

Patrick & Clara Thomas
601 Indian Lookout Rd
PO Box 1773
Lyons, CO 80540

May 29th, 2024

Lyons Planning and Community Development Commission (PCDC), Lyons Town Staff
432 5th Ave
PO Box 49
Lyons, CO 80540

Subject: RiverBend PUD-C Zoning Change Application

Dear PCDC and Town Staff:

We wanted to bring to your attention the vast amount of work that has already been done regarding the change of the RiverBend property from **Residential** to PUD-C zoning back in the 2015-2016 timeframe.

We and many neighbors spent numerous hours meeting with RiverBend ownership and each other, writing and sending letters, composing speeches, and attending Town hearings. It was a lot of work and it culminated in a compromise that has performed (fairly) well for 8 years. Now, we face a new request to change this hard-earned agreement.

We bring up this history to point out that the key points all remain relevant. The only change has been in the ownership of RiverBend and we fail to see how that suddenly becomes a reason to throw away a compromise solution that took 2 years to bring to fruition.

The letters and notes on the following pages represent only a small sampling of the work done in just our household. Several other neighbors sent very similar letters and spent numerous hours doing so. Now, we are forced to do it all again. Please read through this document to gain a better understanding that neighbors have already experienced the extreme noise issues from this property, worked diligently to resolve the issues, and compromised extensively to allow for a new business to operate on previously **RESIDENTIAL** zoned land.

Thank you!
-Pat and Clara Thomas

LETTER TO THE TOWN REGARDING RIVERBEND REQUEST TO CHANGE FROM RESIDENTIAL TO CEC ZONING IN 2015 (FIRST ATTEMPT):

Patrick & Clara Thomas
601 Indian Lookout Rd
PO Box 1773
Lyons, CO 80540

June 12, 2015

Lyons Planning and Community Development Commission (PCDC), Lyons Board of Trustees (BOT), Lyons Town Staff, Lyons Mayor John O'Brien
432 5th Ave
PO Box 49
Lyons, CO 80540

Subject: River Bend temporary land use authorization extension

Dear PCDC, BOT, Town Staff, and Mayor O'Brien:

This letter is intended to express our concerns regarding the use of the River Bend property owned by Lyons Properties as an outdoor wedding venue. Our home is directly adjacent to this property and we now have approximately a year of experience with its operation as a wedding venue. The experience has not been positive with regard to the nuisance noise generated from the operations at River Bend.

A typical summer weekend evening for our family finds us enjoying the incredible outdoor environment that brought us to Lyons and triggered our significant investment adjacent to land zoned Residential and Agricultural. In the past, these evenings were a time to enjoy some peace and quiet as the activities of the day subsided. Since River Bend has commenced operations, however, we often find ourselves sorely missing those pleasant evenings. Heading into the evening hours, the activity at weddings tends to increase and, for most weddings, that includes loud music, amplified announcements, and abundant screaming and yelling.

From our vantage point adjacent to and above River Bend grounds, we can hear all of this activity from our house and the music is often loud enough that we can hear it inside our house despite closing the windows. The sound bounces around the canyon walls and culminates at our ears as an incredibly annoying cacophony of yelling, screaming, and party music with a lot of low frequency (bass) content (the windows sometimes rattle).

We have brought this issue to the attention of the River Bend ownership (Betsy Burton has been our primary point of contact) and they have tried to address our concerns through various means. However, up to and including events as recent as May 31 and June 6, 2015, the noise has been excessive and we have found it necessary to contact them again and again.

We would like to credit the River Bend team with reaching out to us and the many other neighbors impacted by their operations. They have been very responsive to our complaints. We consider many of the Lyons Properties partners to be friends and we hope to continue to do so after this issue is resolved. We have every confidence that we can resolve these issues and still allow River Bend to continue as a revenue-generating operation for the benefit of their business and the town as a whole. So far, however, the efforts to improve the noise issues have not been sufficient based on our first-hand experience and that of many other neighbors. As far as we know, none of the operators of River Bend live near the venue and, therefore, are not disturbed by the noise issues other than answering our complaints.

We would like to offer a few facts for consideration by the town leadership and staff:

- Weddings during the summer of 2014 were regularly extremely loud.
- Neighbors began complaining during the summer of 2014, but River Bend claimed there was little they could do in the immediate future due to the fact that weddings are booked well ahead of time.
- By the end of summer 2014, River Bend was acutely aware of the noise issues due to the many complaints from a variety of neighbors.
- On September 20, 2014, Betsy Burton sent an email to many River Bend neighbors stating “next year we won’t be allowing any drums, excessive bass or loud bands”.
- The May 31 and June 6, 2015 events at River Bend exhibited what we would call excessive bass (rattling windows and could be heard within kid’s rooms when going to sleep).
- A friend at his home on Longs Peak Avenue could hear the PA system announcements from the May 31, 2015 River Bend event.
- Section 10-11-10 of the Lyons municipal code states:
 - “(a) It is unlawful to intentionally, knowingly or recklessly make, permit or assist another to make unreasonable noise in a public place or near a private residence that the person has no right to occupy, which, under all of the circumstances presented, would cause a person of ordinary sensitivities significant annoyance and irritation.
 - (b) The following noises and circumstances shall be deemed as *prima facie* unreasonable in the context, however, of the above standards:
 - (1) Electrically amplified sound audible twenty-five (25) feet from the source of said sound or within a private residence that the person has no right to occupy.”
- Section 16-6-70 of the Lyons municipal code states:
 - “(d) Noise Barriers and Buffers. Intent: Where noise that will be generated on the site can reasonably be anticipated to have a negative impact on the surrounding neighborhood, that noise shall be adequately mitigated, in part through the use of

physical sound barriers incorporated into the approved development plan.
Standards and Guidelines:

- (1) For commercial and light industrial uses where, in the opinion of the Town Engineer, there is a potential for noise exceeding the state standards at the property line, a noise study completed by a qualified acoustic engineer may be required to demonstrate that noise emissions at the property line will not exceed state standards. (S)
- (2) If a noise buffer is recommended in an acoustic engineer's report, the design shall be submitted for review. It shall consist of landscaped earth berms or sound barrier walls, with landscaping at the base or as otherwise determined acceptable by the Board of Trustees. (S) (Ord. 932 §1, 2013; Ord. 956 §1, 2014)
- Section 25-12-103 of the Colorado State Statutes states:
 - Every activity to which this article is applicable shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat frequency, or shrillness. Sound levels of noise radiating from a property line at a distance of twenty-five feet or more therefrom in excess of the db(A) established for the following time periods and zones shall constitute *prima facie* evidence that such noise is a public nuisance:

7:00 a.m. to 7:00 p.m. to

Zone next 7:00 p.m. next 7:00 a.m.

Residential 55 db(A) 50 db(A)

Commercial 60 db(A) 55 db(A)

Light industrial 70 db(A) 65 db(A)

Industrial 80 db(A) 75 db(A)

- (3) Periodic, impulsive, or shrill noises shall be considered a public nuisance when such noises are at a sound level of five db(A) less than those listed in subsection (1) of this section.

We feel that the town needs to create and enforce more stringent regulations to ensure that River Bend will operate in harmony with the multitude of residential neighbors surrounding it. One suggestion we have for a solution to the noise issue is for the venue to become acoustic only with no loud instruments (no amplification, no drums, no horns, no bagpipes, no piano, etc), effective immediately. The nuisance noise level should continue to be carefully monitored and adjusted. From our research, allowing only acoustic music is quite common in wedding event venues.

Specifically regarding the requested extension of River Bend's current land use application, we feel that it can only be granted under Ordinance 949 if the Town staff imposes strict conditions and penalties regarding nuisance noise. Our experience from the past year tells us the conditions should be that River Bend may only host private events with acoustic sound and no loud instruments. Sufficiently harsh penalties should be established for cases where River Bend does not abide by these conditions. See the following verbiage from Ordinance 949 that supports our requests:

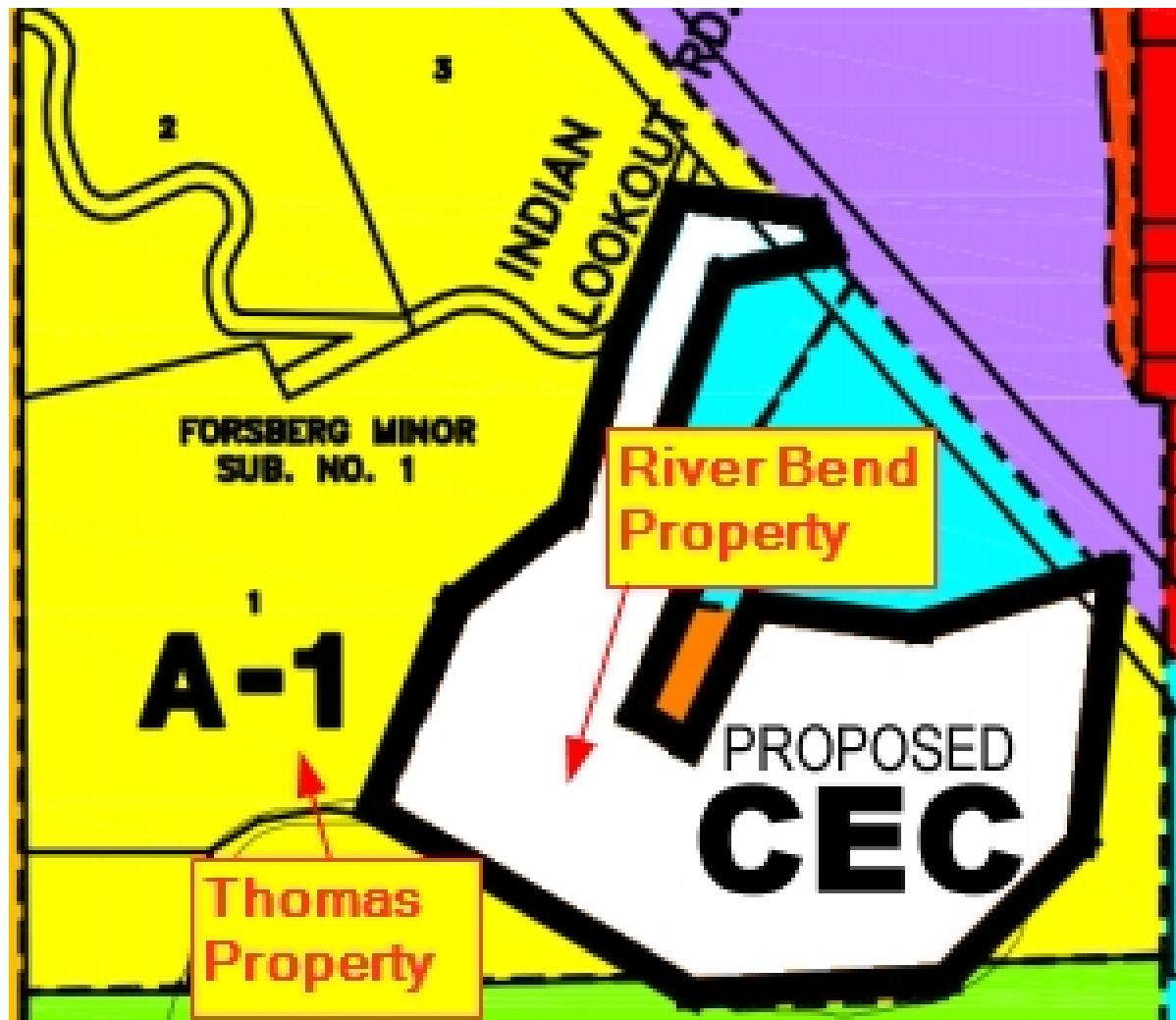
- “Temporary use permits may be issued in any zone, with conditions, as necessary, provided written findings are made establishing a factual basis that the proposed temporary use: 1) will not be detrimental to the immediate neighborhood;”
- “In approving a Temporary Use Permit, the Staff may impose conditions, including but not limited to control of nuisance factors (e.g., glare, noise, smoke, dust)”

We appreciate your attention to this matter and look forward to discussing it further amongst all interested parties. Unfortunately, we cannot attend the June 15, 2015 Board of Trustees meeting (due to our wedding anniversary), but we would welcome the opportunity to schedule another time to discuss this in greater detail.

Sincerely,

Patrick Thomas

Enclosures: Please refer to below drawing showing Thomas Property location relative to River Bend Property:



NOTES FOR SPEECH AT ZONING CHANGE MEETING ON 7/6/2015:

Good evening and thanks for giving me the time to talk tonight. Also, a special thanks to the Planning Commission, Town Staff, BoT, and the mayor for giving so much time to this and the many other issues facing the Town of Lyons.

I really don't enjoy being adversarial and I'd prefer to work through issues in a positive manner. However, I've lost the peace in my summer weekends and I now find myself in a situation where I need to complain to Betsy Burton at least once a weekend when we're home and feel like the uptight bad guy so that she understands the seriousness of the noise issues at River Bend. I've been forced into the situation where I need to ask some difficult questions and take a firm position that some here will certainly not appreciate because it does not conform to their vision of making lots of money off of this property. This is not personal. This is not retribution. This is simply me concerned for the future of my peaceful little neck of the woods and how I and my family can get our peaceful summer weekends back.

We have obtained official commitment that River Bend will limit weddings to acoustic music, but we need this commitment to be more detailed and firmly embedded in the long term zoning for these properties. We need:

- Clear wording that we're talking non-amplified, no horns, no drums, no bagpipes, and no other acoustic instruments capable of making louder or more annoying sound than, say, your average string band.
- Limitations on the use of PA systems in terms of volume and hours of usage. Usually the loudest and most rousing announcements are made at 9:55pm and they have been loud enough to wake up me and my kids.
- Can we also dictate that there can't be things like loud idling engines operating all night like what I experienced on 7/5/15 until almost 10:30?

There have been other issues since Lyons Properties LLC started managing this property. Tenants of the Peck houses taking our chairs or setting up their 'drinking pool' parties on our property. This is a serious lack of consideration for us as private landowners and just another example of why we are so nervous about what is to come at River Bend.

To step back for just a moment, I am still a bit distraught about how the town has handled approvals for River Bend's operations up to this point. Despite very clear wording in Ordinance 949 stating under 'required findings' that proposed temporary uses are contingent upon establishing a factual basis that the use will not be detrimental to the immediate neighborhood, none of the documents I've seen establish this factual basis. In fact, River Bend HAS had a well-documented detrimental effect on the neighborhood. Furthermore, despite assurances that neighbors were notified regarding the original Temporary Use Permit, I have yet to find a neighbor who was notified and my attempts to obtain records proving that this happened have met with no conclusive response.

So my questions to the Town staff and governing officials are these:

1. Why grant a temporary land use extension under Ordinance 949 when the evidence clearly illustrates that required findings have not been established and the only evidence available actually proves something quite to the contrary?

2. Why can't I obtain records regarding neighbor notification of the original Temporary Land Use Request despite being informed by Town staff that this notification has occurred?

This may seem like water under the bridge, so why do I bring it up? Well, if key portions of Ordinance 949 were ignored and neighbors were not notified concerning the original temporary land use, that sort of laissez-faire governing makes me very nervous about what negative impacts we can expect from what gets missed in the permanent zoning change. Please, I implore you to take this very seriously and protect our rights to be properly represented as private citizens of this town.

Now, the BoT are being asked to approve a rezoning of 3 separate parcels. We're talking about **3 separate parcels**. I can't make this point strongly enough. My first request would be to start from the standpoint that these are 3 different properties, all traditionally zoned Residential and all with their own unique characteristics. Despite the fact that all 3 parcels are owned by the same entity, there is no requirement that they all fall into the same zoning category going forward. Nor is there a requirement that they be considered as a group in terms of zoning classification.

The zoning that is being requested is CEC, Commercial EASTERN Corridor. By far the most permissive zoning in Lyons. I'd like to hear more background on the Town's experience with this zoning classification. What is it currently being used for and how is that working out? Why is the word 'EASTERN' in the name? I'd assume this had something to do with the original intentions for this zoning? Maybe this zoning district wasn't meant to be plopped in the middle of a bunch of houses? Are we going to be the guinea pigs on whom this zoning will be tested? I realize that the Lyons comprehensive plan outlines a goal of transitioning from a residential development-based economy to a commercial-based, localized economy and this project fits that vision. But first and foremost, it calls for balancing these types of goals with community character and the rights of property owners and it calls for making collaborative land use decisions with all stakeholders, including private citizens. Now is the time to act on that collaboration and temper the ambitions of a for-profit enterprise with some regard to the real impacts of they will have on so many private citizens who existed here before they came along. My proposal to achieve this balance would be to take a more measured approach to any changes in zoning district for River Bend and Lyons Properties LLC.

- Any zoning change to the existing River Bend properties at 501 and 503 W Main should be the bare minimum needed to operate the wedding venue and Tiny Home enterprise. Noise rules need to be very specifically outlined in any grant of permanent zoning change to the 501 and 503 W. Main St. parcels. Failure to impose specific restrictions only opens new possibilities for noise issues going forward.
- I'd further propose that 517 W. Main St. undergo no zoning change and remain residential. It should be kept as a buffer zone to reduce conflict due to Lyons Properties commercial operations adjacent to our neighborhood.

Thank you for your time and good night.

LETTER TO THE TOWN REGARDING RIVERBEND REQUEST TO CHANGE FROM RESIDENTIAL TO PUD-C ZONING IN 2016 (SECOND ATTEMPT):

Patrick Thomas
601 Indian Lookout Rd
PO Box 1773
Lyons, CO 80540

March 9, 2016

Lyons Planning and Community Development Commission (PCDC), Lyons Board of Trustees (BOT), Lyons Town Staff, Lyons Mayor John O'Brien
432 5th Ave
PO Box 49
Lyons, CO 80540

Subject: River Bend Permanent Zoning

Dear PCDC, BOT, Town Staff, and Mayor O'Brien:

Thank you for the opportunity to express our concerns regarding the latest zoning change proposal submitted on behalf of the River Bend venue and its parent company, Lyons Properties, LLC. We appreciate the progress River Bend has made in regards to its noise since it opened, but we are asking them to be held accountable to their promise to be good neighbors before they are granted any permanent zoning change.

Our concerns regarding the development of this property mainly center around the noise issue we have experienced for almost two full summers' worth of weekend evenings, due (mostly) to weddings with amplified music at this venue.

The latest proposal does address many of our concerns in theory, but in reality there has still been no resolution to the noise issue. Extremely loud, amplified events were still taking place in Oct. 2015, at the end of their wedding season. We recognize and appreciate River Bend's continued assurance that the amplification will be addressed in the 2016 season and beyond, but until we see (and "hear") these assurances in practice, we cannot support any permanent zoning change.

In addition, the latest proposal contains a commitment by River Bend to limit live entertainment to non-amplified instruments, and we agree and appreciate that this is a move in the right direction. However, the very next bullet allows for **amplified background music, vocals, and PA system**. It has the usual verbiage regarding minimum sound levels and

eliminating sounds found to be objectionable by the Town Administrator, but these are the same assurances we received last summer that were not effective.

The fact is that any and all amplification used at River Bend can and will be heard at our house and those of our neighbors, even inside our homes with our doors and windows shut in some cases. This lessens our quality of life and makes it difficult to even get our kids to sleep. Furthermore, the availability of amplification has resulted in and almost certainly will continue to result in its abuse, and there are so many alternative means for guests to supply their own amplification that the only reasonable way to control this is to completely outlaw amplification at this site. We also want to make sure that non-amplified instruments that can still produce excessive volume (such as drums, bagpipes, brass instruments, etc) are also explicitly outlawed.

Furthermore, we do not support a zoning change which includes a hotel as a permitted use due to concerns with further noise issues, light pollution, increased traffic, and the increased potential for trespass onto our property.

Our suggestion would be to hold off on any approval of a permanent zoning change until River Bend can demonstrate an operating model that works within our mostly residential neighborhood. The letter we received states that the Town Administrator has committed to extending River Bend's temporary use permit through 2017. This seems like plenty of time for River Bend to actively resolve the noise issue to everyone's satisfaction, and it forces them to be accountable or face continued delays in obtaining permanent zoning. We are asking you to please work with the residents of the neighborhood to develop a solution that works for everyone. Thank you!

Sincerely,

Patrick M. Thomas