SOUTH 69°12'30" WEST, A DISTANCE OF 65.58 FEET;
 THENCE SOUTH 69°12'30" EAST, A DISTANCE OF 15.00 FEET;
 THENCE SOUTH 14°21'15" EAST, A DISTANCE OF 14.50 FEET;
 THENCE SOUTH 14°21'15" EAST, A DISTANCE OF 15.00 FEET;
 THENCE SOUTH 38°12'40" EAST, A DISTANCE OF 229.50 FEET;
 THENCE SOUTH 69°12'30" EAST, A DISTANCE OF 31.00 FEET;
 THENCE SOUTH 62°12'40" EAST, A DISTANCE OF 215.00 FEET;
 THENCE SOUTH 69°12'30" EAST, A DISTANCE OF 18.00 FEET;
 THENCE SOUTH 59°41'13" EAST, A DISTANCE OF 34.50 FEET;
 THENCE SOUTH 48°12'41" WEST, A DISTANCE OF 21.50 FEET TO THE EAST LINE OF THE NORTHERLY QUARTER OF THE NORTHERLY QUARTER OF SAID SECTION 25;
 THENCE SOUTH 08°12'30" WEST, A DISTANCE OF 29.50 FEET TO THE POINT OF BEGINNING, CONTAINING 22.79 ACRES, MORE OR LESS.



- NOTE:** 20' IRRIGATION EASEMENT RESTRICTIONS FOR LOTS 49, 65, 67-71, 74-76, 127-140
- THE COST FOR ANY DAMAGES TO THE IRRIGATION FACILITIES LOCATED WITHIN THE 20' EASEMENT, EXCEPT ANY DAMAGES RESULTING FROM NORMAL MAINTENANCE AND OPERATION BY THE OWNER OF SUCH FACILITIES, SHALL BE THE RESPONSIBILITY OF THE LOT OWNER.
 - THE OWNER OF THE IRRIGATION FACILITIES HAS THE RIGHT TO ACCESS, REPAIR, REPLACE AND MAINTAIN THE IRRIGATION FACILITIES WITHIN THE EASEMENT, AND PROPERTY DAMAGE INCURRED BY NORMAL, REASONABLE MAINTENANCE PROCEDURES, THE EASEMENT SHALL NOT BE THE RESPONSIBILITY OF THE IRRIGATION FACILITIES OWNER.
 - THE OWNER OF THE IRRIGATION FACILITIES SHALL NOTIFY THE PROPERTY OWNERS BEFORE ENTERING THE EASEMENT FOR REPAIR, REPLACEMENT OR MAINTENANCE.
 - THE APPROPRIATE LOCATION OF THE IRRIGATION FACILITIES WITHIN THE EASEMENT ARE SHOWN ON THE 40-FOOT STRIPINGS AND ARE AVAILABLE FOR REVIEW AT THE CITY OF LOUISVILLE.

Coal Creek Ranch

FINAL PLANNED UNIT DEVELOPMENT

FILING NO. 3

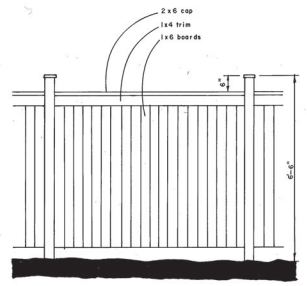
PLANNING COMMISSION CERTIFICATE
 STATE OF COLORADO
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 2:05 P.M. ON FEBRUARY 19, 1990, AND IS IN FULL COMPLIANCE WITH THE PLANNING COMMISSION RESOLUTION NO. 1990-02-01.
 Charalle Hutton
 SECRETARY

CITY COUNCIL CERTIFICATE
 CITY OF LOUISVILLE
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 2:05 P.M. ON FEBRUARY 19, 1990, AND IS IN FULL COMPLIANCE WITH THE CITY COUNCIL RESOLUTION NO. 1990-02-01.
 Roman Thomas
 MAYOR

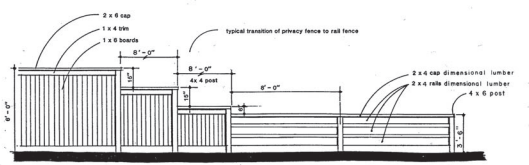
CITY COUNCIL CERTIFICATE
 CITY OF LOUISVILLE
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 2:05 P.M. ON FEBRUARY 19, 1990, AND IS IN FULL COMPLIANCE WITH THE CITY COUNCIL RESOLUTION NO. 1990-02-01.
 Roman Thomas
 MAYOR

NOTE:
 UTILITY EASEMENTS FOR ELECTRIC, GAS, PHONE AND CABLE TV SHALL BE 8' ALONG FRONT OF ALL LOTS.

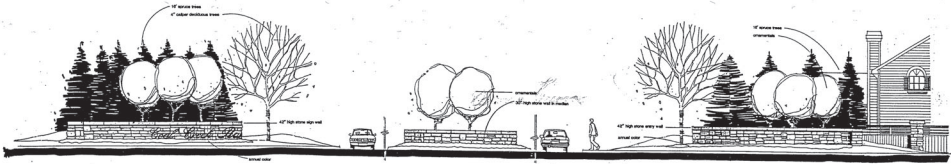
HURST & ASSOCIATES, INC.
 LICENSED ENGINEERS
 10101 W. 10th St.
 Suite 1000
 Denver, CO 80202
 PHONE: 773-444-1111
 FAX: 773-444-1112



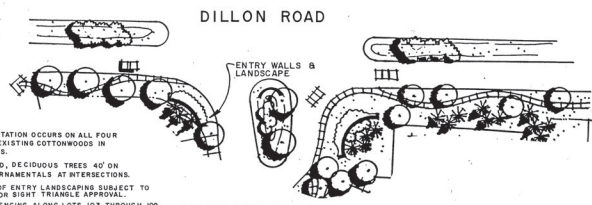
PERIMETER FENCE perimeter fencing to be installed by holder according to development platting.
Perimeter fence to be used where single family detached lots occur adjacent to Dillon Road.



INTERIOR & RAIL FENCE interior fencing by homeowner.
Interior fence to occur on A.C. side and rear yards not adjacent to golf courses.
Rail fence to occur adjacent golf course including outlier A.

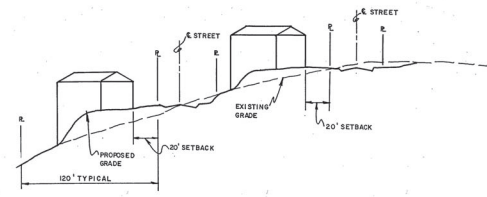


DILLON ROAD ENTRY
DILLON RD. ENTRY, ENTRY DETAIL, ENTRY WALL DETAIL AND TYPICAL STREET SECTIONS ARE SUBJECT TO FUTURE REVIEW AT TIME ENGINEERING PLANS ARE SUBMITTED FOR REVIEW/ACCEPTANCE

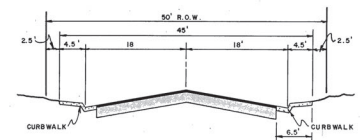


ENTRY DETAIL

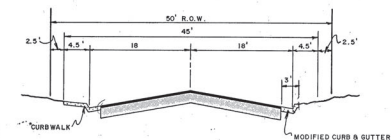
- NOTE:**
- 1.) ENTRY MONUMENTATION OCCURS ON ALL FOUR CORNERS WITH EXISTING COTONWOODS IN CENTER ISLANDS.
 - 2.) LOW TURF MOUND, DECIDUOUS TREES 40' ON CENTER AND ORNAMENTALS AT INTERSECTIONS.
 - 3.) FINAL DETAILS OF ENTRY LANDSCAPING SUBJECT TO CITY REVIEW FOR SIGHT TRIANGLE APPROVAL.
 - 4.) REAR YARD FENCING ALONG LOTS 103, THROUGH 109, SHALL BE NO HIGHER THAN 4'5" ALONG ST. ANDREW'S LN.
 - 5.) ABOVE ITEMS SUBJECT TO REVIEW AT TIME ENGINEERING PLANS ARE SUBMITTED FOR REVIEW/ACCEPTANCE



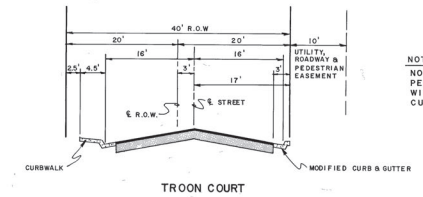
**SECTION A-A
TYPICAL GRADING PLAN**



**SAINT ANDREWS LANE
MUIRFIELD COURT
(FOR ILLUSTRATIVE PURPOSE ONLY)**

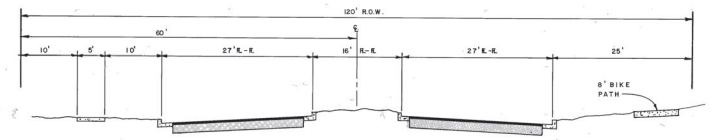


**MUIRFIELD CIRCLE
TURNBERRY CIRCLE**

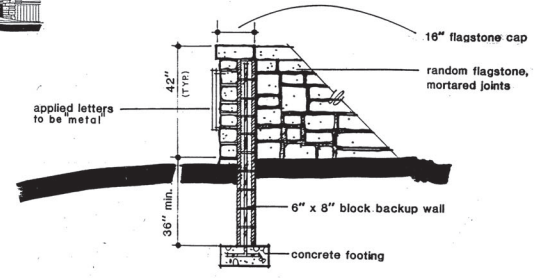


TROON COURT

NOTE:
NO VALVE BOX, UTILITY PEDESTAL SHALL BE WITHIN 6' BACK OF CURB.



**FUTURE DILLON ROAD
(FOR ILLUSTRATIVE PURPOSE ONLY)
TYPICAL STREET SECTIONS**



ENTRY WALL DETAIL

Coal Creek Ranch
PRELIMINARY PLANNED UNIT DEVELOPMENT
FILING NO. 3
DETAIL SHEET

HURST & ASSOCIATES, INC.
CONSULTING ENGINEERS

SCALE: NO SCALE
DRAWN: J.W.J.
CHECKED: J.R.L.
APPROVED: S.E.A.

855 Pils. St., Suite 21
Hudson, Colorado 80633 (303) 491-9199

JOB NO. 2020-4 DATE 7/19/20 SHEET 2 OF 2

COAL CREEK RANCH MASTER ASSOCIATION, INC.

c/o Vista Management Associates, Inc.
8700 Turnpike Drive, Suite 230
Westminster, CO 80031
Phone: (303)429-2611

FENCE COMMITTEE 2022

The Coal Creek Ranch HOA consists of 486 homes that surround the Coal Creek Ranch Golf Course. 163 homes (1/3rd) were lost in the Marshall Fire. The homes lost were in two filings. Filing 3 lost 138 homes (1 standing) and Filing 4 lost 24 homes.

The Board of Directors appointed a committee to review the existing guidelines and propose changes to the guidelines original established in 1989. The committee eventually established two smaller subcommittees (fence and retaining walls).

The fence committee has been comprised of three homeowners from filing 3, 1 homeowner from filing 1 (Cherry Street) and one member of management.

The committee spent numerous hours researching products, fire resistance, styles, costs, etc. The following were contributing factors:

- All fences are OWNED and MAINTAINED by the property owners and NOT the HOA.
- Incorporating new fencing in to filing 4 for were 19% of the homes were lost.
- Filing 3 where 100% of the fences were lost and 99% of the homes.
- Fencing guidelines were included on the original PUD for Filing 3.

The committee put together a survey which was emailed to those that lost their homes and/or fencing. The fence survey was emailed to residents that lost their fences on March 31, 2022. A follow up survey was emailed on June 9, 2022, with a follow up on June 17, 2022, to those residents that had not responded.

The HOA is proposing to change the fence along the golf course from the existing off white 42” cedar rail fence, to a black 48” Metal (steel) fence.

In addition, the HOA is proposing to keep the original fencing (6’ Cedar with Cap) along Dillon Road the same (as installed by the original developer) and extend the requirement to have same fencing along 88th Avenue. All of these homes previously had the 6’ cedar fencing with a cap. The only change is that the HOA would like the rails on the inside with the smooth side facing the street. This will allow for more continuity along the perimeter of filing 3. Normally, this is something the developer would install and provide the consistence we are looking for, but we are working with many different homeowners and contractors. Some residents along Dillon Road in Filing 4 have started to rebuild their fencing along Dillon using the same criteria.

Residents have also had the opportunity and have made comments at a number of Board meetings.

On August 16, 2022, a webinar was held with Lisa Ritchie and the residents of Filing 3 to review the process of amending the PUD.

Lisa Ritchie also attended the Architectural Committee on October 19, 2022, to review the proposed changes.

The HOA is confident that they have addressed the maintenance, fire and aesthetic concerns given the mitigating factors.

ITEM:	PUD-0446-2023 – Cornerstone PUD Amendment – Fence Regulations
PLANNER:	Lisa Ritchie, AICP, Planning Manager
APPLICANT:	Staff Initiated with Neighborhood Input
REQUEST:	Consideration of Resolution 5, Series 2023, recommending approval of a resolution amending fence regulations in the Cornerstone Planned Unit Development

SUMMARY:

On December 30, 2021, the Marshall Fire swept through multiple neighborhoods in the City, resulting in the total loss and significant damage of roughly 600 homes.

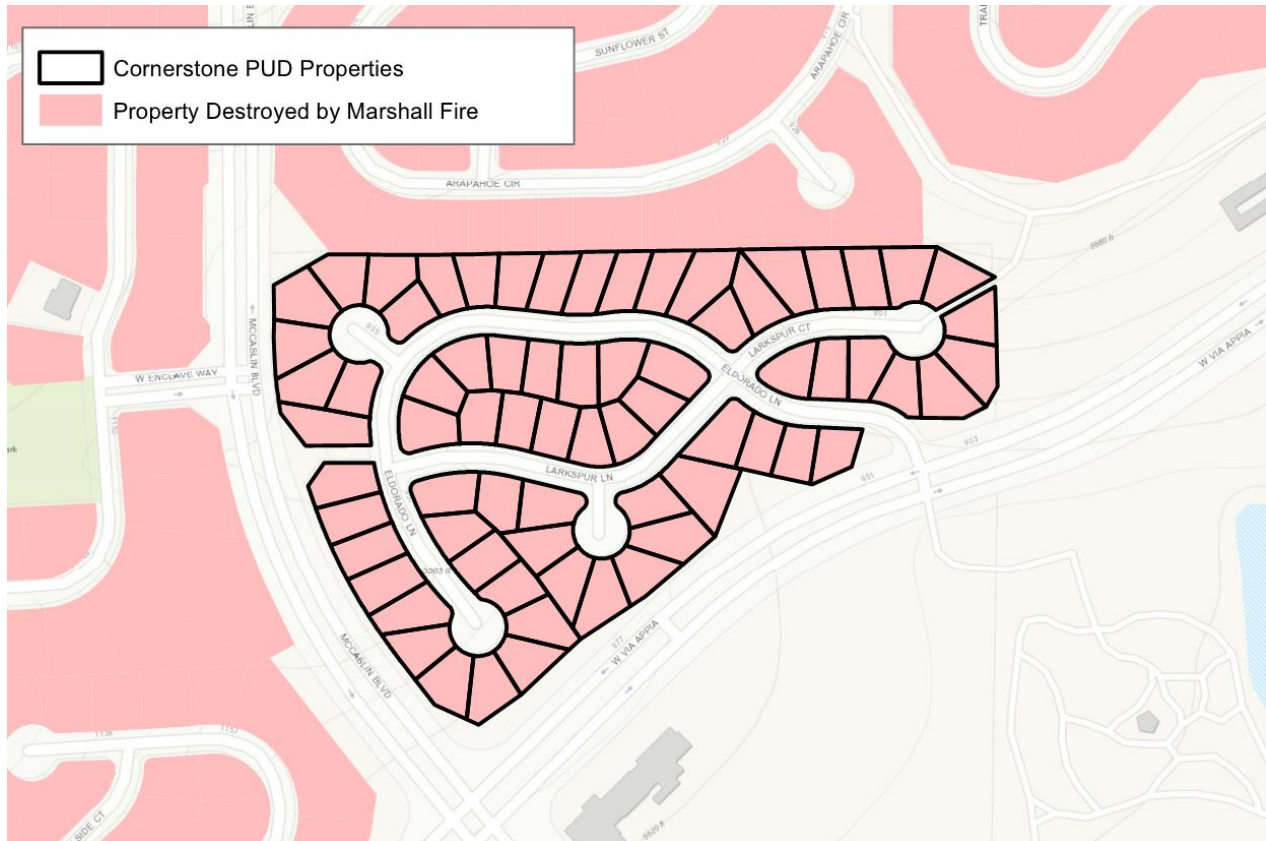
Recognizing that fences contributed to fire spread in some instances, the City approved Ordinance 1838, Series 2022 (see attached) on September 6, 2022 which provided an automatic exemption from any Planned Unit Development (PUD) standards for certain wood fences, allowing homeowners to use non-combustible fence materials for fences that are immediately adjacent to homes to potentially reduce impact from wildfire.

In the months following the fire, planning staff met regularly with affected neighborhoods to discuss issues related to recovery. Some neighborhoods, including Cornerstone, expressed a desire to amend their fence regulations in order to address combustible materials or other design preferences. The proposed amendment reflects the neighborhood’s collective preference and the application is being presented on their behalf by staff.

BACKGROUND:

Fence regulations for residential properties are established in Sec. 17.16.120 – *Fences, walls and hedges* in the Louisville Municipal Code. This code was originally adopted in 1973, with amendments occurring over the years, most recently in 1995. In addition to these standards, Planned Unit Developments often contain additional fence standards, including height, materials, and design. The scope of these standards vary, with some PUDs only setting forth neighborhood perimeter fence standards and others setting forth standards for both perimeter and internal fences. The predominate material for PUDs that include fence design parameters is wood, along with California chain link, which includes wood frame around chain link. The reason most PUDs have some level of fence regulations is to preserve a particular neighborhood character and quality of fence design.

The Cornerstone PUD (see attached) was approved on August 7, 1990 and included regulations for all fences to varying degrees. The neighborhood includes 71 single family residential lots, all of which were destroyed during the Marshall Fire. Most neighborhood fences were also destroyed.

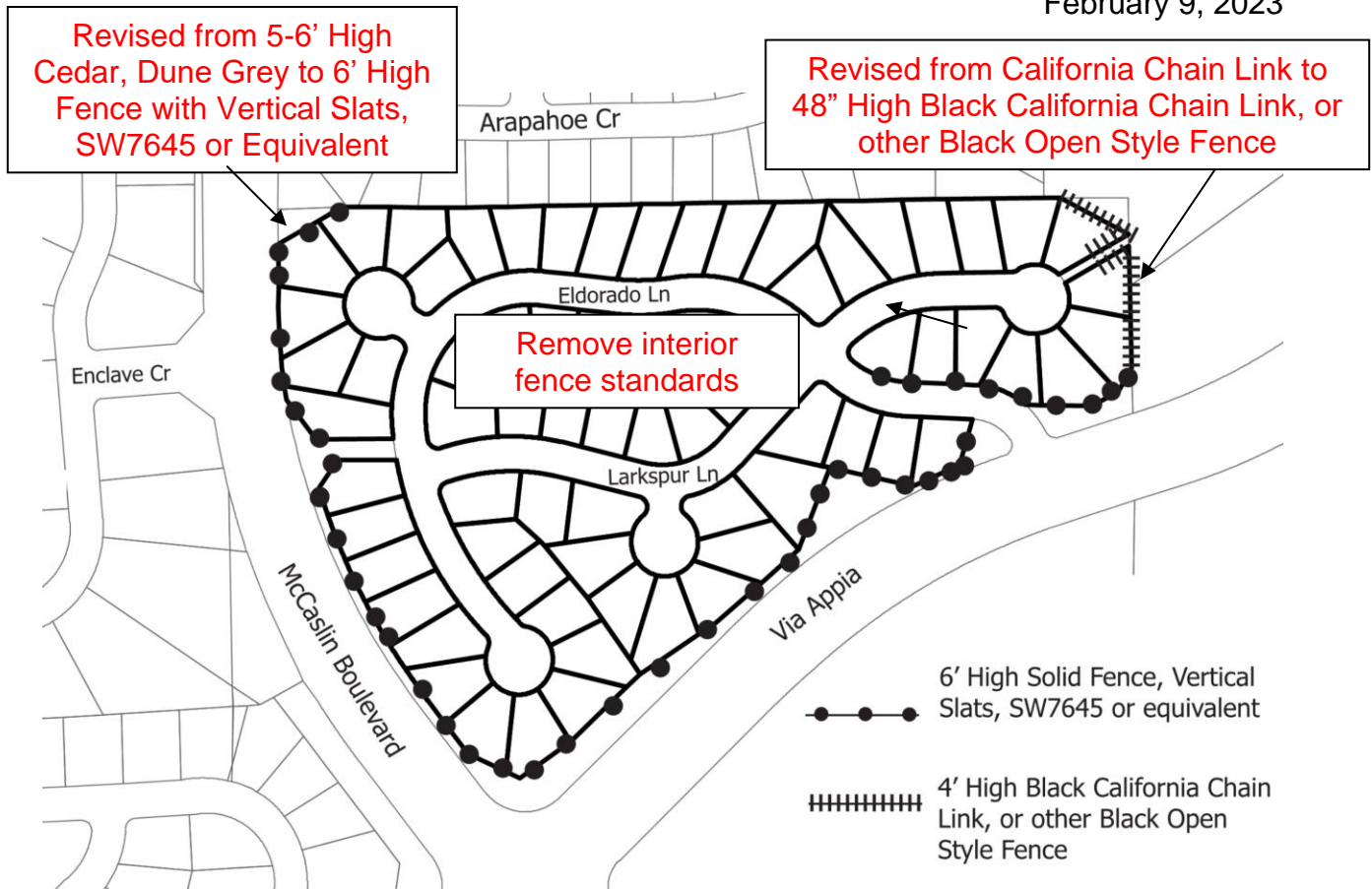


PROPOSAL:

Staff collaborated with the neighborhood to understand preferences for changes to the existing regulations. This collaboration included online neighborhood meetings and feedback opportunities via the EngageLouisville.org website with a survey. Finally, neighbors that abut some fence segments met in smaller groups to decide their preferred option. Staff provided guidance on the process and shared input on design considerations, but the final outcome of the draft resolution was primarily determined at the neighborhood level.

The Cornerstone PUD regulates all fences within the neighborhood to some degree. The PUD Amendment removes regulations for interior fence design, which would allow any fence permitted by the Louisville Municipal Code.

The following exhibit reflects the changes proposed for perimeter fences:



ANALYSIS:

The PUD is regulated by Chapter 17.28 of the Louisville Municipal Code. Unlike the Commercial and Industrial Development Design Standards and Guidelines, residential zone districts do not have design regulations related to fences. Therefore, fence regulations are customized for each neighborhood through the PUD. A complete response to the PUD criteria in 17.28.120 is provided as an appendix.

Staff provides the following considerations for the revisions:

- Removal of the design standard for interior fences (currently requires solid cedar fences, stained Dune Grey)
 - *This provision applies to fences interior to the neighborhood, such as side and rear yard fences. Ordinance 1838, Series 2022 exempts the fences abutting the house that face the street from being wood, therefore this standard only applies to side yard and rear yards, which generally are not visible, therefore lack of continuity in fence design will not negatively impact neighborhood character.*
- Revision to the fence facing the Hillside Open Space to require 48" High Black California Chain Link, or other Black Open Style Fencing

- *This is the preferred design determined by the property owners along this segment. The neighborhood preferred to keep the open design but wanted some flexibility to install non-combustible fencing. The 48" high black color requirements will provide some degree of consistency, especially from a distance.*
- Removal of the 5' (south of Larkspur Lane) and 6' (north of Larkspur Lane) High Dune Grey Cedar Fence requirement along the McCaslin Boulevard and Via Appia perimeter and replace with 6' High Solid Fence with Vertical Slats, Sherwin Williams 7645 or Equivalent
 - *This proposal will result in a fence constructed of any material, but establishes the maximum height, requires vertical slats and consistent color. This is a highly visible fence in the area, and staff recommended consistency in fence design throughout the discussions as a matter of community importance. Generally, the neighbors support consistency in design, however a group of neighbors desire to install a solid metal fence with the color equivalent to Sherwin Williams 7645, and others wanted the ability to install a wood fence out of cost concerns. Ultimately, the neighborhood compromised with the proposed language to set consistency in this manner.*
 - *The revision from a 5' to 6' high fence along the southern half of the neighborhood along McCaslin Blvd and along Via Appia will provide additional privacy and buffering from the adjacent arterial roadways.*

PUBLIC COMMENTS:

To date, no public comments have been received by staff.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 5, Series 2023, recommending approval of a City Council Resolution amending fence regulations in the Cornerstone Planned Unit Development.

ATTACHMENTS:

1. Resolution 5, Series 2023
2. Draft City Council Resolution
3. Ordinance 1838, Series 2022
4. Cornerstone PUD

APPENDIX: PUD Criteria Analysis – Cornerstone – PUD Amendment

Criteria 17.28.120 (A)	Finding	Narrative
1. An appropriate relationship to the surrounding area.	Compliant	The revisions maintain appropriate design for the area
2. Circulation in terms of the internal street circulation system, designed for the type of traffic generated, safety, separation from living areas, convenience, access, and noise and exhaust control. Proper circulation in parking areas in terms of safety, convenience, separation and screening.	Not applicable	No changes are proposed that affect circulation
3. Consideration and provision for low and moderate-income housing	Not applicable	No changes to housing are proposed
4. Functional open space in terms of optimum preservation of natural features, including trees and drainage areas, recreation, views, density relief and convenience of function	Not applicable	No changes to open space are proposed
5. Variety in terms of housing types, densities, facilities and open space	Not applicable	No changes to housing are proposed
6. Privacy in terms of the needs of individuals, families and neighbors	Compliant	The PUD Amendment continues to allow privacy through additional flexibility in fence design
7. Pedestrian and bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness	Not applicable	No changes to pedestrian and bicycle infrastructure are proposed
8. Building types in terms of appropriateness to density, site relationship and bulk	Not applicable	No changes to building standards are proposed
9. Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting	Not applicable	No changes to building standards are proposed
10. Landscaping of total site in terms of purpose, such as screening, ornamental types used, and materials used, if any; and maintenance, suitability and effect on the neighborhood	Compliant	The PUD Amendment revisions continue to allow for screening in a manner that is suitable for this neighborhood
11. Compliance with all applicable development design standards and guidelines and all applicable	Compliant	The PUD Amendment does not conflict with the fence standards

regulations pertaining to matters of state interest, as specified in <u>chapter 17.32</u>		
12. None of the standards for annexation specified in <u>chapter 16.32</u> have been violated	Not applicable	The property was previously annexed.
13. Services including utilities, fire and police protection, and other such services are available or can be made available to adequately serve the development specified in the final development plan	Compliant	The proposed changes do not conflict with the ability to serve and protect the neighborhood

Criteria 17.28.120 (B)	Finding	Narrative
1. Development shall be in accordance with the adopted elements of the comprehensive development plan of the city, and in accordance with any adopted development design standards and guidelines.	Compliant	The PUD Amendment is a neighborhood driven design that is in accordance with policy
2. No structures in a planned unit development shall encroach upon the floodplain. Existing bodies of water and existing stream courses shall not be channelized or altered in a planned unit development plan.	Compliant	The property is not located in a floodplain, nor are there any existing bodies of water in the area.
3. No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved specifically by the city.	Compliant	There is no known subsidence on the property.
4. The proposal should utilize and preserve existing vegetation, land forms, waterways, and historical or archeological sites in the best manner possible. Steep slopes and important natural drainage systems shall not be disrupted. How the proposal meets this provision, including an inventory of how existing vegetation is included in the proposal, shall be set forth on the landscape plan submitted to the city.	Compliant	The PUD Amendment will not impact any existing vegetation, drainage or other areas of city interest

<p>5. Visual relief and variety of visual sitings shall be located within a development in the overall site plan. Such relief shall be accomplished by building placements, shortened or interrupted street vistas, visual access to open space and other methods of design.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>6. Open space within the project shall be located in such a manner as to facilitate pedestrian use and to create an area that is usable and accessible to residents of surrounding developments.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>7. Street design should minimize through traffic passing residential units. Suggested standards with respect to paving widths, housing setbacks and landscaping are set forth in public works standards of the city and applicable development design standards and guidelines. The system of streets, including parking lots, shall aid the order and aesthetic quality of the development.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>8. There shall exist an internal pedestrian circulation system separate from the vehicular system such that allows access to adjacent parcels as well as to parks, open space or recreation facilities within the development. Pedestrian links to trail systems of the city shall be provided.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>9. The project and development should attempt to incorporate features which reduce the demand for water usage.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>10. Landscape plans shall attempt to reduce heating and cooling demands of buildings through the selection and placement of landscape materials, paving, vegetation, earth forms, walls, fences, or other materials.</p>	<p>Not applicable</p>	<p>There are no landscape plans associated with this PUD</p>

<p>11. Proposed developments shall be buffered from collector and arterial streets. Such buffering may be accomplished by earthen berms, landscaping, leafing patterns, and other materials. Entrance islands defining traffic patterns along with landscaping shall be incorporated into entrances to developments.</p>	<p>Compliant</p>	<p>The PUD Amendment requires a 6' perimeter fence along Via Appia and McCaslin, providing a buffer from the adjacent arterial streets.</p>
<p>12. There shall be encouraged the siting of lot arrangement, building orientation and roof orientation in developments so as to obtain the maximum use of solar energy for heating.</p>	<p>Not applicable</p>	<p>No changes are proposed to the layout of the neighborhood</p>
<p>13. The overall PUD shall provide a variety of housing types.</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>14. Neighborhoods within a PUD shall provide a range of housing size.</p>	<p>Not applicable</p>	<p>No changes to housing are proposed</p>
<p>15. Architectural design of buildings shall be compatible in design with the contours of the site, compatible with surrounding designs and neighborhoods, shall promote harmonious transitions and scale in character in areas of different planned uses, and shall contribute to a mix of styles within the city.</p>	<p>Compliant</p>	<p>The PUD Amendment proposes fence designs that maintain neighborhood character</p>

**RESOLUTION NO. 5
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO THE
CORNERSTONE PLANNED UNIT DEVELOPMENT REGARDING FENCE
REGULATIONS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, all fences within the boundary of the Cornerstone Planned Unit Development (PUD) were damaged or destroyed as a result of the fire; and

WHEREAS, residents within the neighborhood expressed desire to amend certain fence regulations to allow non-combustible materials and reflect other design preferences; and

WHEREAS, Staff facilitated outreach and collaboration with the neighborhood to understand their preferences for changes, including online meetings and surveys, and developed the PUD Amendment on their behalf; and

WHEREAS, City Council has the authority to amend the PUD pursuant to Section 17.28.210 of the Louisville Municipal Code; and

WHEREAS, the Planning Commission has considered the application at a duly noticed public hearing on February 9, 2023, where evidence and testimony were entered into the record.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby recommend approval of a Planned Unit Development Amendment to amend fence regulations for the Cornerstone Planned Unit Development.

PASSED AND ADOPTED this 9th day of February, 2023.

By: _____
Steve Brauneis, Chair
Planning Commission

Attest: _____
Jeff Moline, Secretary
Planning Commission

**RESOLUTION NO.
SERIES 2023**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CORNERSTONE FINAL
PLANNED UNIT DEVELOPMENT REGARDING FENCE REGULATIONS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, all fences within the Cornerstone neighborhood were damaged or destroyed as a result of the fire; and

WHEREAS, residents within the neighborhood expressed desire to amend certain fence regulations to allow non-combustible materials and other reflect other design preferences; and

WHEREAS, Staff facilitated outreach and collaboration with the neighborhood to understand their preferences for changes, including online meetings and surveys, and developed the PUD Amendment on their behalf; and

WHEREAS, City Council has the authority to amend the PUD pursuant to Section 17.28.210 of the Louisville Municipal Code; and

WHEREAS, after a duly noticed public hearing held on February 9, 2023, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated February 9, 2023, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Cornerstone Planned Unit Development; and

WHEREAS, City Council has provided notice of a public hearing on said resolution by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, does hereby approve the amendment to the Cornerstone Final Planned Unit Development as described on Exhibit A:

PASSED AND ADOPTED this ___ day of _____, 2023.

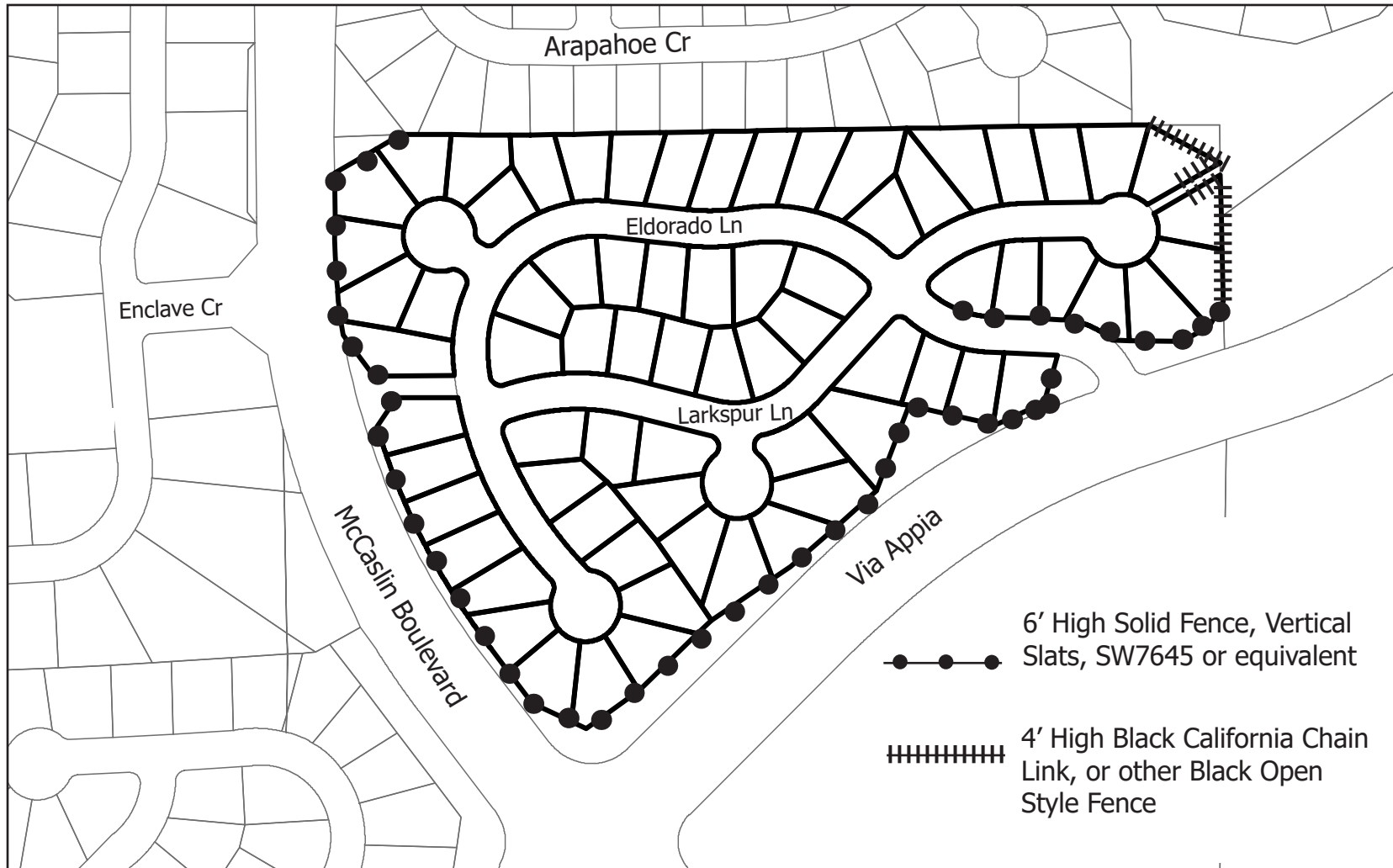
By: _____
Dennis Maloney, Mayor

Attest: _____
Meredyth Muth, City Clerk

Cornerstone Fence Amendment Exhibit

Notes:

1. This PUD Amendment replaces all fence regulations for the Cornerstone PUD
2. Solid fence setbacks
18' front
0' side or rear property lines
3. Fences not regulated by this amendment are subject to the Louisville Municipal Code Section 17.16.120.



**ORDINANCE NO. 1838
SERIES 2022**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE
CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS**

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, there is visible evidence that wood fences contributed to the loss of some homes by providing a conduit for fire to travel from property to property; and

WHEREAS, best practices within the Wildland Urban Interface recommend non-combustible fence material in certain circumstances to limit fire spread; and

WHEREAS, City Council desires to ensure that fences constructed of combustible materials do not contribute to loss of structures from fire; and

WHEREAS, after a duly noticed public hearing held on July 14, 2022, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated July 14, 2022, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Louisville Municipal Code (LMC) set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, THAT:

Section 1. Section 17.16.120 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 17.16.120. – Fences, walls and hedges

- A. No fence, wall, or hedge shall exceed six feet in height except as required for screening, recreational purposes approved by the planning commission, or unique security requirements approved by the planning commission.
- B. No fence, wall, or hedge exceeding four feet in height shall be located in any required front yard.
- C. Regardless of the provisions of subsections A and B of this section, no fence, wall or hedge exceeding 2½ feet in height shall be located in any vision clearance area of a street intersection unless such fence, wall or hedge shall be more than 80 percent open.


- D. No fence, wall, or hedge shall be located as to extend into street or alley rights-of-way.
- E. If a Planned Unit Development requires a fence constructed of wood or another combustible material, a property owner may install a noncombustible fence for the portion of the fence that connects the principal structure to the side property line, provided that:
 1. The fence matches the height the limit set forth in the Planned Unit Development; and
 2. The fence shall match the design intent for openness or solid construction set forth in the Planned Unit Development.

Section 2. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Louisville Municipal 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 2nd day of August, 2022.



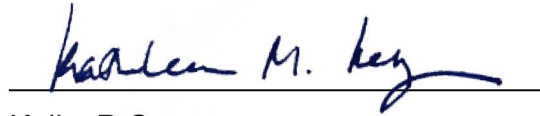
Ashley Stolzmann, Mayor

ATTEST:



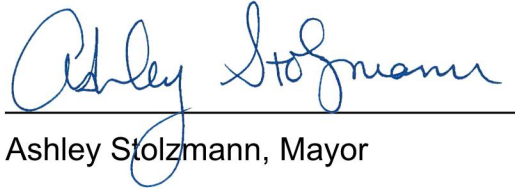
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "P.C. Kelly", written over a horizontal line.

Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this 6th day of
September, 2022.

A handwritten signature in blue ink, appearing to read "Ashley Stolzmann", written over a horizontal line.

Ashley Stolzmann, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Meredyth Muth", written over a horizontal line.

Meredyth Muth, City Clerk

Meredith

received

**NOTICE OF PUBLIC HEARING
ORDINANCE No. 1838, SERIES 2022**

NOTICE IS HEREBY GIVEN that at a regular meeting of the City Council of the City of Louisville, Colorado, to be held on September 6, 2022 at the hour of 6:00 p.m., at Louisville City Hall, 749 Main Street, Louisville, Colorado 80027 or in an electronic meeting, the City Council will hold a Public Hearing on the final passage and adoption of a proposed ORDINANCE AMENDING TITLE 15, TITLE 16, AND TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS.

Published in the Daily Camera on August 7, 2022 with full ordinance.
Full copies available in the City Clerk's Office, 749 Main Street, Louisville CO 80027.

**ORDINANCE NO. 1838
SERIES 2022**

AN ORDINANCE AMENDING TITLE 15, TITLE 16, AND TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT DEVELOPMENTS

WHEREAS, on December 30, 2021, the Marshall Fire ignited in unincorporated Boulder County and quickly spread to the City of Louisville, resulting in the severe damage or total loss of almost 600 residential structures; and

WHEREAS, there is visible evidence that wood fences contributed to the loss of some homes by providing a conduit for fire to travel from property to property; and

WHEREAS, best practices within the Wildland Urban Interface recommend non-combustible fence material in certain circumstances to limit fire spread; and

WHEREAS, City Council desires to ensure that fences constructed of combustible materials do not contribute to loss of structures from fire; and

WHEREAS, after a duly noticed public hearing held on July 14, 2022, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated July 14, 2022, the Louisville Planning Commission has recommended the City Council adopt the amendments to the Louisville Municipal Code (LMC) set forth in this ordinance; and

WHEREAS, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO, THAT:

Section 1. Section 17.16.120 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are stricken through):

Sec. 17.16.120. - Fences, walls and hedges

A. No fence, wall, or hedge shall exceed six feet in height except as required for screening, recreational purposes approved by the planning commission, or unique security requirements approved by the planning commission.

B. No fence, wall, or hedge exceeding four feet in height shall be located in any required front yard.

C. Regardless of the provisions of subsections A and B of this section, no fence, wall or hedge exceeding 2 1/2 feet in height shall be located in any vision clearance area of a street intersection unless such fence, wall or hedge shall be more than 80 percent open.

D. No fence, wall, or hedge shall be located as to extend into street or alley rights-of-way.

E. If a Planned Unit Development requires a fence constructed of wood or another combustible material, a property owner may install a noncombustible fence for up to five feet of the portion of the fence that connects to the principal structure, provided that:

1. The fence matches the height the limit set forth in the Planned Unit Development; and

2. The fence shall match the design intent for openness or solid construction set forth in the Planned Unit Development.

Section 2. If any portion of this ordinance is held to be invalid for any reason such decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Louisville Municipal 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this _____ day of _____, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this _____ day of _____, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

Published: Boulder Daily Camera August 7, 2022-1911106

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

**County of Boulder
State of Colorado**

The undersigned, Agent, being first duly sworn under oath, states and affirms as follows:

1. He/she is the legal Advertising Reviewer of Prairie Mountain Media LLC, publisher of the *Daily Camera*.
2. The *Daily Camera* is a newspaper of general circulation that has been published continuously and without interruption for at least fifty-two weeks in Boulder County and meets the legal requisites for a legal newspaper under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy, published in the *Daily Camera* in Boulder County on the following date(s):

Aug 7, 2022

Melissa Najera

Signature

Subscribed and sworn to me before me this
8th day of August, 2022.

Shayla Najera

Notary Public

**SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025**

(SEAL)

Account: 1048836
Ad Number: 1911106
Fee: \$175.56

NOTICE OF PUBLIC HEARING
ORDINANCE No. 1838, SERIES 2022

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL
CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT
DEVELOPMENTS

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED this 2nd day of August, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING this 6th
day of August, 2022.

Ashley Stolzmann, Mayor
ATTEST:
Meredyth Muth, City Clerk

Ordinance No. 1838, Series 2022 is revised to read as follows
(amendments are shown in bold underline and bold strikeout):

ORDINANCE NO. 1838
SERIES 2022

AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL
CODE CONCERNING FENCE REGULATIONS WITHIN PLANNED UNIT
DEVELOPMENTS

Sec. 17.16.120. – Fences, walls and hedges

E. If a Planned Unit Development requires a fence constructed of
wood or another combustible material, a property owner may in-
stall a noncombustible fence for the portion of the fence that con-
nects the principal structure to the side property line, provided that:

1. The fence matches the height the limit set forth in the Planned
Unit Development; and
2. The fence shall match the design intent for openness or solid
construction set forth in the Planned Unit Development.

Published in the Daily Camera on September 11, 2022. Full copies of
the ordinance are available at the City Clerk's Office, 749 Main
Street, Louisville, Colorado.

Published: Boulder Daily Camera September 11, 2022-1919358

received
9/11/22

Prairie Mountain Media, LLC

PUBLISHER'S AFFIDAVIT

County of Boulder
State of Colorado

The undersigned, Agent, being first duly sworn
under oath, states and affirms as follows:

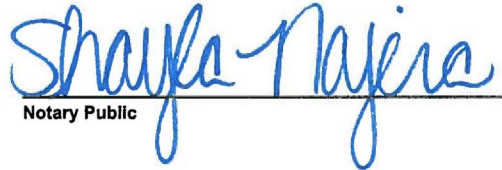
1. He/she is the legal Advertising Reviewer of
Prairie Mountain Media LLC, publisher of the
Daily Camera.
2. The *Daily Camera* is a newspaper
of general circulation that has been published
continuously and without interruption for at least
fifty-two weeks in Boulder County and
meets the legal requisites for a legal newspaper
under Colo. Rev. Stat. 24-70-103.
3. The notice that is attached hereto is a true copy,
published in the *Daily Camera*
in Boulder County on the following date(s):

Sep 11, 2022



Signature

Subscribed and sworn to me before me this
12th day of September, 2022



Notary Public

SHAYLA NAJERA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20174031965
MY COMMISSION EXPIRES July 31, 2025

(SEAL)

Account: 1048836
Ad Number: 1919358
Fee: \$74.80

CORNERSTONE PLANNED UNIT DEVELOPMENT

CORNERSTONE LAND USE SUMMARY

ZONING	PC2D-R
GROSS DENSITY	4.2 UNITS/AC.
TOTAL LOTS	71
MEAN LOT SIZE	7197 S.F.
MEDIAN LOT SIZE	7037 S.F.
MINIMUM LOT SIZE	5996 S.F.
MAXIMUM LOT SIZE	10,832 S.F.

NOTES

BUILDING SETBACKS

FRONT YARD 18'
 SIDE YARD 5'
 REAR YARD 15'
 REAR YARD ADJACENT TO ELDOBORADO LANE 18' (LOTS 54 TO 57)
 REAR YARD ADJACENT TO CENTENNIAL S 25' TO BUILDING STRUCTURE
 15' TO GRADE LEVEL DECK.
 SIDE YARD ADJACENT TO STREET 18'

SOLID FENCE DESIGN CRITERIA - SOLID INTERIOR FENCES SHALL BE A MAXIMUM OF 72" HIGH WITH 1 X 6 R.C. VERTICAL BOARDS ON 4"x4" POSTS @ 48" O.C. WITH 1/4" SPACING BETWEEN BOARDS, STAINED CABOT SEMISOLID DUNE GREY OR EQUAL W/FINISHED SIDE OUT.

SOLID FENCE SETBACKS

FRONT YARD 18'
 SIDE YARD 0'
 REAR YARD 0'
 SIDE YARD ADJACENT TO STREET 18'

OPEN STYLE FENCE DESIGN CRITERIA - 42" HIGH SPIRAL RAIL (UNLESS OTHERWISE NOTED ON THE P.U.D.)

SETBACKS - NONE

EXTERIOR FENCES ALONG MCCASLIN BOULEVARD AND VIA APPIA TO BE INSTALLED BY DEVELOPER.

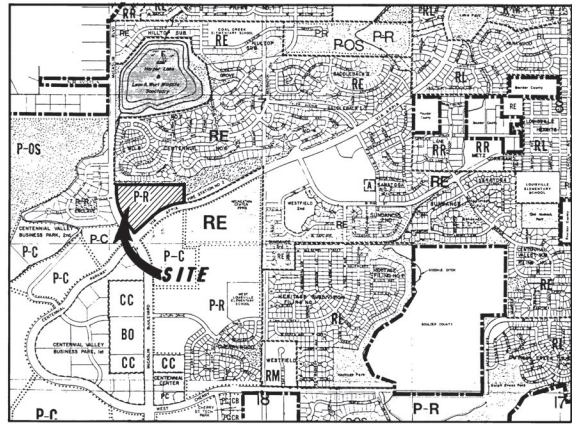
WHERE DEVELOPER INSTALLS FENCING AS SHOWN ON THE P.U.D. PLAN, NO ADDITIONAL PARALLEL FENCING WILL BE ALLOWED WITHIN THE BUILDING SETBACK.

LANDSCAPING NOTES

- FINAL LANDSCAPE PLANS WILL BE SUBMITTED FOR APPROVAL BY THE PARKS AND RECREATION DEPARTMENT BEFORE INSTALLATION.
- CITY OF LOUISVILLE WILL TAKE OVER MAINTENANCE UPON CONSTRUCTION ACCEPTANCE OF LANDSCAPING.
- THE FINAL DESIGN AND LOCATION OF LANDSCAPING AND RETAINING WALLS SHALL BE APPROVED BY THE CITY.
- LANDSCAPING AND FENCING SHALL NOT OBSTRUCT SAFE TRAFFIC SIGHT.
- SHRUBS AND TREES SHALL NOT BE PLANTED OVER UTILITY LINES (CLEARANCE SHALL BE 10' FOR CONIFEROUS TREES AND 5' FOR DECIDUOUS TREES).

3/25/92, Fence support post spacing amended to permit 5' spacing. John Franklin CDD.

Handwritten initials and signature



VICINITY MAP

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 7, TOWNSHIP 1 SOUTH, RANGE 69 WEST;
 THENCE ALONG THE WEST LINE OF SAID SECTION 7 NORTH 00°22'53" WEST, A DISTANCE OF 1072.30 FEET;
 THENCE DEPARTING SAID WEST LINE OF SECTION 7 NORTH 89°37'07" EAST, A DISTANCE OF 90.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF MCCASLIN BOULEVARD, SAID POINT BEING THE NORTHWEST CORNER OF PARCEL D OF CENTENNIAL VALLEY SUBDIVISION, CITY OF LOUISVILLE, COUNTY OF BOULDER, STATE OF COLORADO, AND THE TRUE POINT OF BEGINNING;
 THENCE DEPARTING SAID EAST RIGHT-OF-WAY OF MCCASLIN BOULEVARD AND ALONG A NORTH EQUIDISTANT LINE OF CENTENNIAL VALLEY SUBDIVISION NORTH 89°06'07" EAST, A DISTANCE OF 1254.75 FEET TO A POINT;
 THENCE ALONG AN EASTERLY BOUNDARY LINE OF CENTENNIAL VALLEY SUBDIVISION SOUTH 00°21'47" EAST, A DISTANCE OF 316.99 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF VIA APPIA;
 THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF VIA APPIA THE FOLLOWING FOUR (4) COURSES:
 1) SOUTH 71°51'28" WEST, A DISTANCE OF 194.64 FEET TO A POINT OF CURVATURE;
 2) THENCE ALONG THE ARC OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 26°22'30", A RADIUS OF 1060.00 FEET, AN ARC LENGTH OF 487.95 FEET TO A POINT;
 3) THENCE SOUTH 45°58'58" WEST, A DISTANCE OF 340.80 FEET TO A POINT OF CURVATURE;
 4) THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 95°47'06", A RADIUS OF 75.00 FEET, AN ARC LENGTH OF 125.38 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SAID MCCASLIN BOULEVARD;
 THENCE ALONG SAID EAST RIGHT-OF-WAY LINE OF MCCASLIN BOULEVARD THE FOLLOWING THREE (3) COURSES:
 1) NORTH 38°43'56" WEST, A DISTANCE OF 154.68 FEET TO A POINT OF CURVATURE;
 2) THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 38°21'03", A RADIUS OF 940.00 FEET, AN ARC LENGTH OF 629.19 FEET;
 3) THENCE NORTH 00°22'53" WEST, A DISTANCE OF 139.25 FEET TO THE TRUE POINT OF BEGINNING.
 SAID PARCEL CONTAINS 16.59 ACRES (722,548 SQUARE FEET), MORE OR LESS.

CLERK AND RECORDER CERTIFICATE

COUNTY OF BOULDER)
 STATE OF COLORADO)
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 9:02 A.M. THIS 14th DAY OF September, 1990, AND IS DULY RECORDED IN PLAN FILE 225 F-3422, PAGES 120,00 NO. 1061856, FILM NO. 1642, RECEPTION

Charlotte Houston RECORDER
Connie Rode DEPUTY

PLANNING COMMISSION CERTIFICATE

APPROVED THIS 10th DAY OF July, 1990 BY THE PLANNING COMMISSION OF THE CITY OF LOUISVILLE, COLORADO. RESOLUTION NO. 13, SERIES 1990

Daniel A. DeBalle CHAIRMAN
Myra Ann Peltier SECRETARY

CITY COUNCIL CERTIFICATE

APPROVED THIS 7 DAY OF August, 1990 BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO. RESOLUTION NO. 26, SERIES 1990

Norman Lauer MAYOR
Diana Cummings CITY CLERK

CORNERSTONE P.U.D.

SCALE: ---

DESIGN: ---
 DRAWN: R.F.L.
 CHECKED: ---
 APPROVED: ---

HURST & ASSOCIATES, INC.
 PLANNING ENGINEERS
 807 7th Street, S.E.
 Boulder, Colorado, 80502

JOB NO. 1009-52 DATE 5/90 SHEET 1 OF 2

491061856 07/24/90 09:02 AM REAL ESTATE RECORDS
 F142 CHARLOTTE HUSTON BOULDER CITY CO RECORDER

CORNERSTONE PUD
2 of 2

DRAWING NUMBER

DRAWING NUMBER

866

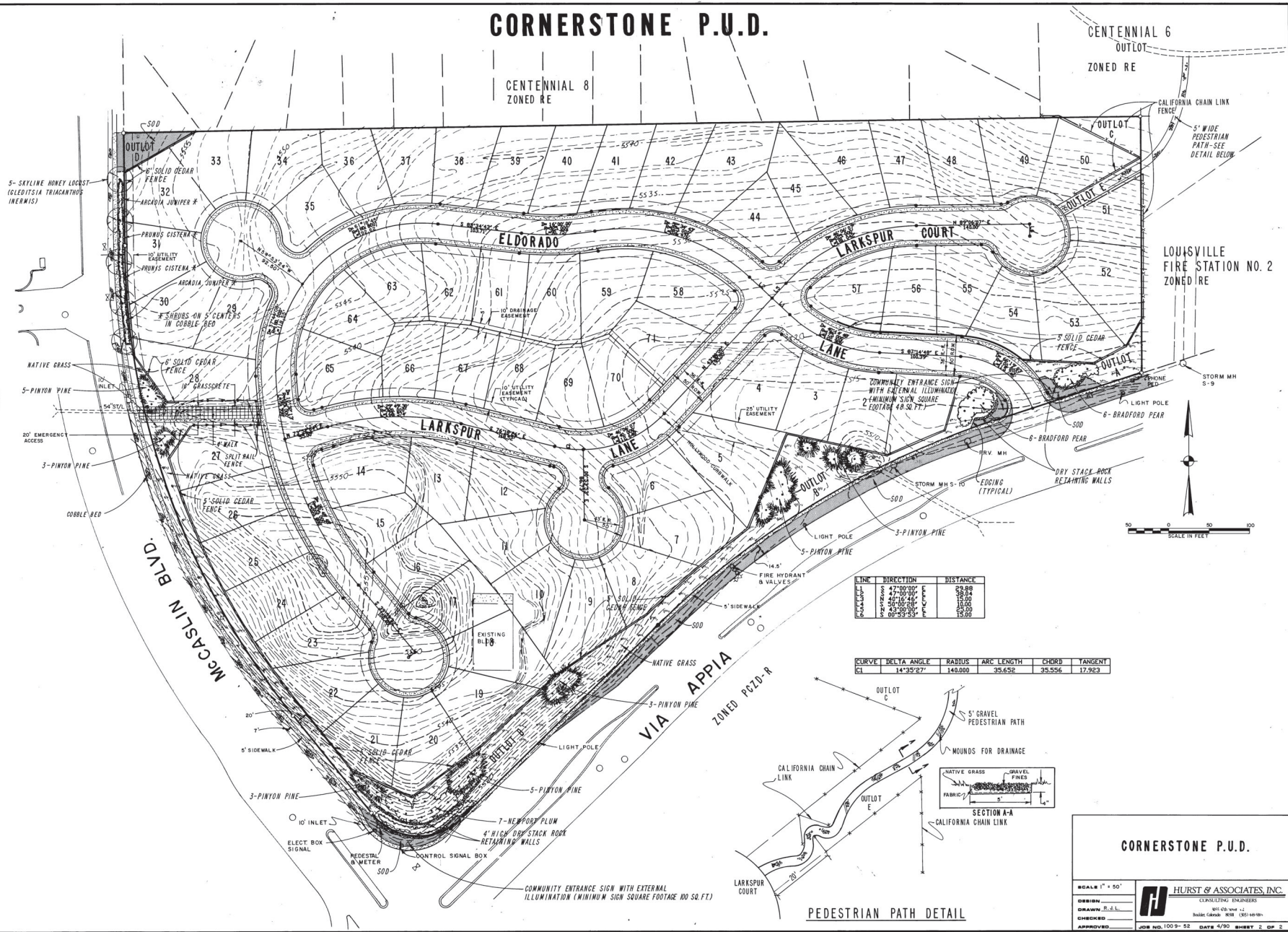
CORNERSTONE P.U.D.

ENCLAVE SUBDIVISION
ZONED PCZO-R

CENTENNIAL 8
ZONED RE

CENTENNIAL 6
OUTLOT
ZONED RE

LOUISVILLE
FIRE STATION NO. 2
ZONED RE



LINE	DIRECTION	DISTANCE
L1	42°00'00" E	93.88
L2	42°00'00" E	38.84
L3	46°15'46" E	15.00
L4	5°00'00" S	10.00
L5	43°00'00" E	65.00
L6	0°00'00" E	15.00

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD	TANGENT
C1	14°39'27"	140.000	35.652	35.556	17.923

CORNERSTONE P.U.D.

SCALE: 1" = 50'

HURST & ASSOCIATES, INC.
CONSULTING ENGINEERS
DESIGN: B.S.L.
DRAWN: B.S.L.
CHECKED: [Signature]
APPROVED: [Signature]

805 4th Street, #2
Boulder, Colorado, 80502-1000
PHONE: 303.440.1000
FAX: 303.440.1001
JOB NO. 1009-52 DATE 4/90 SHEET 2 OF 2

PLANS 0256, 097745, 09, 09, 02, AM, REAL ESTATE RECORDS
LOCAL PERMITS/RECORDS DIVISION/PROJECT ONLY GO RECORDS

ITEM: LMCA-0447-2023 – Recommending approval of an Ordinance Amending Title 17 of the Louisville Municipal Code Capping the Maximum Number of Gasoline and Automobile Service Stations Located Within Louisville

PLANNER: Robert A. Zuccaro, AICP, Community Development Director

APPLICANT: Staff Initiated

SUMMARY:

Staff is presenting for recommendation to City Council an ordinance that would cap the number of gasoline and automobile service stations within Louisville to six facilities. The ordinance also requires spacing of new gasoline and automobile service stations to be at least 1,000 feet from any existing gasoline or automobile service station and any abandoned facility would lose its zoning approval if the use is discontinued for 12 months. The ordinance provides an exception to allow a seventh gasoline or automobile service station and an exception to the spacing requirement if the new facility is part of a new single-user retail center of 80,000 sq. ft. or more.

BACKGROUND:

On November 1, 2022 the City Council adopted Ordinance 1843, Series 2022 as an emergency ordinance, setting a moratorium on the submittal of land use applications for new gasoline or automobile service stations (see attached). The moratorium is in effect until September 30, 2023 and was initiated following the submittal of a citizen-initiated petition that would ban new gasoline and automobile service stations in all zone districts and not allow building permits for new facilities within 2.5 miles of any existing facility (see attached). The City Clerk approved the form of the petition on October 24, 2022 and the moratorium expiration date of September 30, 2023 was set to provide time to allow for the petitioners to gather signatures and an election to take place if adequate signatures were gained. The City Council has since added to their 2023 work plan consideration of a city-initiated ordinance regulating new gasoline and automobile service stations. While the petitioners could continue with their initiative, a City-adopted ordinance could address many of the petitioners concerns.

The Louisville Municipal Code uses both “Gasoline Service Stations” and “Automobile Service Stations” as terms to denote businesses that sell gasoline and motor fuels.

Sec. 17.08.200 - Gasoline service station means a building or premises on or in which the principal use is the retail sale of gasoline, oil or other fuel for motor vehicles; and which may include, as an incidental use only, facilities used for the polishing, greasing, washing or otherwise cleaning or light servicing of

motor vehicles; but may not include liquefied-petroleum-gas-distribution facilities, facilities for major repairs of motor vehicles, or rental operations.

Sec. 17.72.130 - An automobile service station shall be a retail place of business engaged in the sale of motor fuels and in supplying goods and services generally required in the operation and maintenance of automotive vehicles and the fulfilling of motorists' needs. Major automotive repairs, painting, body and fender work are prohibited.

“Gasoline Service Stations” are limited to certain commercially and industrially zoned districts (B-O, C-N, C-C, C-B, and I districts) and are only allowed in those districts through Special Review Use approval. The Planned Community Zone District (PCZD) lists “Automobile Service Stations” as permitted uses in areas designated as Commercial and Office unless restricted through a General Development Plan. Facilities located in the PCZD district are subject to specific development and performance standards outlined in [LMC Sec. 17.12.130](#). “Automobile Service Stations” are distinct from automobile repair and service businesses that do not sell motor fuels (e.g. general auto repair, oil change services, and tire sales and repair).

Currently, there are five gas stations operating within the city, and one that recently received approval at 525 S. McCaslin Boulevard. The ordinance will allow construction and operation of the new station on McCaslin, provided they apply for their building permit prior to expiration of the Planned Unit Development (PUD).

If an existing gas station ceases operation for more than 12 months, then further use of that site as a gas station requires approval of a PUD and/or SRU as required. If less than 5 are operating or approved in the city, then new gas stations applications shall be reviewed in the order in which complete land use applications are received.

ANALYSIS:

Banning or limiting new gasoline service stations is a growing trend due to health and environmental concerns with the continued use of gasoline powered vehicles and equipment. Early adopters of bans include Petaluma, Santa Rosa, and Sonoma County in California. Last year, the City of Broomfield passed an ordinance banning new gasoline stations within 1,000 feet of an existing gasoline station. Gasoline station bans are also seen as promoting the use of Electric Vehicles (EVs), thus, reducing vehicle emissions and encouraging low-carbon and cleaner energy options for transportation. In 2019, the City of Louisville established the following clean energy and carbon emission reduction goals (City Council Resolution No. 25, Series 2019):

1. Meet all of Louisville' s municipal electric needs with 100% carbon -free sources by 2025.
2. Reduce core municipal GHG emissions annually below the 2016 baseline through 2025.
3. Generate 75% of Louisville' s residential and commercial/ industrial electric needs from carbon -free sources by 2030.

4. Reduce core community GHG emissions annually below the 2016 baseline through 2030.

The proposal for a cap but not a full ban on new gasoline and automobile service stations is in recognition that there will continue to be some demand for gasoline and automobile service stations as more EVs enter the market and gasoline vehicles are transitioned out of the market over time. The ordinance also includes an exception for a new large single-use retailer that may require a new gasoline or automobile service station as part of their business model for a new development. This exception would allow flexibility in recognition of a potentially valuable economic development opportunity for the City.

PUBLIC COMMENT:

To date, no public comments have been received by staff.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 6, Series 2023, recommending to City Council approval of the ordinance as drafted.

ATTACHMENTS:

1. Resolution 6, Series 2023
2. Draft Ordinance
3. Ordinance No. 1843, Series 2022

**RESOLUTION NO. 6
SERIES 2023**

**A RESOLUTION RECOMMENDING APPROVAL OF AN ORDINANCE AMENDING
TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE CAPPING THE MAXIMUM
NUMBER OF GASOLINE AND AUTOMOBILE SERVICE STATIONS LOCATED
WITHIN LOUISVILLE**

WHEREAS, the City of Louisville is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter; and

WHEREAS, the City of Louisville remains committed to its adopted goals to reduce energy consumption, increase clean energy sources, and support the transition to a low-carbon community as outlined in the City’s Sustainability Action Plan; and

WHEREAS, the Planning Commission recognizes that limiting gasoline and automobile service stations will help to address health and environmental concerns with fossil-fuel powered vehicles and as a strategy to reduce community-wide fossil fuel consumption consistent with City Council Resolution No. 25, Series 2019 Setting Clean Energy and Carbon Reduction Goals; and

WHEREAS, the Planning Commission has considered the proposal at a duly noticed public hearing on February 9, 2023, where evidence and testimony were entered into the record.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Louisville, Colorado does hereby approval of an ordinance amending Title 17 of the Louisville Municipal Code capping the maximum number of Gasoline and Automobile Service Stations located within Louisville.

PASSED AND ADOPTED this 9th day of February, 2023

By: _____
 , Chair
 Planning Commission

Attest: _____
 , Secretary
 Planning Commission

**ORDINANCE NO. XXXX
SERIES 2023**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE
CAPPING THE MAXIMUM NUMBER OF GASOLINE AND AUTOMOBILE SERVICE
STATIONS LOCATED WITHIN THE CITY OF LOUISVILLE**

WHEREAS, the City of Louisville is committed to protecting the health, safety, and welfare of its citizens, and safeguarding the environment and wildlife resources; and

WHEREAS, the City Council believes it has not only the authority but the responsibility to plan for and regulate the use of land within the City in order to best protect and promote the health, safety, and welfare of present and future inhabitants and residents of the City, and to guide future growth, development, and distribution of land uses within the City; and

WHEREAS, the City regulates the use of land by those ordinances codified in Title 17 of the Louisville Municipal Code; and

WHEREAS, on November 1, 2022, the City Council approved Emergency Ordinance 1843, Series 2022 providing for a temporary moratorium on the submission, acceptance, processing, or approval of any land use application, or issuance of any special use permit, related to the use of property within the City as a gasoline service station or an automobile service stations; and

WHEREAS, as of October 1, 2022, the Colorado Energy Office reports there are 66,599 electric vehicles (EVs) registered in Colorado, 11.71 per 1,000 people, and 9,198 EVs in Boulder County, 27.1 EV's per 1,000 people; and

WHEREAS, according to the Colorado Energy Office, EV ownership is currently increasing both statewide and in Boulder County, and in the past six months 8.62% of new vehicle registrations in Boulder County were for EVs; and

WHEREAS, the City Council recognizes this trend in EV sales will likely impact the continued viability of gasoline service stations within the City, and thus impact the appropriate mix of land uses within the City; and

WHEREAS, the City Council finds and determines it is of critical importance to the City and its residents that the City Council examine the important policy considerations presented by gasoline service stations and automobile service stations in the overall mix of land uses within the City, and that any decisions made be applied to applications that may be filed in the future to develop or construct gasoline service stations or automobile service stations; and

WHEREAS, the City of Louisville remains committed to its adopted goals to reduce energy consumption, increase clean energy sources, and support the transition to a low-carbon

community as outlined in the Sustainability Action Plan and Resolution 25, Series 2019, “A Resolution Setting Clean Energy and Carbon Reduction Goals”.

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

Section 1. Louisville Municipal Code Chapter 17.16 – General Regulations is hereby amended with the addition of a new Section 17.16.340 to read as follows:

Section 17.16.340. – Limitation on New Gasoline and Automobile Service Stations

- A. The number of gasoline or automobile service stations within the city shall be limited to six (6). Such limitation shall include the combined number of existing gasoline and automobile service stations and those not constructed but approved through a planned unit development land use application that has not expired pursuant to Subsections B or C. This limitation may be increased up to seven (7) gasoline and automobile service stations if approved through a new land use application for a single-user retail center of eighty thousand (80,000) or more square feet that includes a gasoline or automobile service station as an integral part of the retail center on the same or adjoining parcel.
- B. An approved planned unit development, and when applicable, an approved special review use, for a gasoline or automobile service station shall expire and become void if a building permit is not issued within thirty six (36) months after city council approval of the plan.
- C. If an existing gasoline or service station is discontinued from use for a period of twelve (12) months then further use of the property as a gasoline or automobile service station shall require authorization through a planned unit development, and when applicable, a special review use approval, meeting current city standards for such use.
- D. If at the time of a land use application for a gasoline service station there are fewer than six (6) gasoline service stations operating or approved in the city, the city shall review new applications in the order in which complete land use applications are received.
- E. Any new gasoline or automobile service station shall be spaced from any existing or approved gasoline or automobile service station by a minimum of one thousand (1,000) ft. as measured from the nearest point of each property boundary. This requirement may be waived if the proposed gasoline or automobile service station is approved through a new land use application for a single-use retail center of eighty thousand (80,000) or more square feet that includes a gasoline or automobile service station as an integral part of the retail center on the same or adjoining parcel.
- F. The City of Louisville Planning Division (Planning) shall maintain the list of operating or approved gasoline or automobile service stations and their locations within the city.

Section 2. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 3. The repeal or modification of any provision of the Municipal Code of the City of Louisville 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, and 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 the 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 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this ___ day of _____, 2023.

Dennis Maloney, Mayor

ATTEST:

Meredyth Muth, City Clerk

APPROVED AS TO FORM:

Kelly PC, City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ___ day of _____, 2023.

Dennis Maloney, Mayor

ATTEST:

Meredyth Muth, City Clerk

**ORDINANCE NO. 1843
SERIES 2022**

**AN EMERGENCY ORDINANCE PROVIDING FOR A TEMPORARY MORATORIUM
ON THE SUBMISSION, ACCEPTANCE, PROCESSING, OR APPROVAL OF ANY
LAND USE APPLICATION, OR ISSUANCE OF ANY SPECIAL USE PERMIT,
RELATED TO THE USE OF PROPERTY WITHIN THE CITY AS A GASOLINE
SERVICE STATION OR AN AUTOMOBILE SERVICE STATION**

WHEREAS, the City of Louisville is committed to protecting the health, safety, and welfare of its citizens, and safeguarding the environment and wildlife resources; and

WHEREAS, the City Council believes it has not only the authority but the responsibility to plan for and regulate the use of land within the City in order to best protect and promote the health, safety, and welfare of present and future inhabitants and residents of the City, and to guide future growth, development, and distribution of land uses within the City; and

WHEREAS, the City regulates the use of land by those ordinances codified in Title 17 of the Louisville Municipal Code; and

WHEREAS, the City regulates the construction of buildings and other structures within the City by those codes adopted in Title 15 of the Louisville Municipal Code; and

WHEREAS, on October 24, 2022, the City Clerk approved the form of an initiative petition for an Initiative Ordinance that, if approved by the City Council or the City's electors, would prohibit gasoline service stations and automobile service stations in all zone districts within the City and prohibit issuance of a building permit for construction of a gasoline service station within 2.5 miles of an existing gasoline service station; and

WHEREAS, as of October 1, 2022, the Colorado Energy Office reports there are 66,599 electric vehicles (EVs) registered in Colorado, 11.71 per 1,000 people, and 9,198 EVs in Boulder County, 27.1 EV's per 1,000 people; and

WHEREAS, according to the Colorado Energy Office, EV ownership is currently increasing both statewide and in Boulder County, and in the past six months 8.62% of new vehicle registrations in Boulder County were for EVs; and

WHEREAS, the City Council recognizes this trend in EV sales will likely impact the continued viability of gasoline service stations within the City, and thus impact the appropriate mix of land uses within the City; and

WHEREAS, the City Council finds and determines it is of critical importance to the City and its residents that the City Council examine the important policy considerations presented by gasoline service stations and automobile service stations in the overall mix of land uses within the

City, and that any decisions made be applied to applications that may be filed in the future to develop or construct gasoline service stations or automobile service stations; and

WHEREAS, the City of Louisville remains committed to its adopted goals to reduce energy consumption, increase clean energy sources, and support the transition to a low-carbon community as outlined in the Sustainability Action Plan and Resolution 25, Series 2019, “A Resolution Setting Clean Energy and Carbon Reduction Goals”; and

WHEREAS, the City Council further finds and determines it is equally important for the Initiative Ordinance, should the petition be signed by the required number of registered electors and ultimately approved by the City Council or the City’s voters, to be applied to applications that may be filed in the future to develop or construct gasoline service stations or automobile service stations; and

WHEREAS, the City Clerk has estimated that, should the petition proposing the Initiative Ordinance be signed by the required number of registered electors and the same is submitted to the City’s registered electors at a special election, such process could take until the end of September of 2023; and

WHEREAS, the imposition of a temporary moratorium as set forth herein is reasonable, necessary, and no longer in duration than is needed to allow the City Council and staff to investigate whether new regulations concerning gasoline service stations or automobile service stations should be enacted to protect and preserve the public health, safety, and welfare, or in the alternative, for the City’s registered electors to have the opportunity to vote on the Initiated Ordinance contained in the initiative petition; and

WHEREAS, property owners within the City will not be unfairly prejudiced by the imposition of the temporary moratorium imposed by this ordinance, as gasoline service stations and automobile service stations are not uses by right within any zone district within the City; and

WHEREAS, the U.S. Supreme Court and the Colorado Supreme Court recognize that, in the field of land use regulation, temporary moratoria of reasonable duration are often employed to preserve the status quo in a particular area while developing a long-term plan for development and while evaluating the sufficiency of current regulations; indeed, in countering the incentive of property owners to develop their property quickly to avoid the consequences of an impending land use plan for the jurisdiction, moratoria are a crucial tool for local governments and, therefore, pursuant to express and implied authority granted by the Colorado Revised Statutes and multiple Colorado and federal appellate decisions upholding temporary moratoria on land use applications while amendments are considered, the City Council has the legal authority to adopt the temporary moratorium set forth herein; and

WHEREAS, the City Council finds and declares it has the power and authority to adopt this ordinance pursuant to Amendment 64, C.R.S. § 29-20-101, *et seq.* (the Local Government Land Use Control Enabling Act), C.R.S. § 31-23-301, *et seq.* (concerning municipal zoning

powers), C.R.S. § 31-15-103 (concerning municipal police powers), C.R.S. § 31-15-401 (concerning municipal police powers), C.R.S. § 31-15-501 (concerning municipal authority to regulate businesses), Article XX of the Colorado Constitution (concerning municipal home rule), and the City of Louisville Home Rule Charter; and

WHEREAS, an emergency exists because the City Council finds and determines that, in light of the foregoing recitals and findings, circumstances warrant the immediate enactment of this ordinance and imposition of the moratorium set forth herein to protect the public health, safety, and welfare, and to avoid development that may contravene the City’s efforts to protect the health, safety, and welfare or the registered electors’ efforts to utilize the initiative process to enact legislation, and it is of critical importance to the City and its residents that any regulations adopted by the City Council or approved by the City’s registered electors concerning gasoline service stations or automobile service stations be applied to all future applications for such uses within the City.

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

Section 1. The foregoing recitals are hereby affirmed and incorporated herein by this reference as findings of the City Council.

Section 2. Upon the effective date of this ordinance, and until **September 30, 2023**, no application for land use approval, including but not limited to any zoning, subdivision, or site plan application, filed by or on behalf of any landowner the purpose of which includes development, construction, expansion, reconstruction, or relocation of a gasoline service station or automobile service station shall be received, reviewed, approved or otherwise acted upon, unless otherwise provided in this ordinance. For purposes of this moratorium, an automobile service station shall be considered synonymous with gasoline service station as defined in Section 17.08.200 of the Louisville Municipal Code.

Section 3. The restrictions contained in this ordinance shall not be construed to affect any applications for a use by special review, or other land use approval for a gasoline service station or automobile service station for which complete applications were filed prior to the effective date of this ordinance.

Section 4. Any person who submitted a complete application for a use by special review, or other land use approval for a gasoline service station or automobile service station prior to the effective date of this ordinance, and who believes that application of the temporary moratorium to such application would be legally invalid, may file with the City Council a request for an exemption from the moratorium. The request shall be in writing and fully set forth the reasons why the exemption should be granted. The City Council may grant the exemption if it finds that application of the moratorium would be legally invalid under the facts presented.

Section 5. The temporary moratorium imposed upon receipt of applications as set forth in this ordinance is temporary in nature and may be repealed by subsequent legislative enactment. The temporary moratorium established by this ordinance shall terminate on **September 30, 2023**, unless sooner repealed.

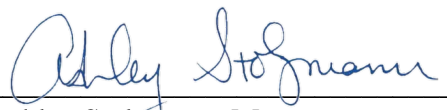
Section 6. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 7. The repeal or modification of any provision of the Municipal Code of the City of Louisville 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, and 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 the 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. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 9. The City Council herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety and welfare in order to avoid development that may contravene the City's efforts to protect the health, safety, and welfare or the registered electors' efforts to utilize the initiative process to enact legislation, and it is thus of critical importance to the City and its residents that any regulations adopted by the City Council or approved by the City's registered electors concerning gasoline service stations or automobile service stations be applied to all future applications for such uses within the City. Therefore, City Council herewith further finds, determines and declares that it is necessary for this ordinance to take effect immediately upon adoption, provided the same has been adopted and signed by the Mayor and approved by two-thirds of the entire City Council.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY TWO-THIRDS OF THE ENTIRE CITY COUNCIL, AND ORDERED PUBLISHED this 1st day of November, 2022.



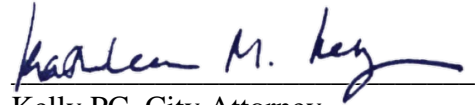
Ashley Stolzmann, Mayor

ATTEST:



Meredyth Muth, City Clerk

APPROVED AS TO FORM:



Kelly PC, City Attorney