



To: Andrew Bowen - Senior Planner Town of Lyons

From: Lyons Ecology Advisory Board (EAB)

Subject: River Bend 2024: Proposed Changes to the Original PUD (501 West Main St.)

Date: May 9, 2024

The Lyons Ecology Advisory Board (EAB) appreciates the opportunity to participate in this PUD review process for River Bend's PUD agreement. We realize that a proposed development of this magnitude requires input from a number of parties. Granting only conditional usage until compliance is met is pragmatic. Per Lyons Municipal Code:

"The Ecology Advisory Board shall review site designs for all ecologically important parcels of land in order to provide findings, report and make recommendations that uphold the integrity of the environment in the Town, while balancing the desire for development, recreation and economic vitality".

The EAB believes that the use and development of the River Bend PUD site should also be subject to the Sustainable River Corridor Action Plan (SRCAP) officially adopted by the Town of Lyons in 2014. The SRCAP's Goal 4 specifically states that the Town will "Encourage ecologically responsible restoration and development within the riparian zone."

<https://www.townoflyons.com/DocumentCenter/View/1212/2014-Sustainable-Rivers-Community-Action-Plan?bidId=>

In August of 2013 the Town of Lyons hired Natural Capitalism Solutions, a world renown business (paid in part by a Boulder County grant) to support the creation of an Environmental Sustainability Plan (2014). This effort was focused primarily on creating environmental recommendations for Lyons. The plan involved an official survey of town residents. In the Town sanctioned plan, the Sustainability Action Table (pg 28) ranked Environment (30%) as the most important to the respondents. The environment was number one over the other categories: Town Values (20%), Economic Development(15%), Social(15%), Feasibility(20%).

[Environmental-Sustainability-Action-Plan-2014-PDF \(townoflyons.com\)](https://www.townoflyons.com/DocumentCenter/View/1212/2014-Sustainable-Rivers-Community-Action-Plan?bidId=)

The Lyons EAB strongly encourages the Town to view this development proposal from a perspective of river and ecosystem health and to consider the negative impacts of the proposed modifications in this river corridor/wetland area. Many issues raised during the original 2016 PUD request remain. The natural environment is the greatest draw to this area. It is the quality of the ecosystem and natural values that is a major attraction to this special area. EAB recommends this be further addressed and not be dismissed or diminished.

In reviewing the proposed PUD changes, it was noted that there's no request for conditional considerations. It's also noted that very few drawbacks are pointed out in the change analysis document provided, nor in the supporting information (Applicant) from Shape Architecture. Everything is presented as positive, beneficial, infallible. Key areas of concern (e.g., traffic impact analysis, cost estimates, environmental impacts) appear to have been waived without adequate consideration and explanation. The Change Analysis shows a weakening of enforcing protection for the natural environment. All this should not be granted without any further and convincing demonstration that larger is sustainable, attainable, and truly as beneficial as proposed.

In general, the EAB cannot stress enough the value and importance of this sensitive and ecologically critical riparian corridor and adjacent to a truly unique Lyons Park (Lavern M. Johnson Park). Below are the main issues that are being considered in this PUD agreement as well as EAB's position on the main issues. The position section is followed by a 'General Notes' section and finally, EAB's Specific Keynote of Concerns' are also included. This allows the reviewer to see additional comments if additional information is desired. Please reach out to us if you have any questions related to our response(s).

The Lyons River Bend PUD proposes the following changes to the existing PUD:

1. Allow for an extended primitive camping timeframe.

The Lyons Ecology Board (EAB) appreciates the desire for limited primitive camping in Lyons. In this case, the EAB recommends limiting the increase associated with the application to a conditional approval of a maximum of 90-days per calendar year. This represents a significant increase over the previously approved PUD while still considering the desire for camping. Conditions for such approval should be that: 1) A more robust wildlife plan be developed that encompasses adjacent areas as well as the site in question; 2) the conditionally permitted 90-days won't coincide with critical avian nesting periods; 3) drones for use by visitors (campers) will be prohibited, 4) open campfires (wood burning fires) will also be prohibited. 5) Signs for prohibited activities shall be visibly posted and violations rigorously enforced. 6) A conditional test period should be considered (For additional information see General Notes and EAB's Specific Keynote Concerns 5 and 6).

2. Allow for the construction of a 6,000-sf venue structure instead of the previously approved 4,000-sf.

EAB strongly recommends that 1) any existing PUD requirements or proposed additional square footage of hardscape caused by any expanded project should, at a minimum, include a robust drainage plan that funnels water into a holding pond, wetland area or rain garden to properly mitigate water runoff impacts to the North St. Vrain Creek. Other conditions to the approval of expanding the building envelope should specify that 2) all lighting should be DarkSky™ and/or LEED approved; 3) all construction materials should be LEED certified, procured from sustainable sources (e.g., Forest Stewardship Council (FSC) certified wood products) and should also be obtained locally to the extent possible; 4) sustainable construction methods and best management practices (BMPs) shall be required, maintained and rigorously adhered to (see EAB's Specific Keynote Concerns 9 and 10)

3. Allow for music to be amplified.

Overall, the EAB supports keeping noise levels reasonable; especially considering the proximity to wildlife, the physical characteristics, and acoustic properties of the site, as well as the riparian habitat in this special area. Because of physical limitations and wildlife habitat concerns, the EAB recommends continuing non-amplification and not approving the applicant's request to allow the amplification of music. If permitted in any fashion, a trial period with conditional usage should be detailed. Please see the General Notes section regarding existing wildlife assessment gaps. See also Specific Keynote of Concerns section for additional information (see General Notes and EAB's Specific Keynote Concerns 1, 2, 3, 4, 6 and 7).

4. Allow for the addition of ten (10) additional tiny home.

The EAB does not support the addition of ten (10) additional tiny homes until the following details are resolved.

The proposed PUD (an RV park) is within a FEMA special flood hazard zone and is the location of the loss of 21 mobile homes and other structures in the 2013 flood. There are now 22 tiny houses on site permitted through the existing PUD; they are considered RVs and are not subject to FEMA rules regarding elevation, anchoring, and so forth. FEMA makes this exception due to the mobility of the housing units. They are mounted on wheels and must be ready for quick removal in advance of flooding.

FEMA guidance for RV parks is that: "*they should not be permitted in flash flood areas since there may be loss of life if flooding occurs as well as loss of the recreational vehicles*". And: "*The purpose of this requirement is to prevent recreational vehicles from being permanently placed in the floodplain unless they are as well protected from flooding as a manufactured home.*"

FEMA rules regarding RV Parks were designed for RVs in which the owners can individually drive the RV out of harm's way at short notice. However, in the present case, the RVs are not owned by their occupants. The landowner must instead arrange removal of all units on short notice.

The EAB is concerned that evacuation of the existing 22 tiny homes and their occupants would be a significant challenge in the event of a future flood. See attached image of standing water wave at one of the properties' entrances. Adding another 10 makes the challenge even more difficult. How would 32 two-story tiny home trailers be detached from utilities, porches, and decks, and hauled out via one road ahead of a flood? Where is the designated lot for flood and post-flood parking? How are the guests and their cars to be evacuated along the same exit from the flood hazard area? Is there a sign (as recommended by FEMA) indicating to guests that they are indeed within a flood hazard zone and indicating what measures to take in the event of a flood warning?

After careful review, EAB recommends that the Lyons Fire Department and the Sheriff's Department be specifically consulted to review applicant plan for the necessary house removal and guest evacuation in the event of a future flood. No new PUD amendment should be approved that substantially increases the risk to the environment, public safety, and vulnerability of Lyons to flooding. (For more Information see Specific Keynote Concerns 11).

General Notes:

River Bend PUD (Proposed) document map still shows adjacent park labeled as "Meadow Park"

EAB's Specific Keynote Concerns:

Keynote 1: Due to the River Bend's unique "bowl" shape, its adjacency to an existing Lyons Park (natural area), its close proximity to residents, and considering the surrounding rock walls that reverberate sound in unpredictable ways, EAB recommends that amplified sound be prohibited. This combined with 52-weeks a year gives little rest to this unique area that shares the ecology of the river corridor. Overuse seems inevitable if permitted. The currently approved sound level can already be heard outside of town limits and up on Jasper Drive and is obnoxious to residents living there.

It is recommended that the PCDC closely review a public document called the Memorandum - River Bend update - voluntary use 8-27-2015 (section 2) [08312015-200 \(lyonscolorado.com\)](http://08312015-200.lyonscolorado.com) (attached)

Specifically related to noise and amplified sounds. From the memorandum...

PCDC RECOMMENDED CONDITIONS OF APPROVAL: ...

2. Music performed by live entertainment should not be amplified (this went into effect Nov 1, 2015). Amplified background music and PA shall be carefully limited to the minimum functional sound level. Furthermore, the owner agrees to immediately reduce or eliminate any amplified sounds subsequently found to be objectionable by the town administrator or his/her designee.

Condition acceptable to applicant:

Outdoor music performed by live entertainment shall not include amplified instruments.... Outdoor amplified background music, vocals, and PA (public address system) shall be carefully limited to the minimum functional sound level. Furthermore, the owner agrees to immediately reduce or eliminate any amplified sounds subsequently found to be objectionable by the town administrator or her designee.

Keynote 2: The Town's existing noise ordinance is outdated. An update to the ordinance should be required prior to granting a zoning change. Until updated, the granted usage(s) should only be in a conditional fashion. Town Code Sec. Article 11 10-11-10 Unreasonable noise. Sec. 10-11-10. - Unreasonable noise. | Municipal Code | Lyons, CO | Muni Code Library

https://library.municode.com/co/lyons/codes/municipal_code?nodeId=CH10GEOF_ART11NO_S10-11-10UNNO

The City of Longmont's two municipal codes would be a good starting point.

Sec. 10.20.090. - Unreasonable noises prohibited; prima facie unreasonable noises.

https://library.municode.com/co/longmont/codes/code_of_ordinances?nodeId=PTIICOOR_TIT10PUPEMOWE_CH10.20OFAGPUPE_S10.20.090UNNOPRPRFAUNNO

Sec. 10.20.100. - Maximum permissible sound pressure levels; definitions; exceptions.

https://library.municode.com/co/longmont/codes/code_of_ordinances?nodeId=PTIICOOR_TIT10PUPEMOWE_CH10.20OFAGPUPE_S10.20.100MAPESOPRLEDEEX

Keynote 3: Referring to Andrew Bowen's Change Analysis document. Proposed Changes to the Original PUD (Ord. 999 - May 9th, 2016) (River Bend) Bullet point 2. "Allowance of Amplified Music." Titled Original Text under 6e noted "Outdoor low level amplified recorded music, vocals, and public address system announcements, or any other noise at any wedding or other special event conducted on the property shall be carefully limited to the minimum functional sound level." Even though this language is suggested to be removed from the title Proposed Text, the Proposed Text should ideally contain more information. The proposed text language should be included with more details and should be more specific. It should not be vague. As a good neighbor, the original River Bend partners provided their personal phone numbers 24/7 if noise became an issue.

Keynote 4: Again in the Change Analysis document; Bullet point 10. "Project Statics Table Change (Original Table)": Note (3) (at the bottom). Canopy Tent and Pavilion would not be occupied simultaneously. In the Proposed Table, it removes this limitation. Thus, there is more traffic and more noise. River Bend was originally allowed only 1 venue / day. Now requesting multiple venues / day. This small size font and removal / replacement of this very critical language is easy to miss.

Keynote 5: Campfire smoke sits in the valley at night. This happens periodically due to an inversion of night air. Homes on the rim of the "bowl" have heavy smoke fill their home as the smoke "spills" out of the "bowl". This makes it very difficult to have windows open in the summer. This has been realized many times during Planet Bluegrass events that involve open fires. This type of heavy smoke is carcinogenic. Campfires should be prohibited, and all open fire pits should be gas. This was encouraged and enforced with Bohn and Lavern Johnson Park's open fire pits for the same reason. More camping will result in a desire for more outdoor fires. This prohibition of campfires must be dealt with proactively.

Keynote 6: Birding attracts tourists. The nature, beauty and the unique ecotone along the front range draws birds and bird watchers. It's a big deal. Article 6 Sec. 7-6-180. - Birds.

https://library.municode.com/co/lyons/codes/municipal_code?nodeId=CH7HESAAN_ART6ANRE_S7-6-180BI

Keynote 7: Addressing enforcement and penalties is a critical component that is lacking in the proposal and that must be included. Difficulty will be pointed out by all parties related to enforcing noise due to the limitations and complexity of measuring sound in an outdoor setting with changing winds and reverberation off rock walls. Citizens who live in this part of town are currently subjected to amplified sounds from Main St / High St, the Wildflower Pavilion weddings and other events. Direct contact(s) should be provided where complaints can be submitted and recorded.

Keynote 8: Traffic considerations and impacts. The project's proposal includes the statement that the traffic impact will be waived. EAB recommends that a robust, up-to-date traffic impact analysis be required (this should not be waived). Understanding that winter usage will keep venue traffic at around 200 guests / event, granting multiple events at one time will increase the traffic. Additionally, the continually increasing traffic levels in the summer, highway improvements must be considered. More frequent congestion at dual summer events combined with continual increased traffic to/from Estes Park results in even more congestion. These impacts and mitigation for them must be included in a thorough analysis.

Keynote 9: Light pollution with increased numbers of structures and lighting by River Bend. Original dark night skies existed 10 years ago but are being deteriorated with more and more lighted structures. LEED design and DarkSky™ approved outdoor lighting should be required.

Keynote 10: Impermeable surfaces and runoff look to be addressed with more turf areas. Additionally, roads and drainage along and into the riparian corridor should be addressed. Sand filters are noted. Rain gardens, bioswales and runoff holding areas are also good ecological site considerations. Increased traffic increase ground compaction, tire rubber and heavy oils. More use means no rest periods for soil compaction and less natural cleansing of soils. Additional hardscape should be mitigated properly to avoid runoff from entering adjacent bodies of water (in this case the North Saint Vrain Creek). These issues, their environmental impacts and proposed mitigation must be included in any further plans.

Water Quality: Additional details regarding what the River Bend's "green infrastructure" includes should be specified.

Keynote 11: Emergency Evacuation. Concerning the environmental impact of rapidly removing 20 tiny homes in the event of a flood should be noted. It should be noted that in an emergency event human life takes precedence. But it's prudent to note that a test of moving the tiny homes in a time of crisis has not been demonstrated. Especially if there's additional emergency traffic on the highway. It's also unrealistic to think that 20 homes could be moved if highway 36 is packed with cars. A test should be conducted and a detailed Plan of Action for such emergencies should be a requirement for this project,

Keynote 12: The associated wildlife assessment (*Wildlife Habitat River Bend Event Center – 501 West Main St. Lyons, Colorado March 2024*) The assessment is a good report and provides pertinent site information. However, it is limited to within the property boundary. While there is a busy highway next to the site, the adjacent lands are not developed and there is no assessment on how the increased development, human activity, traffic and use (noise, etc.) might impact wildlife on these adjacent parcels, such as the confirmed golden eagle's nest, pygmy owls, bobcats, foxes, etc in LJP. EAB recommends a rigorous review be prepared regarding the project's impacts on wildlife on the adjacent areas prior to any further action on the applicant's proposal.

Full waivers for traffic impact analysis, cost estimates and appropriate identification of ecological or environmental impacts are concerning to EAB. Furthermore, additional information is needed regarding the proposal's statement that "best practices will be used to minimize environmental impacts."

What are the environmental impacts and what best practices will be implemented to minimize them?