

MEMORANDUM

TO: Lyons Board of Trustees

CC: Victoria Simonsen

**FROM: Bob Joseph,
Consulting Town Planner**

DATE: 8/27/15

SUBJECT: River Bend update, voluntary use

limitations

Background:

On July 9th Staff invited the owners/applicants to identify any listed uses in the CEC district that they are *not* interested in pursuing in the future. This could become a voluntary site specific limitation of the CEC uses otherwise permitted. The owners/applicants have now voluntarily submitted the following list of uses to be excluded under a development agreement that would be binding on all future owners of the property.

The Owner agrees to exclude the following uses on the River Bend Site from those allowed by right in the CEC zone district:

- Financial institution
- Greenhouse and plant nursery
- Grocery store
- Group home for people with disabilities
- Hospital
- Long-term care facility
- Municipal administrative office
- Museum
- Nursing and assisted living facility
- Public facilities, including municipal offices, parks and trails
- Research, experimental or testing laboratory
- Stone cutting, finishing and sales establishment
- Veterinary hospital and veterinary facility

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PCDC RECOMMENDED CONDITIONS OF APPROVAL:

1. The Recreational Vehicle short term lodging shall be limited to a season of use not to exceed one hundred eighty (180) days in any calendar year. Occupancy for any individual term of lodging shall not exceed thirty (30) days.

Applicant Response:

Staff indicated that the highlighted limitation was included as a condition for conformance with FEMA requirements regarding recreational vehicles located in an SFHA. Arbitrarily limiting the lodging season to half the year undermines Applicant's development of a keystone use on the Site and is not in alignment with the stated standards as published and enforced by FEMA. The Applicant requests modifying this condition to include the following actual language from FEMA.

A recreational vehicle placed on a site in an SFHA must:

- ♦ *Meet the elevation and anchoring requirements for manufactured homes, OR*
- ♦ *Be on the site for fewer than 180 consecutive days, OR*
- ♦ *Be fully licensed and ready for highway use. "Ready for highway use" means that it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and has no permanently attached additions.*

Condition acceptable to Applicant:

The Recreational Vehicle short term lodging shall be limited to a season of use not to exceed one hundred eighty (180) days in any calendar year. Any recreational vehicle used for short term lodging or office use on the site shall:

- **Meet the FEMA elevation and anchoring requirements for manufactured homes; OR,**
- **Be on the site for fewer than 180 consecutive days; OR,**
- **Be fully licensed and ready for highway use. "Ready for highway use" means that it is on its wheels or jacking system is attached to the site only by quick disconnect type utilities and has no permanently attached additions.**

Occupancy for any individual term of lodging shall not exceed thirty (30) days.

2. The music performed by live entertainment shall not be amplified (this takes 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

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eliminate any amplified sounds subsequently found to be objectionable by the Town Administrator or her designee.

Applicant Response:

The Applicant has worked diligently with neighboring property owners in an attempt to control sound associated with event production on the Site. We appreciate their patience and good will in letting us test sound various levels at our Site boundaries, on their properties, nighttime, daytime, etc. Based on the recommendation of a majority of these neighbors the Applicant has committed to limit: live entertainment to non-amplified instruments; and, background music and PA announcements to minimum usable levels. We accept the proposed condition with the following clarifications which allow us to use: amplified instruments on the Site when enclosed indoors; and, minimal amplification for vocal performance which is generally required even with acoustic only instrumentation.

Condition acceptable to Applicant:

The Outdoor music performed by live entertainment shall not include be amplified instruments (this takes effect Nov. 1, 2015). Outdoor Aamplified 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.

3. The Owners shall cooperate with the Town to prepare and record an amended plat for the entire property that shall resolve outstanding property line discrepancies and fix the boundaries of the requested CEC zone district. Easements for the public water and sewer main extension from Meadow Park across River Bend connecting with Hwy 36 ROW shall be dedicated as delineated on sheet A02, or an alternative routing as agreed upon by the Town. The requested CEC zoning and this related USR/Development Plan approval shall not take effect unless and until this amended plat is recorded."

Applicant Response:

The Applicant accepts this condition with the clarifying additions noted below.

Condition acceptable to Applicant:

The Owners shall cooperate with the Town to prepare and record an amended plat for the entire property that shall resolve outstanding property line discrepancies and fix the boundaries of the requested CEC zone district. Easements for the public water and sewer main extension from Meadow Park across River Bend connecting with Hwy 36 ROW shall be dedicated as delineated on sheet A02, or an alternative routing as mutually agreed upon by the Town and the Applicant. The requested CEC zoning and

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this related USR/Development Plan approval shall not take effect unless and until this amended plat is recorded.

4. Property Boundary, Maps and Easements:

Applicant's property and other properties in the area are described to different points of beginning and basis of bearing. The result is inconsistencies, gaps and potential perceived overlaps in the boundary of properties in the area. It is desired to clean up this area in so far as practical through a platting process. This platting process may be necessary for the 501, 503 and 517 parcels in order to convey easements over and across the various parcels. The applicant shall provide a map prepared by a licensed land surveyor depicting the property boundary and all easements. Easement documents and agreements will be necessary for any public easements as noted below or otherwise found or deemed necessary during the review and approval process.

Applicant Response:

The Applicant accepts this condition.

5. A fifteen foot wide non-motorized public trail easement shall be dedicated in conformance with the objective set forth in the 2000 Lyons Parks, Open Space and Trails Master Plan, to be considered for implementation when the POST plan is updated.

Applicant Response:

In the wake of the 2013 flood, the Town has committed to undertaking a broad review and revision of it's Parks, Open Space and Trails (POST) Plan. We are also working toward a long term plan for development of our property beyond the currently proposed improvements. We believe it is premature and restrictive for the Town to request location and dedication of a pedestrian easement on the property in advance of completion of the revised POST Plan and submission of our long term development plan.

In addition to our desire to maintain flexibility in future development of the Site, we also still have grave concerns about the potential for uncontrolled trespass and associated negative impact on economic activity resulting from a public pedestrian trail essentially dividing our Property. We have queried the Town about how such such a trail could and would be secured. We have not yet received a satisfactory response and we're unaware of the existence of any similar conditions in the Town of Lyons that could provide a successful example. The PCDC and Staff have suggested that a pedestrian trail through our property could be an potential asset for future development of the Site. This may be true ... in the future ... but not right now.

Our preference would be to POST-pone consideration of this pedestrian easement dedication until plans by both parties are more clearly defined. If the

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Town doesn't share this opinion and insists on a pedestrian easement dedication now, the following revision to the proposed condition represents the only alternative that we can reasonably, and reluctantly, accept.

Condition acceptable to Applicant:

A fifteen foot wide non-motorized public trail easement shall be dedicated contiguous with and parallel to the northwest property line of 517 W. Main in conformance with the objective set forth in the 2000 Lyons Parks, Open Space and Trails Master Plan, to be considered for implementation when the POST plan is updated.

6. RV sales shall be strictly limited to the twenty RVs located on site, and shall be incidental an accessory to the other principal uses approved herewith.

Applicant Response:

The improvements for the proposed RV Lodging include twenty (20) units for lodging use and one (1) unit for use as an onsite office. All twenty one units (21) would be available for sale. The Applicant accepts this condition with the clarifying addition and typo correction noted below.

Condition acceptable to Applicant:

RV sales shall be strictly limited to the twenty one RV's located on site, and shall be incidental and accessory to the other principal uses approved herewith.

7. Campground Use shall be restricted to Special Events at a total of three (3) weekend tent camping events per year, each operating on the following schedule: Thu, camper arrival/setup; Fri – Sun, festivating; and, Mon, breakdown & camper departure.

Applicant Response:

The Applicant accepts this condition with the clarifying addition to prevent confusion with the proposed RV lodging use.

Condition acceptable to Applicant:

Tent Campground Use shall be restricted to Special Events at a total of three (3) weekend tent camping events per year, each operating on the following schedule: Thu, camper arrival/setup; Fri – Sun, festivating; and, Mon, breakdown & camper departure.

8. All existing outdoor lighting fixtures that are not cut-off / downcast shielded luminaires shall be immediately replaced with code compliant shielded fixtures. All new outdoor lighting fixtures shall be cut-off / downcast shielded luminaires.

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Applicant Response:

The property is well shielded from light spill by mature trees and cliff walls. There have been no complaints related to light levels or light spill from neighboring property owners.

Condition acceptable to Applicant:

All existing outdoor lighting fixtures that are not cut-off / downcast shielded luminaires shall be immediately replaced with code compliant shielded fixtures, excepting light bulb strings used for minimal decorative, safety and security lighting in event production and camping areas. All new outdoor lighting fixtures shall be cut-off / downcast shielded luminaires.

9. The applicant shall install one "Knox Box" on each gate to the property.

Applicant Response:

The Applicant accepts this condition.

10. The applicant must provide and maintain a minimum 20' width on the traveled surface of the primary entrance road, with adequate turn-around space for all emergency vehicles.

Applicant Response:

The Applicant accepts this condition.

11. The applicant must implement and maintain a current numbering system for the Tiny Homes and a map of the layout showing the temporary numbers and the layout of the units to facilitate emergency response.

Applicant Response:

The Applicant accepts this condition.

12. Develop a Storm Emergency Plan. A procedure to move RVs with or without tow vehicle at the ready to high ground during flooding or high water needs to be in place. This should include:

- Enough land/space for a temporary storage area to move and park the vehicles;
- Permission to use or lease, or ownership of the land;

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- Personnel and Vehicles dedicated and available (qualified drivers) to move RVs on short notice
- A plan or route to efficiently move the RV's to high ground temporary storage;
- A method to determine the priority of vehicle movement;
- The monitoring of inclement weather conditions; and

The route shall avoid other flood situations. A second contingency route shall also be determined.

Applicant Response:

The Applicant accepts this condition.

13. Utilities – Sanitary Sewer

Applicant must agree to pay the costs for extension of sewer main from Meadow Park into the property. The Meadow Park project extends sewer to service the RV units and two restrooms in the park. There is a gap from the final point of connection in Meadow Park to the applicant's property. This gap is approximately 550' and includes manholes, a creek crossing with casing. Applicant agrees to also extend public sewer in standard easements through the properties to serve projected uses and stub out to serve adjacent properties per Section 13-1-100 of the Lyons Municipal Code. Should applicant desire to continue to use a lift station instead, a current and modern lift station per the Town and State requirements will be required and must be approved by the State Health Department. In the case of the latter situation, easements will be required to allow for connection to offsite properties to the lift station and then for the outfall force main from the site to the existing force main along US36. All service connections and fees for sewer must be paid by the Applicant. The applicant must enter into a Subdivision Improvement Agreement with the Town to cover the installation, bonding and acceptance of Public Improvements. A complete set of Construction Plans with all details for construction shall be submitted demonstrating the construction proposal along with an opinion of cost and other information per the referenced code to support the applicant's proposal.

Applicant Response:

The Applicant requests modification of the proposed condition to reflect the following:

- *Applicant would like the right to see what we're paying for before we commit to paying.*
- *Applicant has no control over the scope, timing and costs of other property owner's connection to Town of Lyons sewer.*
- *Applicant would like to be reasonably compensated for costs incurred for providing other properties access to Town sewer service*

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- *Applicant would like acknowledgment and clarification of existing sewer tap fees associated with the Property.*
- *Applicant intends to construct only sewer service connections to serve our property.*

Condition acceptable to Applicant:

Applicant must agrees to pay the costs for the following described extension of a sewer main from Meadow Park into the property, subject to Applicant's review and acceptance of the construction drawings, specifications, estimate of cost and construction schedule as prepared by the Town of Lyons. The Meadow Park project extends sewer to service the RV units and two restrooms in the park. There is a gap from the final point of connection in Meadow Park to the applicant's property. This gap is approximately 550' and includes manholes, a creek crossing with casing. Applicant agrees to also extend public sewer in standard easements through the properties to serve projected uses and stub out. The expense of any further extension of this sewer main, to serve adjacent properties other the Applicant's, shall be paid per Section 13-1-100.(1) of the Lyons Municipal Code. Such expenses shall include prorated compensation to the Applicant per Section 13-1-100.(6) for improvements made by the Applicant which serve other properties including, but not limited to: the public sewer main extension from Meadow Park noted above; and, dedication of easements associated with this or other sewer main extensions. Should applicant desire to continue to use a lift station instead, a current and modern lift station per the Town and State requirements will be required and must be approved by the State Health Department. In the case of the latter situation, easements will be required to allow for connection to offsite properties to the lift station and then for the outfall force main from the site to the existing force main along US36. Subject to credits for existing sewer tap(s) associated with the Property, all service connections and fees for sewer must be paid by the Applicant. The applicant must enter into a Subdivision Improvement Agreement with the Town to cover the installation, bonding and acceptance of Public improvements sewer service connections serving the Applicant's property. A complete set of Construction Plans with all details for construction shall be submitted demonstrating the construction proposal along with an opinion of cost and other information per the referenced code to support the applicant's proposal.

14. Utilities – Water

The Town has received a grant from the State Health Department for the extension of a transmission main through Meadow Park and across US36 to Planet Bluegrass property. In order to achieve this alignment, the transmission main must go through one or all of these properties. The applicant's site plan depicts an alignment which, subject to final detailing, may be appropriate. Easements in accordance with Town code will be necessary to support the alignment and to provide for distribution connections to adjoining parcels. This is a transmission main so the applicant will be required to complete any distribution connections for fire hydrants and services and any pressure

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reducing valves to serve the property. Distribution systems must be installed in easements and in accordance with the Town of Lyons Manual for the Design and Construction of Public Improvements. The applicant will not be asked to participate in funding the transmission main. All service connections and fees must be paid for by the applicant. The applicant must enter into a Subdivision Improvement Agreement with the Town to cover the installation, bonding and acceptance of Public Improvements. A complete set of Construction Plans with all details for construction shall be submitted demonstrating the construction proposal along with an opinion of cost and other information per the referenced code to support the applicant's proposal.

Applicant Response:

The Applicant requests modification of the proposed condition to reflect the following:

- *Applicant has no control over the scope, timing and costs of other property owner's connection to Town of Lyons sewer.*
- *Applicant would like to be reasonably compensated for costs incurred for providing other properties access to Town water service*
- *Applicant would like acknowledgment and clarification of existing water tap fees associated with the Property.*
- *Applicant intends to construct only water service connections to serve our property.*

Condition acceptable to Applicant:

The Town has received a grant from the State Health Department for the extension of a transmission main through Meadow Park and across US36 to Planet Bluegrass property. In order to achieve this alignment, the transmission main must go through one or all of these properties. The applicant's site plan depicts an alignment which, subject to final detailing, may be appropriate. Easements in accordance with Town code will be necessary to support the alignment and to provide for distribution connections to adjoining parcels. This is a transmission main so the applicant will be required to complete any distribution connections for fire hydrants and services and any pressure reducing valves to serve the property. Distribution systems must be installed in easements and in accordance with the Town of Lyons Manual for the Design and Construction of Public Improvements. The applicant will not be asked to participate in funding the transmission main. The expense of distribution and service connections to this water transmission line which serve properties other the Applicant's shall be paid per Section 13-1-100.(1) of the Lyons Municipal Code. Such expenses shall include prorated compensation to the Applicant per Section 13-1-100.(6) for improvements made by the Applicant which serve other properties including, but not limited to: dedication of easements associated with the water transmission line and common distribution lines; distribution connections and valving; and, fire lines and hydrants. Subject to credits for existing water tap(s) associated with the Property, all service connections and fees must be paid for by the applicant. The applicant must enter into a Subdivision Improvement Agreement with the Town to

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cover the installation, bonding and acceptance of Public improvements water distribution and service connections serving the Applicant's property. A complete set of Construction Plans with all details for construction shall be submitted demonstrating the construction proposal along with an opinion of cost and other information per the referenced code to support the applicant's proposal.

15. Utilities – Electric

The applicant must connect to Town electric. It is anticipated that the connections will be through newly installed transformers and then private service laterals. The applicant may already have taps allocated to this site from the original site and must work with the Town to identify those taps that were legally there and still allowed for the site. The applicant shall pay the cost of all taps and fees not already allocated to the site. A complete set of Construction Plans with all details for construction must be submitted for the distribution of the electric system including depicting meter locations. Easement will be required for the main feed to transformers, including and easement agreement to cover installation and on-going maintenance of systems.

Applicant Response:

The Applicant accepts this condition. Note: the Site is already connected to Town electric and the existing transformers are adequate to serve the currently proposed loads. Construction plans for currently proposed electrical improvements have been submitted to the Town.

16. Flood Plain

This site is located within the flood plain and flood way. The plan depicts improvements in the flood way, those improvements must be shown to affect no-rise on the flood way. All improvements within the flood plain must be permitted through the Town's Flood Damage Prevention, section 18-13 of the Municipal Code. Improvements proposed on the plan and approved by re-zoning won't be permitted for construction and installation if the provisions of this section of the code cannot be met. All fees related to the flood plain permitting must be paid by the applicant. The applicant must submit and receive approval on a Flood Plain Development Permit.

Applicant Response:

The Applicant accepts this condition.

17. Drainage and Storm Water Management

It is recognized that the site was re-graded after the flood. Please provide a Master Drainage Plan and Report that clearly depicts how the re-grading does not impact other

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properties in a manner other than historic (character, quantity, quality). Include standard items such as contours, drainage basin boundaries and areas, runoff coefficients, runoff rates and such in accordance with the Town and Urban Drainage standards. The North St Vrain Creek is an impaired stream per the State Health Department and EPA with total maximum daily load (TMDL) limits (Copper, priority H). Water quality of runoff to the Creek is critical to the restoration and ongoing ecological vitality of the creek and watershed. While there were mobile homes and other improvements on the site pre-flood, none of those improvements were completed in any manner to address drainage and runoff requirements of modern times, or likely any time for that matter. At a minimum, preservation of historic runoff patterns, not causing impact in a negative way to others, providing water quality treatment of runoff from impervious surfaces and certification that drainage meets all of these requirements by a licensed professional engineer with proper experience will be necessary. The Town cannot assume this liability. It appears that all drainage improvements on this property would be privately owned and maintained, however this is subject to review of the applicants proposal and more detailed information. A complete set of Construction Plans is required and may include a request for easements or other maintenance and access agreements. The applicant has or will disturb one or more acres of land for the project. If a storm water permit from the State has already been issued, provide a copy to the Town, otherwise the site is required to have a Construction Activities Storm Water Management permit for the project. A copy of the approved permit must be submitted to the Town and the plan for storm water management during construction must be included in the construction drawings.

Applicant Response:

The Applicant accepts this condition.

18. Access Roads and Parking

Access roads must be designed and installed to support the fire protection apparatus equipment requirements of the International Fire Code and the Lyons Fire Protection District. A study prepared by a licensed Geotechnical Engineer must be turned presenting the required preparation of sub-grades and pavement thickness for any fire department and town access road. All roads must have an all weather surface. Main roads should be paved to support traffic loadings and also to reduce excessive dust from gravel roads. Water quality runoff from paved roadways can be accomplished with standard methods and techniques that can be implemented into the site design. Water quality from gravel drives and parking areas is quite a bit more challenging and requires extensive long term maintenance and the failure of such systems due to lack of maintenance or knowledge renders the efforts useless. The safety of access, water quality of site runoff to an impaired creek and air quality should not come at the cost of a gravel road or drive. It appears there is a main driveway looping from US36 into 501 and then out through 517 and this road should be paved with hard surfacing. Other roads

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may need to be paved as well for air quality purposes such as the north loop around the RV spaces, vendor parking area and office space.

Applicant Response:

The Applicant would like, as much as possible, to retain and enhance the rural park-like nature of the existing Site. Coupled with the red cliff backdrop and winding North St. Vrain, this setting creates a unique and appealing setting for a property so proximate to downtown Lyons. Meadow Park shares this feature as well. We understand that, for similar reasons, the State of Colorado has excluded hard surface paving in Meadow Park in deference to engineered soft surface all-weather paving. We concur with this approach. Our last experience with hard surface paving was during the 2013 Flood when it was the first improvement to depart our Site in large tumbling chunks.

We are experienced with the construction and maintenance of serviceable drives and parking areas and request a waiver of the requirement for hard paving with the proviso that, when and if other all weather surfaces prove to be unsuitable, hard paving will be necessary.

Condition acceptable to Applicant:

Access roads must be designed and installed to support the fire protection apparatus equipment requirements of the International Fire Code and the Lyons Fire Protection District. A study prepared by a licensed Geotechnical Engineer must be turned in presenting the required preparation of sub-grades, pavement type and pavement thickness for any fire department and town access road. All roads must have an all weather surface and be designed. Main roads should be paved to support traffic loadings and also to reduce excessive dust from gravel roads. Water quality runoff from paved roadways can be accomplished with standard methods and techniques that can be implemented into the site design. Maintaining water runoff quality and air quality from in connection with gravel drives and parking areas is quite a bit more challenging and requires extensive long term maintenance and the failure of such systems due to lack of maintenance or knowledge renders the efforts useless. The safety of access, water quality of site runoff to an impaired creek, and air quality should not come at the cost of an unmaintained gravel road or drive. In the event that the it appears there is a main driveway looping from US36 into 501 and then out through 517 is not suitably maintained, then and this road should be paved with hard surfacing. Other roads vehicle traveled surfaces, if not well maintained, may need to be hard paved as well for air quality purposes such as the north loop around the RV spaces, vendor parking area and office space.

19. Lighting

Provide a photometric lighting plan for any new outdoor lighting that depicts the distribution of lighting and fixture types and locations and shows any impacts to adjacent

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properties.

Applicant Response:

The Applicant accepts this condition.

20. Signage

All signage must be in accordance with the Lyons Municipal Code. Signs must be placed outside sight triangles at access points and intersections. Provide a plan that shows the sight triangles and signage, particularly in regard to the highway access points. Note that sight triangles for the highway access are different than landscape intersection sight triangles.

Applicant Response:

The Applicant accepts this condition.

21. Traffic.

Provide a copy of the signed and approved CDOT access permit. CDOT controls access and any requirements for studies or reports is per their criteria. Refer to referral comments from CDOT on this topic.

Applicant Response:

The Applicant accepts this condition with the understanding that the Town of Lyons has reviewed and accepted the CDOT Access Permit that was issued in connection with our existing Temporary Use Permit and which was included with our recent Zone Amendment and Special Use Review resubmittal as Attachment F. The uses and corresponding daily trips noted on this CDOT permit align closely with those described in our Zoning Amendment and Special Use Review Application.

22. Provide a ten foot wide concrete sidewalk attached to the existing curb line along the primary frontage on Hwy 36 to accommodate a pedestrian connection from adjacent properties to the north to the existing crosswalk.

Applicant Response:

Until the remainder of the Highway 36 frontage is improved, the sidewalk extension required at 501 W Main would serve no additional utility to pedestrians entering or exiting our property, nor would it bolster a pedestrian connection to Downtown. The segment of existing sidewalk which comprises the southwest

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landing of the crosswalk is currently 7' wide. The embankment along the CO36 frontage is quite steep as it extends northwest from this end of the walk and a large Longmont water main currently parallels the CO36 in this segment of the R.O.W, which further limits and confounds work in this area. We request a reduction of the proposed sidewalk width to better accommodate grading in this area and postponement of installation to coordinate with future connecting sidewalk improvements as they occur.

Condition acceptable to Applicant:

At the time that sidewalk improvements are made along the Highway 36 frontage of 505 W. Main, the Applicant shall provide an abutting maximum seven foot and minimum five ten foot wide concrete sidewalk attached to the existing curb line along the primary frontage of 501 W. Main on Hwy 36 to accommodate a pedestrian connection from adjacent properties to the north to the existing crosswalk.

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1. CEC Zone District Allowed Uses to be Excluded:

The Owner agrees to exclude the following uses on the Site from those allowed by right in the CEC Zone district:

- Financial institution
- Greenhouse and plant nursery
- Grocery store
- Group home for people with disabilities
- Hospital
- Long-term care facility
- Municipal administrative office
- Museum
- Nursing and assisted living facility
- Public facilities, including municipal offices, parks and trails
- Research, experimental or testing laboratory
- Stone cutting, finishing and sales establishment
- Veterinary hospital and veterinary facility

Applicant Comment:

The Applicant agrees to this condition based on: the merit of Town Staff's suggestion to "tailor" the uses allowed in the CEC Zone District to better fit the Site's adjacency to Downtown Lyons and existing commercial, recreational and residential uses; and, consideration and adoption by the Board of Trustees of Applicant's amendments to the PCDC's recommended conditions of approval.
