

**Town of Lyons, Colorado  
Board of Trustees  
Special Meeting Cover Sheet  
Meeting Date: 1/13/21**

**TO: Mayor Angelo and Members of the Board of Trustees**

**FROM: Philip Strom, Director of Community Development  
Brandon Dittman, Town Attorney**

**ITEM: Procedure Review for Planet Bluegrass Conditional Use Review and Agreement Amendments**

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ORDINANCE  
 MOTION / RESOLUTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

Planet Bluegrass has applied for an application to expand and change the uses and facilities on the Planet Bluegrass Ranch and Farm properties which requires a Conditional Review Process to amend the Site Plans for each property and associated Site Plan Keynotes and amendment of the other associated existing agreements between the Town and Planet Bluegrass including the Planet Bluegrass Farm Annexation Agreement and Amendable Letters of Understanding for both the Farm and Ranch Properties (collectively “the Agreements”).

Due to the complexity of the multiple processes to amend the various Agreements between the Town and Planet Bluegrass, this workshop is intended to provide a preview to the Town of Lyons Board of Trustees (the “Board”) of the various approval processes necessary to make the changes requested by Planet Bluegrass and to answer any initial concerns or questions the Board may have about the various amendment processes.

***Note that the Conditional Use Review process is a quasi-judicial process and details of the request cannot be discussed until the public hearing. Only the procedure for the Conditional Use Review Process and amending the Agreements can be discussed.***

**II. RECOMMENDED NEXT STEP:**

Move forward with the procedures described below and hold a public hearing and consider the Conditional Use request and hold public meetings and hearing on the various amendments of the associated Agreements required for the proposed changes.

**III. BACKGROUND INFORMATION:**

Overview of Agreements Between Planet Blue Grass and the Town

In total there are 5 documents (not including amendments) controlling the use of the Ranch and Farm Properties by Planet Bluegrass:

- 1999 Site Plan (Ranch) and Keynotes to the Site Plan
- 1999 Amendable Letter of Understanding (Ranch)
- 2017 Annexation Agreement (Farm)
- 2017 Site Plan (Farm) and Keynotes to the Site Plan
- 2017 Amendable Letter of Understanding (Farm)

At various times, most of the above documents have been amended by the Town. Each of the above categories of documents has a unique process for amendment. The categories of documents are 1) Annexation Agreement; 2) Amendable Letter of Understanding; and 3) Site Plan and Keynotes. The use and facilities changes proposed by Planet Bluegrass require amendments to the source documents.

#### Amendment Process for Annexation Agreement

On June 8, 2017, the Board approved Ordinance 1015, the ordinance which approved the Annexation Agreement – Planet Bluegrass Farm Annexation (the “Annexation Agreement”) between Planet Bluegrass Annex, LLC and the Town for the Farm Property. Section 22 of the Annexation Agreement provides that the Annexation Agreement may be amended by written agreement between the Town and Planet Bluegrass. The Annexation Agreement does not specify the instrument required to amend the annexation agreement. However, the Annexation Agreement was originally approved via an ordinance. It is unclear why the original approval was made via ordinance. Regardless, Colorado law generally holds that amendments to an ordinance can only be made via an ordinance. Thus, to amend Annexation Agreement an Ordinance with two readings will be required. The Ranch property does not have a corresponding Annexation Agreement.

#### Amendment Process for Amendable Letter of Understanding

An Amendable Letter is a requirement of the Town’s CE-1 zoning which both the Ranch and Farm Properties are zoned. Pursuant to Lyons Municipal Code (“LMC”) Section 16-3-220(f), the Amendable Letter is intended to provide an “understanding between the applicant and the Town specifying further details of the entertainment to be provided.” Both the Ranch and Farm Properties have an Amendable Letter of Understanding. Section R of the Keynotes to the Site Plans (“Keynotes”) for both properties provide, in relevant part, that “[a]n amendment...of the Amendable Letter of Understanding...may be processed and approved by the Board of Trustees in the same manner as approval of contracts and other agreement by the Town (by adoption of a resolution adopted at a publicly noticed meeting.)” Both Amendable Letters of Understanding have been previously amended via resolution. Further amendment will require a resolution for each Amendable Letter of Understanding.

#### Conditional Use Process for Amending Site Plan and related Keynotes

Section 16-17-20 of the LMC provides that all developments not classified as minor building permit applications must obtain either site plan or development plan approval before they may obtain a building permit. Due to the complexity of the Planet Bluegrass Ranch and Farm developments, the Site Plans for these properties contain extensive “Keynotes” which further describe the uses and restrictions on uses of the properties.

Keynotes Section E provides for the amendment process for the Keynotes and Site Plans:

“Except for structures specifically noted in the Conceptual Plan, no future, proposed, planned, or new structures, buildings, or renovations will be allowed unless a revised Site Plan (amending the Conceptual Plan) is approved by the Board of Trustees in accordance with the procedures set forth in Section 16-3-220(h) and Article 7 of Chapter 16 of the Lyons Municipal Code”

Consequently, revisions to Planet Bluegrass Site Plans, including Keynotes, require the applicant to follow the conditional use process. LMC Section 16-3-220(h) refers to the Town’s conditional use process which is detailed in LMC Sec. 16-7-20. - Conditional use review process. This later section of the LMC details the specific review process requirements for conditional uses.

*Purpose of Conditional Use Process*

In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties.

Planet Bluegrass District & Conditional Uses

*CE-1 Commercial Entertainment District*

Permitted conditional uses in the CE-1 District shall be as follows:

- 1) State, theatrical, concert and related performances, and the construction of required facilities for such, as specified in the site plan.
- 2) The sale of food and beverages and the operation of restaurant services.
- 3) Educational, teaching, training, research and learning facilities and functions related to the uses and purpose of the site.
- 4) The hand production and sale of equipment and goods and the provision of services related to the uses and purposes of the site.
- 5) Office, business and residency structures and uses, as specified in the site plan.
- 6) Retail and mail-order sales of arts, crafts and gift items.

**IV. SUMMARY OF PROCEDURES:**

Annexation Agreement

An ordinance amending the Annexation Agreement with a first reading and a public hearing before the Board of Trustees

Amendable Letters of Understanding

A resolution requiring one reading on approval before the Board of Trustees with no public hearing.

Conditional Use Review for Site Plans and related Keynotes

*Purpose*

The review process is intended to assure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional

uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

*Process*

1. **Preapplication Conference**
2. **Conditional Use Application Submittal**
3. **Conditional Use Application Certification of Completion**
4. **Set PCDC Public Hearing and Complete Public Notification Process**
5. Final Staff Review and Report to PCDC
6. PCDC Public Hearing and Action on the Conditional Use
7. Set BOT Public Hearing and Complete Public Notification Process
8. BOT Public Hearing and Action on the Conditional Use

The BOT shall, after receiving the report and recommendations from the PCDC, hold a public hearing and act upon the proposed amendment. Following the required hearing, the BOT shall consider the comments and evidence presented at the hearing and evaluate the application in accordance with the approval criteria specified in Section 16-7-30 below and approve, approve with conditions or deny the application in whole or in part.

*\* bolded items are complete*

**V. ATTACHMENTS:**

1. 1999 Site Plan (Ranch)
2. 1999 Keynotes to the Site Plan (Ranch)
3. 1999 Amendable Letter of Understanding (Ranch)
4. 2007 Amended Key Notes to the Site Plan (Ranch)
5. 2017 Annexation Agreement (Farm)
6. 2017 Conceptual Plan (Farm)
7. 2017 Keynotes to the Conceptual Plan (Farm)
8. 2017 Amendable Letter of Understanding (Farm)
9. First Amendment to the 1999 Amendable Letter of Understanding (Ranch) – not executed
10. First Amendment to the 2017 Amendable Letter of Understanding (Farm)
11. Third Amendment to the 2017 Amendable Letter of Understanding (Farm) – not executed
12. Release and Settlement and Agreement to Amend Planet Bluegrass Keynotes and Amendable Letters of Understanding