



Staff Report

Board of Trustees

January 3, 2023

ITEM NAME

An application for a Major Development Review (Final PUD Plan) of 317 Evans Street

STAFF

Planner II David Kimmett, AICP

INFORMATION

The applicant, Leigh Williams and Yves Nath of Lyons have recently gone under contract to purchase 317 Evans Street. 317 Evans has been a challenging property for decades:

- It was originally two homes from the 1920s era on two separate lots
- Eventually the two homes merged and at various times it was a boarding house, a nursing home, and apartments
- It has been in various states of repair / disrepair, to the point that life safety concerns, and generally poorly conditions of operation have been present
- Although zoned R-1 (Residential, Single Family, Detached Housing), a June 20, 1983 Board of Trustees decision allowed the then owner to operate 6 housing units
 - Subsequent to that decision, at times more than 6 units have been rented
 - When the property was marketed for sale earlier this year, 8 units were occupied

Leigh and Yves (“Applicants”), who collectively have decades of experience in the realm of affordable housing and homelessness concerns, decided to purchase the property this summer with the intent of rebuilding the property with decent, new accommodations that will be held in various levels of “affordability” per their application. They have slowly broached a development concept over the past couple of months that has quickly matured recently, bringing us to this evening’s public hearing on the proposed Major Development Review for a Final PUD Plan.

The Applicants have had some fortunate circumstances that have led to a “fast-track” development review request, namely finding a modular builder – BonnaVilla of Aurora NE – and a modular construction firm – Harrison Homes of Fort Morgan CO – that were willing to make the construction process expedited by nearly a year, according to Leigh. As applicants, they have been working with Staff, along with their architect Matt McMullen of the firm of TheAOC, in the PUD-R rezoning and Major Development Review (PUD Preliminary & Final Plan combination) process over the past month in a compressed review schedule.

The Applicants are offering to the Town something Staff feels is unique: Lyons citizens, with expertise within the realm of “affordable and workforce housing” who, privately, wish to upgrade the subpar living conditions of Lyons residents of a private multi-family housing unit within Town. The Applicants are not receiving Federal, State, nor County funding to tackle this intractable issue, but rather are offering to do this through their own esprit de corps and employing quintessential Lyons Grit. In any PUD in any jurisdiction, a part of the development process is the negotiation between the developer and the jurisdictions on what flexibility will be given to the developer – accommodations in process, regulations,



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and cost – by the jurisdiction, and in turn what will the jurisdiction gain out of the flexibility inherent in a PUD plan.

Regarding affordability, the Applicants are offering affordable housing in two tiers:

1. Current residents of 317 Evans will be offered the opportunity to return to the newly built housing units following construction at deeply affordable rates – the rent for the first year will be at or below what they are currently paying. Subsequent years' rate increases will be augmented only to recoup increased expenses
2. Future residents of 317 Evans will be offered rents that will not exceed 120% of the Boulder County AMI (Area Mean Income) – essentially workforce housing.

The above stipulations will be guaranteed (as a part of the Applicants' offer in the Development Agreement) for 10 years.

Planner Kimmett has reviewed the application materials, and though at the level of "Substantially Complete" (Substantially Complete being one of the review designations afforded to Staff on a given application), substantive and convincing materials have been provided to warrant an Approval of this application at this time.

HOWEVER, Planner Kimmett also feels that the Approval should contain Conditions.

Several items are in wait to be provided that will be necessary for the application to receive a "Complete" assessment and designation. The applicants have verbally promised this material – none of it critical for understand the development hypothesis and plan – Planner Kimmett is confident it will be provided when available to the applicant, who is presently contracted with civil engineering, flood specialists, and landscape architects who will be producing the desired information in the coming weeks. Given the short-burn nature of this process on both the applicants' and the Town's part, not all of the necessary consultant studies have been procured, but they are also not necessary for proceeding with this particular application approval process. A formal, memorialized Development Agreement between both parties (Town and applicants) will be necessary to ensure that the applicants uphold their end of the bargain with the Town with regard to the actual development process ahead; similarly, it will also outline what if any concessions the Town is willing to make as an in-kind goodwill given the contributions the applicant is offering in this proposal.

As part of the PCDC's review of this PUD-R Major Development Review on December 12, 2022, a list of Conditions were incorporated into their Resolution PCDC 2022-13 (see attachment); the Board can accept all, some, or none of these recommended Conditions in your own Resolution. Further, the Board can refine the PCDC Conditions, and or adopt their own set.

The Board will need to review the application against the PUD General Standards of Applicability and General Review Criteria and consider areas where negotiation between the applicant and the Town can happen. These include – but are not limited to:

- I. Water & Sewer Considerations:
 - Town certification of water flows from the nearby hydrant



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- Water share cost and type
 - Water tap fees and number
 - Wastewater connection fees
2. Development fees / determinations:
- Land use application (i.e. the Rezoning and Major Development Review) costs and Staff review time
 - Building permit fees
3. Plan and Infrastructure-related items:
- Current resident displacement costs and housing during the construction window
 - Setbacks
 - Parking
 - Alley paving
 - Burying the overhead electrical line on the alley
 - Sidewalk construction

Additionally, the Major Development Review criteria themselves should be examined, though large portions of those do not pertain to the unique attributes of a PUD application.

REVIEW CRITERIA AND STAFF FINDINGS OF FACT

Staff finds that the application has met the below General Review Criteria for a PUD-R Overlay designation:

Sec. 16-4-90. - General review criteria.

All requests for the establishment of a permitted *PUD* District shall evidence compliance with the following general criteria:

(1)

The *PUD* Plan is generally consistent with the Lyons Comprehensive Plan. The decision-making body shall weigh competing Comprehensive Plan goals, policies and strategies and may approve a *PUD* Plan that provides a public benefit even if it is contrary to some of the goals, policies or strategies in the Comprehensive Plan.

(2)

The *PUD* Plan complies with all applicable district-specific standards and *PUD* development/design standards.

(3)

The *PUD* Plan shall comply with all standards, requirements and specifications for provision of the following services: water; sewer; electricity; gas; public transit; trash collection and recycling; storm drainage; floodplain; telecommunications; streets/pedestrian system; fire protection; and cable television.

(4)

The *PUD* Plan shall be integrated and connected, whenever possible, with adjacent development through street connections, sidewalks, trails and similar features.

(5)



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The *PUD* Plan shall be sensitive to existing adjacent development and shall not limit the ability to integrate surrounding land into the Town or cause variances or exceptions to be necessary if the adjacent land is annexed or developed.

(6)

The *PUD* Plan shall avoid or substantially mitigate impacts from development in known areas of natural or geologic hazard, including unstable slopes, flood, high groundwater or soil conditions unfavorable to development.

(7)

The *PUD* Plan minimizes environmental impacts, mitigates impacts to wildlife and wildlife habitat and promotes green building standards.

(8)

The *PUD* Plan avoids placing unreasonable financial burdens on the Town.

(9)

The *PUD* Plan shall be consistent with and implement the intent of the specific *PUD* District.

(10)

Any applicable standards, requirements and specifications may be modified if the decision-making body finds that the proposed *PUD* Plan incorporates creative site design such that it represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards, including but not limited to improvements in open space provision and access; environmental protection; tree and vegetation preservation; efficient provision of streets, roads and other utilities and services; or increased choice of living and housing environments.

(11)

Except where modifications are allowed under [Section 16-4-50](#) above, the *PUD* Plan complies with all applicable standards stated in this Chapter.

(12)

The proposed phasing, if any, for development of the *PUD* Plan is rational in terms of available infrastructure capacity and adequate public facility standards.

(13)

Height and setback standards shall be established using the following criteria:

a.

The proposed structure would have minimal effect upon adjacent properties with respect to compatibility of use and design, solar access, visual access and rights of privacy, light and air;

b.

The height and/or setback standards would not interfere with delivery of public services to the site at existing levels of service or at adequate levels required by Town policies and regulations;

c.

The project complies with all fire and building code regulations and standards;

d.

The architecture and character of the proposed structure is compatible with existing development on surrounding or adjacent parcels; and

e.

In the *PUD* Overlay District, the development complies with all other applicable zoning and development regulations, including parking, screening, bulk and landscaping.



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Staff also finds that the application has met the necessary portions of the below criteria inherent in a Major Development Review (discuss):

Sec. 16-17-30. - Development review criteria of approval.

The submitted Development Plan must meet the following criteria of approval as applicable:

(1)

All of the information required on plan set is shown.

(2)

The lot size and lot dimensions are consistent with what is shown on the approved final plat.

(3)

No buildings or structures infringe on any required setbacks, easements or rights-of-way unless approved in writing by the easement holder or owner of the right-of-way.

(4)

The proposed site grading is consistent with the requirements of the Town's adopted storm drainage criteria or master drainage plan, and grading disturbance of significant existing natural vegetation and natural landforms has been minimized to the maximum extent feasible.

(5)

The density and dimensions shown conform with this Chapter or the approved PUD requirements.

(6)

The applicable regulations and design guidelines have been adequately addressed and the proposed improvements conform with this Code, including, but not limited to, the following standards, as applicable:

a.

Lighting shall be arranged so it neither unreasonably disturbs occupants of adjacent residential properties nor interferes with traffic. The light source shall be concealed by a full cutoff lighting fixture so that the light source is not visible from any street right-of-way or from adjacent properties. The maximum permitted illumination at the property line shall be two (2) foot-candles. Light fixtures shall not exceed twenty-four (24) feet in height and shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site. Lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed, or shielded to minimize light spill into the night sky. The use of sensor technologies, timers, or other means to activate lighting during times when it will be needed is encouraged to conserve energy, provide safety, and promote compatibility between different land uses. Lower lighting levels at off-peak times are encouraged as a safety measure.

b.

Outdoor storage shall be screened from adjacent properties. Screening shall be achieved through walls, architectural features and landscaping and shall be visually impervious. Permitted outdoor vehicle or equipment storage areas shall be screened by the establishment of landscaped buffers or an opaque fence or wall at least five (5) feet high. Vehicles being serviced or stored for customers shall not be parked on streets, alleys, or public sidewalks. Automobile, boat and motorcycle rental and sales lots shall not be greater than one and one-half (1.5) acres.

c.

Uses that create intense glare or heat, whether direct or reflected, that are perceptible from any point along the site's property lines shall be conducted within an enclosed building or be



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effectively screened from public view. If the source of the glare is proposed to be screened with plant material, then the applicant must show that the screening will be effective year-round.

d.

To the extent reasonably feasible, an applicant shall take advantage of opportunities to integrate adjacent outdoor pedestrian spaces and other adjacent land use in a manner consistent with the goals and objectives of the Comprehensive Plan. To the extent reasonably feasible, an applicant shall enter into cooperative agreements with adjacent property owners to share vehicular access in a manner that creates safe traffic movements and minimizes vehicle/pedestrian conflicts, resulting in an integrated network of vehicular and pedestrian access.

e.

New employment or industrial uses abutting an existing residential neighborhood shall not create drastic or abrupt change in the scale and height of buildings.

(7)

The site can be adequately served with public utilities, services, and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.).

(8)

The site will provide efficient on-site and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians, cyclists, or vehicles in or adjacent to the site.

(9)

The site design minimizes environmental impacts, mitigates impacts to wildlife and wildlife habitat and uses best management practices to conserve natural resources (consider energy conservation, water conservation, recycling, use of local materials).

(10)

The site has an approved trash disposal plan that addresses litter control, trash collection, on-site storage, pick-up on a regular basis and the dumpster location with proper screening and buffering so that there are not any substantial impacts to abutting properties. All waste shall be deposited into a completely enclosed container concealed from adjacent properties.

(11)

Proposed land uses and activities shall be conducted so that any noise generated on the property will not violate the Town's noise regulations in [Chapter 10](#), Article 11 of this Code, so that any ground vibration created by the use of the property will be imperceptible without instruments at any point along the property line.

(12)

The proposed development shall conform with all applicable local, state, and federal regulations.

SAMPLE MOTION OF APPROVAL:

The Board may propose a motion of approval of the proposal based on the following suggested outline:

"I move that the Board of Trustees approve the Major Development Review (Final PUD Plan) of 317 Evans Street, finding that the application complies with the standards contained in Lyons Municipal Code 16-4-90 regarding PUDs and 16-17-30 regarding Major Development Reviews."



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SAMPLE MOTION OF APPROVAL WITH CONDITIONS:

The Board may propose a motion of approval with conditions of the proposal based on the following suggested outline:

"I move that the Board of Trustees approve the Major Development Review (Final PUD Plan) of 317 Evans Street with the following Conditions:

finding that the application complies generally with the standards contained in Lyons Municipal Code 16-4-90 regarding PUDs and 16-17-30 regarding Major Development Reviews."

SAMPLE NEGATIVE MOTION:

The Board may propose a motion of denial of the proposal based on the following suggested outline:

"I move that the Board deny approval of the Major Development Review (Final PUD Plan) of 317 Evans Street, finding that the application does not comply with the standards contained in Lyons Municipal Code 16-4-90 regarding PUDs and or 16-17-30 regarding Major Development Reviews."

ATTACHMENTS

Please find attached the 317 Evans Street Major Development Review (Final PUD Plan) application materials.