

1 TOWN OF LYONS BOARD OF TRUSTEES MEETING
2 VIRTUAL MEETING
3 LYONS TOWN HALL, 432 5TH AVENUE, LYONS, COLORADO
4

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13 DRAFT AGENDA
14 **WEDNESDAY, FEBRUARY 23, 2022**
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18 **7:00 PM BOARD OF TRUSTEES SPECIAL MEETING**
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- 24 I. Roll Call and Pledge of Allegiance – **Present:** Mayor Angelo, Mayor Pro Tem Browning,
25 Trustee Lowell, Trustee Rogin, Trustee Miller, Trustee Karavas **Absent:** Trustee Waugh
26
 - 27 II. A Reflective Moment of Silence
28
 - 29 III. Approve Agenda – Motion – Approve agenda **Moved by:** Trustee Karavas **Seconded**
30 **by:** Trustee Lowell MPT Browning stated at last meeting a vote to recuse Trustee Miller
31 failed 3-3; do we need to note that for this meeting? Attorney Dittman stated we can
32 handle at first item. **Motion passes 6-0**
33
 - 34 IV. General Business
35 1. Public Hearing - Resolution 2022-19 - a Resolution of The Town of Lyons, Colorado
36 Approving or Denying an Application Submitted by Planet Bluegrass, LLC for a
37 Conditional Use Amending An Existing Conceptual Plan And Related Keynotes (19680
38 N. St. Vrain Drive – Planet Bluegrass Farm) – Trustee Miller disclosed she has worked
39 for PB and can remain objective. MPT Browning gave background. Attorney Dittman
40 asked Trustee Miller if that statement holds true for the entire agenda? Trustee Miller
41 confirmed. Attorney Dittman provided process overview. Administrator Simonsen
42 provided staff report; **Trustee Waugh joined the meeting at 7:26pm.** Trustee Lowell
43 asked can we ask staff about keynotes and if substance is being adhered to? Attorney
44 Dittman, yes, and per Planner Strom’s report, they are. It is “south grazing area,
45 wetlands, 2.8 acres, for livestock and occupied by owners for picnicking, fishing and
46 noncommercial uses. Administrator Simonsen, they feel they have honored the intended

47 use. Trustee Lowell, in the past couple of days, there are 4 containers, building materials
48 all staged in the floodway on the property, down by the river. To my appearance they
49 are not honoring the agreement. Trustee Rogin – CDOT, page 23, email from CDOT that
50 applicant needs to provide a new traffic study; is that being required? Traffic has
51 changed significantly; do we know anything more? Administrator Simonsen, actual
52 referral response from CDOT; Trustee Rogin, was a string of emails. Zach Tucker,
53 Planet Bluegrass, that was CDOT's initial request, but only if we exceeded the 29 days.
54 Mayor Angelo, also reference to increasing attendance which would increase traffic, is
55 that an incongruity, so many event days, but raising attendance from 1k to 3k is
56 significant. MPT Browning asked staff about ADU-LMC 16-10-70 (c) lists zoning districts
57 where ADU's are allowed, CE-1 is not listed. How can staff recommend an ADU?
58 Administrator Simonsen, reviewed with Planner Strom, good point. Director Caplan
59 many other reasons to deny, owner needs to live on site, must be connected to primary
60 residence utilities. MPT Browning if it does not comply with the code, how can we
61 approve? Rosi Dennet, Planner for PB, 210 Lincoln, Longmont, Zach Tucker, GM for
62 PB, Justin Conrad attorney for PB, Rosi, we were following staff's lead on this, when first
63 discussed with staff, we did not call it an ADU, was called staff housing, ADU more
64 familiar term. After last summer's approval of some changes, and Riverbend's decision
65 to not offer camping any longer, decided to include any changes for next 5-10 years so
66 not repeat requests for amendments. Environmental sustainability is a goal, working
67 with local wildlife biologist, wetland specialist, can proceed to delineate wetland area in
68 south side. The ecology boards comments were based on original application, not the
69 updated one with PCDC's recommendations. Heavily damaged during 2013 flood,
70 wetland is now smaller, committed to keeping in good condition. In agreement with
71 conditions of approval from staff and PCDC. Zach Tucker, with PB 11 years in various
72 capacities. Camping a very important piece of the experience; very big/confusing
73 process to amend these agreements. Hoping to encompass any anticipated changes for
74 the next ten years. many stand-alone concerts during covid; many opportunities.
75 Presented updated site plan w/new box office, fencing, upgraded bathhouse. No
76 requests are far out of existing use. Only backstage cabin, want to update to artist
77 greenroom with bathrooms. 12 yurts/tiny homes for more flexibility for artist greenrooms.
78 Or Glamping for events, would not be used outside of event days. Farm: new gate
79 (structure 7) new bathhouse, two bridges (#14 temp by south grazing area access to
80 camp) and (#13 perm bridge for ranch/service vehicle traffic, not commercial traffic)
81 working with engineers/flood plain engineers. In south grazing area requesting to build
82 ADU/Staff to live there and potential permanent storage facility. Perimeter fencing, not
83 privacy, more livestock, manages campers, and traffic from AV trying to access.
84 Originally wanted 5 yurts/bathhouse, after visiting with neighbors in AV we removed
85 these requests. Changes in use: approval to camp up to 1K festivarians, seems like a
86 big number, our intent is not to drop in 1K just because the board approved. Don't want
87 to put any stress on neighbors or campers. We will be starting small, maybe 400 this
88 year and then assess for future uses. Very aware of neighbor concerns, 5 conditions, (1.
89 No vehicle access from AV. (2. No vehicle drop-off on AV (3. Camping only for major
90 events max 12 per year. (4. Mark of sensitive wetlands (5. Construct fence along
91 property line to keep campers off AV road and keep people from accessing via AV. Mid-
92 Tier Event – allowed 10 up to 1k people at ranch only. 1k limit is difficult to maintain,
93 need to be sustainable from business perspective. Would like to increase from 7 days to

94 30 days. Most common would-be single day events, beginning at 4-5 pm and ending 10
95 pm. Benefit to local businesses, open parking there early. Lower notice period from 120
96 days to 30 days. Request to move weekday curfew to 10pm. Want to incorporate a light
97 show. CDOT access permit they are only concerned with keeping high impact access
98 day to a cap of 29 days. Requesting waiver of dedication of water shares. Provided
99 projected water uses at the farm. No drastic change: would not preclude water
100 dedication in the future if we subdivide. Shipping containers, we did have those
101 containers brought in 2020 we now have maps that reflect updated floodways and will
102 rectify. Trustee Lowell asked map on Farm, change in keynote for fence around
103 residence, has that been erected already? Zach, yes, they got a puppy and were trying
104 to construct a run, I put a stop to it. Trustee Lowell, so asking retroactively. Mayor
105 Angelo, so farm only using parking during Rockygrass? Zach, no camping only in south
106 grazing for Rocky. Mayor Angelo, south grazing area, does river separate south from
107 rest of property? Zach, yes it does. Mayor Angelo, a lot of concern in regard to ecology
108 board's recommendations, they need to be addressed rather comprehensively, that area
109 is very sensitive ecological area. Would like report from experts you noted before we
110 approve camping. Would behoove us all to know the sensitivity of the area has been
111 finalized by the experts. To put any storage units/permanent buildings in area, concerns
112 as well for natural habitat. MPT Browning clarify ADU issue; throughout cover memo
113 ADU term is used; further Mr. Strom mentions requirements of ADU not to be used as
114 short-term rental. Code also waives utility tap fees for those; are you paying those fees?
115 Zach, we had not discussed this with staff. MPT Browning, how big would ADU be?
116 Zach, size is bigger than code allows, so requesting non-conforming ADU. MPT
117 Browning, so an illegal ADU? MPT Browning, another requirement is owner occupied.
118 Zach, owner's son lives there, pays rent. MPT Browning, to connect utilities going under
119 the river? Zach, that would be the only way. MPT Browning, mid-tier did not exist prior to
120 last year's changes. Weren't these changes created to be self-contained and 1k was the
121 number the farm could handle? Zach, yes, but we are trying to incorporate both
122 properties. MPT Browning, so we are changing the use and tripling the size. What was
123 max size for major events prior to last years agreement? Zach, 3500, we've learned a lot
124 since the original agreements were signed. MPT Browning, food at mid-tier events?
125 Zach, yes, not quite the scope of large events, liquor license requires. MPT Browning,
126 starting at 5pm, most would arrive early. Do you think starting that late, serving food, do
127 you really think that would benefit local businesses? Zach, we certainly hope so, don't
128 prohibit outside food, and we could partner. MPT Browning, have you ever looked at
129 sales tax data for other businesses? Zach that is private information. MPT Browning,
130 sales tax drops between 17-19% during major events. How many camping passes sold
131 at Riverbend last couple of years? Zach, 600. MPT Browning, but you want to add 1k?
132 in 2021 agreement, PB requested parking be increased and campers be decreased from
133 950 to 700? Zach, yes, we have learned a lot and are adapting, easier to relocate
134 campers rather than cars. MPT Browning, intent is to not increase camping on north
135 end? Zach, no, parking is more important. MPT Browning, how are these proposed
136 changes going to affect property taxes? Right now, valued 45% less than purchase
137 price. When you add a bathhouse, 1k campers and parking has anyone reached out to
138 the assessor? Administrator Simonsen, we have not gotten to that point, we could reach
139 out. MPT Browning, of proposed changes, which would increase sales tax most for
140 town? Zach, our major events. Discussion on food sales tax, alcohol sales. Discussion

141 on raising pillow tax from \$2 to \$5 and removing camping and incorporating an impact
142 fee. Is PB open to discussing that? Zach, I am not comfortable committing to anything
143 without first discussing with owner. MPT Browning, water rights dedication, aren't they
144 usually addressed at annexation? Zach, yes, deferring again. MPT Browning, UEB has
145 requested it a complete engineering report. Mayor Angelo, regardless of house on
146 property, new bathhouse/property line what is intent of sewage on housing unit on south
147 grazing unit. Zach, not to require anything of the house at the moment, if
148 bathhouse/ADU built, then connect everything at that point. Justin Konrad, 4792 Kellogg
149 Cir, Boulder, Attorney for PB, MPT's question about zoning code requirements for ADU,
150 some confusion in way it originated, CE1 permit onsite residences, intent was to comply
151 with code. MPT Browning, if not an ADU, wouldn't that mean applicant would need to
152 pay connection charges that are waived for true ADU? Justin, just coming up on that.
153 Rosi, that would be on me, I truly did not know of the waiver, but we get your point and
154 would clearly have to meet any staff requirements. MPT Browning, can you comment on
155 paragraph 18, states not have to pay wastewater connection fee. Why is that there?
156 Director Caplan, that's where it mentions previous easement agreement in 2017, whole
157 other document. **Public Hearing opened at 9:13 pm.** Chrystal DeCoster, 113 5th Ave,
158 see attached. Betsy Burton, Apple Valley Rd., awkward situation, reason they need
159 camping on AV side is because we are not allowing camping at Riverbend anymore, we
160 did for 7 years, they were extremely respectful, left it in good shape. We are saying no
161 because they couldn't help in that the tarps/tents leave little yellow shapes on the grass,
162 and we have a wedding 5 days later. Flip side, I live on Apple Valley, with fence they are
163 going to build the people that will be camping there will not be coming on AV road; that is
164 huge, appreciate Zack listening and pulling yurt/bathhouse idea. Camping on AV they
165 will be done respectfully. On River Bend side, we are losing money, no weddings
166 booked, not renting to PB, just a quiet weekend for us. As long as camping is done as
167 they say it will be done, I feel good about it. My hat goes off to PB for a job well done for
168 so many years. Kandace Donovan, 116 Eagle Canyon Circle, my concern is increase in
169 size of mid-tier events. Many of you hear when first change in zoning, we are directly
170 across from property, impacts our ability to leave our homes, lights are on all night, very
171 loud, people are drunk. We were told that property would be used for only small events.
172 Now mid-tier events with 3k people, a very large event. We are now seeing exactly what
173 we were afraid of. Now being asked to live across the street from a full-sized festival with
174 parking, all of a sudden it's completely changed. I understand the need to review the
175 camping, be we are significantly impacted, it is not ok, no one is very clear on financial
176 gain except Planet Bluegrass. You're asking a lot of people to make accommodations
177 without knowing the real value. Parker Johnson, Apple Valley, we should do everything
178 we can to ensure that the mother ship of the town and what put us on the map
179 continues, to thrive. I am unclear of what was agreed to in 2017. I think many neighbors
180 want to accommodate the planet; camping is ok. Trenching under the river is a
181 Herculean task; let's be mindful of how we approve things we haven't thought through. I
182 don't have a strong NO; just curious what agreement was about non disturbance.
183 Diagram shows border fence; is it going across the river? What does that do in terms of
184 tubers, swimmers, kayakers, please address. Also, port-a-potties left on site to be
185 cleaned in a timely fashion. There are places we can accommodate their business
186 model. Arthur Lee Land, 521 5th Ave, thanked everyone for the thankless job you do; I
187 came here 20 years ago to PB on a tip, it's changed my life. Was blown away, was life

188 changing. From artist perspective, Lyons is a place where people have been gathering
189 for a millennia, it's in the best interest of everyone to let PB do what they do great.
190 **Public Hearing closed at 9:38 pm.** Rosi closed with clarifying on environmental
191 issues; we have engaged a wildlife biologist and wetland ecologist and can commit to
192 having those submitted to staff before July. Zach, referencing lights, safety aspect,
193 make sure they are shut off by 11-12. We are not intending to fence across the river.
194 No intention of leaving port-a-potties uncleaned. Mayor Angelo, in regard to reason you
195 had to come up with camping because of Riverbend concern, what mitigating means
196 would you use to revive the south grazing area? Zach, we also perform the flip from
197 festivals to weddings in a weeks' time. Our turf is resilient. Mayor Angelo, much more
198 environmentally sensitive area Rosi, wetland sensitive area will be completely fenced off,
199 no camping there. **Five-minute break at 9:48 pm. Meeting resumed at 9:57 pm.**
200 **Motion:** move to approve **Moved by:** Trustee Rogin **Seconded by:** Trustee Waugh
201 **Motion:** amend to 2017 keynotes under #5. South grazing area, leave entire keynote
202 unchanged from original and delete items 14 (temp ped bridge), 16(storage structure
203 perm or temp) and 17 (future ADU) **Moved by:** Trustee Lowell **Seconded by:** Trustee
204 Karavas Trustee Lowell – my reason for this amendment I take objection to this
205 conditional use mitigates impacts to wildlife. In 2014 TOL adopted river corridor
206 sustainable plan. This plan is hardly what I call ecological responsible. How does this
207 development near the river reach this goal? Flies in the face of the work done in the
208 wake of the flood. Hope you all had a chance to read the ecology boards comments.
209 Original annexation agreement had it right. I find it shocking that the town staff has not
210 noticed shipping containers on the property. The south grazing area was not meant to
211 be a manicured area, but rather a riparian area. You can't fence off a wetland; promises
212 made at time of annexation and should be kept. **Motion fails 2-4. NO: Trustee Rogin,**
213 **Trustee Miller, Trustee Karavas, Trustee Waugh** MPT Browning we need to
214 acknowledge benefits that PB has brought to the community. But several points need
215 addressing; clear representations made to public, used for limited purposes. Farm to be
216 used to support major events and a small, limited number of small events for up to 250
217 people. When you allow mid-tier with 3k people and develop the south grazing area you
218 have seriously changed this. After reading the PCDC minutes and I am really
219 disappointed that not staff or the PCDC considered the public. It should be taken
220 seriously. 8 months ago, concept of mid-tier event was brought up. Whole concept was
221 how big could an event be and still be self-contained at the ranch. And now that concept
222 is being turned on its head. Need more clarification, flabbergasted that staff/PCDC
223 missed the fees and the fact that an ADU would even be allowed. Also waiving sewer
224 connection fees, the board rarely does that. The board relies on the UEB; there is a
225 problem with the process on this the UEB's contribution was we need a full engineering
226 report. I would like to have thorough advice from the UEB. Now is the time to discuss
227 with PB a municipal services impact fee instead of a lodging tax increase. The quasi-
228 judicial process doesn't allow us to sit down and try to reach agreements. Leads me to,
229 and I don't want to vote no; but within all these uncertainties, if we could find some
230 middle ground I could support. Would like more time to get clarification on fees, utilities,
231 and other things. Not saying no, but not ready to vote yes , prefer to delay votes until we
232 can clarify utility issues. I know that's a problem for PB to sell tickets. Some of these
233 issues were broached, that was in April/May the date of the application was Nov 29th,
234 referrals went out Dec 29th and it's too quick. I need more time. Trustee Rogin, I feel

235 similarly, I think we can reach middle ground. Is there a way we would be able to grant a
236 waiver for 600 people while we go through the process? Attorney Dittman - would still
237 require a conditional use approval, would not need to be as extensive. Mayor Angelo, I
238 don't know if I can support the item until I hear from the ecological experts. Trustee Miller
239 – is there a way to continue with same process with some sort of contract in the mix for
240 this year only? Attorney Dittman, we create a conflict with existing keynotes that have
241 pretty strict rules on camping. Either way still requires a conditional use review/process.
242 Zack, from our perspective, if one year deal reached, we would need approval for 600
243 campers to South grazing area. North side is at max; also request that bridge and fence
244 be allowed so we can keep our promises to neighbors. Trustee Waugh in favor of deal
245 to allow one year deal and way too much to decide. What Mr. Tucker just outlined is
246 something we can approve while we work through the details. **Motion:** move to replace
247 keynote 5 to allow 600 campers on south grazing areas, temp bridge and fence, **Moved**
248 **by:** Trustee Rogin **Seconded by:** Trustee Karavas **Trustee Karavas asked Trustee**
249 **Rogin to strike everything else, keeping blue text. Trustee Rogin agreed.** Trustee
250 Lowell would the fence that is already constructed need to be removed? Attorney
251 Dittman yes that would be in violation of the keynotes. Administrator Simonsen, can we
252 draft a resolution with that stipulation instead of striking everything? Attorney Dittman,
253 we would need to start the entire process again. Trustee Rogin, let's say we do this
254 would the Planet need to go through the process again and pay fees? Attorney Dittman
255 yes, or the board has the option to waive. MPT Browning can the board continue the
256 dated on the rest of the requests rather than striking them? Hold them in abeyance?
257 Attorney Dittman, no, you could continue to a date certain. Trustee Miller, if this is
258 approved, there are still many other things they need to complete, building/flood permits.
259 This is the big picture they are presenting. **Trustee Waugh, apologized to applicant**
260 **and fellow board members , I can no longer participate due to health issues.**
261 **Trustee Waugh the meeting at 10:47pm.** Trustee Rogin, is it possible for applicant to
262 submit a conditional use for the 600 campers and can we expedite just the 600 campers,
263 bridge/fence? Attorney Dittman, they certainly could, but would have to go through the
264 entire process again. Administrator Simonsen, maybe more effective to approve with
265 striking everything but item 5. MPT Browning, maybe we could continue to a date
266 certain and defer for a week and see where we are then? **Trustee Rogin withdraws**
267 **amendment Trustee Karavas agrees. Motion:** Continue to a date certain March 15th at
268 6pm. **Moved by:** MPT Browning **Seconded by:** Trustee Karavas **Motion passes 5-0**
269 2. Public Hearing - Resolution 2022-20 - A Resolution of The Town of Lyons, Colorado
270 Approving or Denying an Application Submitted by Planet Bluegrass, LLC for a
271 Conditional Use Amending an Existing Site Plan and Related Keynotes (500 W. Main
272 Street - Planet Bluegrass Ranch) **Motion: continue rest of the items on the agenda to**
273 **a date certain March 15th at 6pm Moved by:** MPT Browning **Seconded by:** Trustee
274 Karavas **motion passes 5-0** Trustee Karavas asked exactly what staff would be working
275 on for the next meeting. SEE SUMMARY OF ACTION ITEMS.

276 3. Resolution 2022-21 A Resolution of The Town of Lyons, Colorado Approving the
277 Fourth Amendment to The Amendable Letter of Understanding (PBG Farm
278 Property)

279 4. Resolution 2022-22 A Resolution of The Town of Lyons, Colorado Approving the
280 Second Amendment to The Amendable Letter of Understanding (PBG Ranch
281 Property)

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V. Public Hearings and Ordinances

1. 2ND Reading - Ordinance 1118 – an Ordinance of the Town of Lyons, Colorado Amending an Annexation Agreement with Planet Bluegrass Farm, LLC for the Planet Bluegrass Farm Property

VI. Summary of Action Items

1. ADU definition
2. Utility Impacts
3. Shipping containers in floodplain
4. Fence partially constructed around house
5. Size of mid-tier events
6. Assessor on ag zoning to commercial improvements.
7. Sewer connections/utility easement
8. Environmental concerns
9. Cover sheet on proposal and original annexation agreement
10. Lights/Traffic agreed upon to in original annexation agreement
11. Staff/PB discuss entering in good faith negotiating a municipal impact fee
12. End time for weekday events at 10pm

- VII. Adjournment – **Motion:** move to adjourn **Moved by:** Trustee Rogin **Seconded by:** Trustee Karavas **motion passes 5-0**
Meeting adjourned at 11:02 pm.

Respectfully Submitted by:

Dolores M. Vasquez, CMC – Town Clerk

Mayor Nicholas Angelo