

City Council Meeting Minutes

**February 20, 2024
City Hall, Council Chambers
749 Main Street
6:00 PM**

Call to Order – Mayor Leh called the meeting to order at 6:00 p.m. **Roll Call** was taken and the following members were present:

City Council: *Mayor Chris Leh
Mayor Pro Tem Caleb Dickinson
Councilmember Tim Bierman
Councilmember Deborah Fahey
Councilmember Barbara Hamlington
Councilmember Dietrich Hoefner
Councilmember Judi Kern*

Staff Present: *Jeff Durbin, City Manager
Samma Fox, Deputy City Manager
Kurt Kowar, Public Works Director
Rob Zuccaro, Community Development Director
Rafael Gutierrez, Police Chief
Meredyth Muth, City Clerk*

Others Present: *Kathleen Kelly, City Attorney*

APPROVAL OF AGENDA

Mayor Leh called for changes to the agenda and hearing none asked for a motion.

Motion: Councilmember Hoefner moved to approve the agenda, seconded by Councilmember Kern. **Vote:** All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND ON THE CONSENT AGENDA

Maxine Most, Louisville, pooling time with Tim Stalker, expressed her disappointment with Council campaign finance reports that have not been submitted, quasi-judicial process, and general Council behavior.

Greg Maring, Louisville, welcomed Councilmember Bierman and thanked the rest of Council for their work.

Sherry Sommer, Louisville, spoke on the quasi-judicial and democratic process. She encouraged Council to make sure they are applying the code when making decisions, especially large ones like Highway 42 and housing. She asked them to take a systems approach. slow down, and follow process.

Tiffany Boyd, Louisville, informed Council that three students from Louisville Elementary and Louisville Middle School will be talking about plans for school decarbonization.

Avani Carter, student at Louisville Elementary, is part of the students working to get solar panels for the schools. She stated there are individual actions and community actions, but what helps the most is community actions. She encouraged everyone to share the efforts of the school.

Evan Hiatt, member of Pirates for Climate Action at Louisville Middle School, stated the students are advocating for solar panels on the roofs. Not only does this help with the schools decarbonization plan, but currently both the elementary and middle schools are run on non-renewable energy.

Hazel Van Zale, Louisville Middle School Pirates for Climate Action, detailed how the group is working toward a decarbonization audit and creating a capital investment roadmap. She noted this won't be easy and the students will need help getting quotes and grants. The anticipated costs are going to be over \$1.2 million, but it is important to work toward net zero.

Tamar Krantz, Louisville, appreciated Mayor saying he read all the pages of comments and hopes that others did as well. She asked if it was possible for Council to let those in the room know how many people are participating online.

Michael Menaker, Louisville, stated he receives texts from people at home that Comcast Channel 8 is not showing the Council meeting. He stated people can go to YouTube to get live broadcast.

Laura Page, Louisville, reminded residents that if they know a senior that is not able to shovel their walk, please be a good neighbor and help out.

APPROVAL OF THE CONSENT AGENDA

Mayor Leh asked for changes to the consent agenda; hearing none he asked for a motion. **Motion:** Mayor Pro Tem Dickinson moved to approve the consent agenda, seconded by Councilmember Kern. **Vote:** All in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: June 6, 2023; February 13, 2024***

- C. Resolution No. 7, Series 2024 – A Resolution Approving an Installation Service Agreement with Rockfan Entertainment, LLC for Upgrades to the Audio-Visual Equipment in Council Chambers**
- D. Approval of Resolution No. 8, Series 2024 – A Resolution Approving a New Name for the Landmarked Property at 1045 Front Street**
- E. Approval of Professional Services Agreement for 2024 Resident Survey**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Pro Tem Dickinson spoke to his campaign finance reports. He stated that any emails he has responded to are part of the meeting packet. He stated he will be more careful about his engagement with residents.

Councilmember Hamlington spoke to the students saying she wanted them to know how much she respects them and how brave it was to come speak to Council. She hopes they see how much Council appreciates them coming to speak.

CITY MANAGER'S REPORT

None.

REGULAR BUSINESS

RESOLUTION NO. 80, SERIES 2023 – A RESOLUTION APPROVING THE REDTAIL RIDGE FILING NO. 1 PRELIMINARY SUBDIVISION PLAT – *continued from 2/6/24*

Mayor Leh introduced the item and asked for any disclosures. Councilmember Hoefner stated he would be recusing himself from the item due to a professional conflict of interest. Councilmember Hoefner left the meeting.

Mayor Leh noted this item was continued from the February 6 meeting and reopened the public hearing

Mayor Pro Tem Dickinson repeated his statements earlier stating all of his communications are a part of the public record.

Mayor Leh gave a history of this property and this specific application. In 2010, Council approved the Conoco Philips General Development Plan (GDP) but that plan never materialized. In 2021, Council approved an amendment to the GDP, however, through a referendum the residents overturned that decision. That left the 2010 Conoco Phillips GDP as the guiding document for land use on this property.

He noted this item was originally scheduled for a December 2023 Council meeting but there were only 3 members present that evening, so they voted to reschedule the hearing for February 6, 2024. At the February 6 hearing, staff made their presentation, the applicant made their presentation, and the hearing was continued to tonight.

Community Development Director Zuccaro provided additional information not included in the packet from the last meeting including a drainage plan, answers to questions regarding preliminary plats building heights and allowed uses, existing utilities, and a wildlife use assessment that was on file with the City from another applicant. He stated the applicant has provided a video of the site that they would like to play.

Sarah Campo, Sterling Bay, state the video was created from drone and still footage on site and in the surrounding area. The video of the site was played.

Councilmember Hamlington asked when staff feels is the appropriate time to have conversations about building heights. She also asked about clustering of buildings to get more open space. Director Zuccaro stated that a GDP cannot change the allowed heights in the underlying zoning, which is why the 2010 GDP has the language it has. Building heights be changed only through a Planned Unit Development (PUD). The time for discussions about building height and clustering is through the PUD application. The plat is for creating lots, streets, and infrastructure.

Mayor Pro Tem Dickinson stated that there have been a lot of emails encouraging housing, but he understands the GDP doesn't allow for housing. He asked if there was a process where housing could be introduced. Director Zuccaro stated that uses are set by GDP. The process for housing could be done through a GDP amendment or a policy change through the Comprehensive Plan which would require a zoning change to align with the Comprehensive Plan.

Mayor Pro Tem Dickinson asked about the differences between the preliminary plat and the final plat. Director Zuccaro noted the preliminary plat and the final plat should substantially match. The final plat should include final construction documents; the subdivision improvement agreement; building and infrastructure warranties; provisions for transportation demand management; improvement commitments; sustainability commitments; a metro district service plan; and final reports on drainage, traffic and easement vacations.

Councilmember Hamlington asked if a preliminary plat is approved will that allow construction to begin. Director Zuccaro answered no. There is an agreement that runs with this land that allows the applicant to start site grading, but they can't start installing any infrastructure. Councilmember Hamlington asked if a condition can be made that they don't start grading. Director Zuccaro said potentially, but that would need to be done in the agreement that has been recorded and runs with the land, not in the plat.

Councilmember Bierman asked for clarity on the traffic impacts. Director Zuccaro stated those are daily trips distributed through the whole day at full build out. Right now there is no traffic, this would add traffic to the network. He noted all 21,000 trips aren't on a single road at once. CTC is a larger development and it's helpful to think about the traffic around there. There will be road improvements to add capacity to the network.

Councilwoman Kern asked about any additional time it will take for residents on the west side of town to access the hospital in its proposed new location. The applicant responded that the Fire Department looked at their response time and determined the Campus Drive build out will help reduce times.

Councilmember Hamlington asked if the agreement with Boulder Valley School District (BVSD) is expired for the Campus Drive expansion. Director Zuccaro was not sure as there have been a couple of resolutions, but final approval would be required at the time of final plat and BVSD will need to deed right of way for the project.

Councilmember Hamlington asked if there were any conversations on annexing parcels that are outside of Louisville. Director Zuccaro said there is an Intergovernmental Agreement (IGA) with Boulder County regarding Paradise Lane that would allow annexation, but there hasn't been any contemplation of that.

Mayor Leh noted the condition that prior to City Council hearing of the final plat there must be an agreement with the Northwest Parkway on Campus Drive. He asked if there was any development on this. Director Zuccaro said City staff has not received any further information on that. The applicant stated the final IGA with Northwest Parkway will come with the final plat application. Mayor Leh asked for a status. The applicant responded that they are waiting for comments back on their submission.

Mayor Leh stated the second condition is the applicant will address all outstanding Public Works issues and he asked if any of those been addressed. Director Zuccaro answered that there are some outstanding technical issues that need to be addressed.

Public Comments

Stephanie Schlageter, Louisville Business Owner, expressed that she is favor of the redevelopment plan and sees this as nothing but a clear plus. This is an abandoned site that no one can use. We need to ensure that Avista is not lost to another community.

Iona Kearney, Louisville Chamber Board of Directors, asked the Council to support the project. She supports innovative measures for transit and additional trails; the future relocation and upgrade of the hospital; sustainability pursuits; and creation of more than 139 acres of public land.

Cathern Smith, Louisville, spoke of open space as a respite for humans, a habitat for wildlife, and providing remarkable beauty. The overall need is beyond parks and recreation areas.

Dorothy Kane, Louisville, is concerned about the pollution from 21,000 traffic trips.

Eric Reed, Louisville, speaking on behalf of the DBA, stated their strong support for the resolution. It is essential for the future of Louisville that Avista stays; Campus Drive be completed; and the addition of open space.

Charlie Woodruff, USGBC Mountain, supports the LEED certification commitment of the applicant. LEED certified projects set building projects on the road to excellence and he is looking forward to supporting LEED Silver for all the buildings.

Don Parcher, Louisville resident, stated that climate action should be top of what the City does and that includes minimizing gas-powered vehicle trips.

Adrianne Middleton, Louisville resident, said that in the special referendum the residents turned down the developer's footprint. She stated that she would like to see less square footage, and only open space north of Disk Drive. She urged Council to vote no.

Richard Rivichek, Louisville resident, spoke in support of the plan. He noted the amount of revenue that will be provided to the City can be used to improve open space, and plant trees to offset carbon.

Stephanie Rowe, Louisville resident, expressed concern about the possible impact to wildlife on the site.

Greg Maring, Louisville resident, noted this is a large dedication of open space and there has been a large erosion of business from Louisville. He hopes the City will continue to advocate for those businesses that want to come to town.

Jonathan Singer, Boulder Chamber of Commerce and Northwest Chamber Alliance, stated that each chamber supports the plan as good for the economy and it could be an opportunity for a gold standard development in the community.

Tamar Krantz, Louisville, pooling time with Mike Putney, stated she understands that Council is looking at the plat and not the GDP. She did ask why the application was in front of Council after Planning Commission recommended denial and why staff would recommend approval. She asked that Council add conditions to clarify items such as grading, sustainability, and a development agreement.

Richard Morgan, Louisville, spoke in support of the application. He acknowledged it is a complicated topic that stirs up a lot of emotions, but he feels the applicant has listened.

They have provided a smaller footprint, commercial sustainability, set aside more open space, will have a space for Avista and get to build out Campus Drive.

Steven Dohnal, Superior, expressed concerns regarding traffic especially on Dillon Road and 88th Street. He doesn't see the point of the development and said Interlocken is still not built out, and McCaslin has vacancies as does Flatirons Crossing.

Tim Stalker, Louisville, pooling time with Joseph Krantz, commented on the communications he had with the Mayor Pro Tem. He said some of the concessions made by the applicant seem promising but he would like to see more open space. He expressed concerns about the grading destroying the topography of the site and that underpasses are a part of the watershed system.

Cindy Bedell, Louisville, stated this plan has no more open space or less square footage than the one that went to Planning Commission. She would like to see all the area north of Disk Drive as open space and less traffic. She said Council has the authority to require more and better open space. She noted the Northwest Parkway has not approved the plan and that Planning Commission recommended denial.

Laura Page, Louisville, stated that voters want more open space and a smaller development. She feels the plan under consideration tonight is the same one rejected by voters. She requested an amended GDP to reflect the wishes of the public.

Matt Jones, Louisville, encouraged the Council to ask for more open space at the site and he asked Council to represent the public.

Sherry Sommer, Louisville, pooling time with Natasha Flyer, stated that this development isn't necessary and that all the buildings could fit south of Disk Drive. She believes there should be a balance between businesses and habitat.

Mike Schantz, Louisville, stated that when he was on the Open Space Advisory Board and the board approved the project multiple times. He encouraged a yes vote for a new Avista site and more open space.

Josh Cooperman, Louisville, said he is not opposed to building on the former Storage Tek footprint, the new site for Avista, or the Campus Drive extension, but he doesn't feel the application is balanced. He would like to see a detailed grading plan.

Weiyan Chen, Louisville, relayed her experience with construction after the Marshall Fire and that the city doesn't need to start another construction project. The residents need a break.

Qian Wu, Louisville, expressed his concerns with traffic and being able to find a parking space downtown after the project is built. They requested Council consider the objections and to have a good balance of business and open space.

Joshua Sroge, Louisville, spoke to the property owner's rights. He also encouraged Council to think big and change the dynamic of the City that has a lot of empty businesses currently. He hopes for some bold moves to make change.

Michael Menaker, Louisville, pooling time with George Colbert, spoke of the history of the region and how there were a lot of companies that came previously. He looks forward to the opportunity to create a bio tech / life sciences campus on the site. Avista is the largest employer of the City. He hopes the traffic studies are wrong and that more employees will come from Louisville and not outside the city.

Sally Bruggeman, Louisville, stated there are factions that want the tax money and there's the people that are more concerned with the environment and open space. Make both happy and keep the buildings south of Disk Drive.

Michael Eisenstein owns property adjacent to the site and has concerns with how the development plans will impact him. He believes the plats are not done in accordance with the Comprehensive Plan and the Louisville Municipal Code.

David Sweedler, Louisville, urged Council to get some concessions outlined by other speakers from the applicant and to have a plan that is more suitable to the community. He is concerned about traffic.

Jenny Singer Rupp, Louisville, stated that there have been many Council and committee meetings and residents rejected the proposal in an election. She urged the Council ask for more open space, no grading, and a smaller footprint.

Brian Boonstra, Boulder County, is one of the handful of owners that will be impacted by this development, and he advocated for a yes vote. He believes the applicant has listened to him and his neighbors and gone above and beyond to balance open space and development.

Mayor Leh asked if the applicant would like to respond to any of the public comments.

Mark Painter, on behalf of the applicant, stated they had no clarifications to make and would be available to answer questions.

Mayor Pro Tem Dickinson stated one of the reasons Planning Commission recommended denial was a block length issue and asked if this had been resolved. Director Zuccaro stated the applicant has added a private street network that addresses the issue. There will be a mixture of public and private roads within the development and staff believes the road network meets the GDP.

Mayor Pro Tem Dickinson asked about the alignment of Campus Drive. Director Zuccaro stated that there were thoughts of having it farther north, but it was moved

south to accommodate a buffer requirement for the Paradise Lane residential properties.

Councilmember Fahey asked who would maintain the proposed parks and open space. Director Zuccaro stated that will be part of the final plat but right now what is being proposed would be maintained by the City.

Councilmember Kern asked if there is a time that the land dedicated to the City can be changed. Director Zuccaro answered that the final plat will call out open space for designation. Parks are more flexible as a future council could to move the land from a park to an open space.

Mayor Pro Tem Dickinson asked for clarification on building and maintaining amenities such as soccer fields or pickle ball courts. Director Zuccaro stated the land would be dedicated by the applicant, but the City would be responsible for construction.

Councilmember Hamlington asked why there was development north of Disk Drive after all of the comments urging development south. The applicant responded that after meetings with the Parks and Open Space Advisory Committees, they opted to move the open space to the northwest corner of the site which clustered development to the center of the site. This is in addition to the nature preserve at the northeast corner of the site. A consultant for the applicant also pointed out that there are trees that are invasive and non-native on the site.

Councilmember Hamlington expressed concern regarding the route to the K-8 school for students coming from the south and she would like to see some improvements. The applicant stated that they will work with staff on additional analysis.

Councilmember Bierman asked the applicant to talk a little more about the drainage. The applicant stated it is a balancing act to keep the area consistent with code while providing paths and open space amenities. The area suffers from invasive plant life, but they will be working to keep the few undisturbed areas to the greatest extent possible.

Councilmember Kern asked if the applicant considered minimizing grading. The applicant said they have, but much of the grading they are doing is for stormwater infrastructure, paths, and to provide public access and more high-quality habitat.

Mayor Leh asked if there are uses by right in the Conoco Phillips GDP, and if any of the proposed uses here are outside of those approved in the GDP.

City Attorney Kelly stated there are two types of vested property rights common law and statutory. Statutory rights were adopted by a 1999 ordinance to codify what comprises a site-specific development plan and which property rights may vest under code. An applicant has to apply for this and there is special notice. This process was not done by

Conoco Phillips or this applicant. There are no vested property rights with regard to this property and it does affect the uses by right in the GDP.

Mayor Leh stated that residents have brought up the referendum vote and the reversion to the Conoco Phillips GDP regarding certain property rights. Those property rights aren't going to be something the Council can change under this plat.

City Attorney Kelly stated the Conoco Phillips GDP is the zoning of the property. The amendment that came before Council would have changed the zoning. It was approved by Council, but that change never become effective as the referendum was filed. That action suspended the ordinance that was adopted. Ultimately the ordinance changing the zoning was rejected by the voters. The underlying zoning was always there and when the amendment did not take effect that left the original zoning in place and it is still the current zoning on the property.

Mayor Leh said there is discussion in the packet and comments about the Planning Commission rejecting this proposal. Director Zuccaro stated that in the land use process the Planning Commission is a recommending body, but Council is the final say.

There was discussion about staff's recommendation of approval as the application while some criteria is not met. Director Zuccaro brought up the slide showing the criteria that staff believes have been met and the code citations.

Mayor Pro Tem Dickinson asked if the applicant is requesting anything outside the code, GDP, or Comprehensive Plan. Director Zuccaro said there were no requests for waivers. Mayor Pro Tem Dickinson expressed his satisfaction with the amount and location of open space, and with staff's recommendations.

There was consensus from Council that the first and second criteria had been met.

Councilmember Hamlington voiced concerns under criteria number three. She would prefer no grading until the traffic discussions, the Northwest Parkway agreement and the Boulder Valley School District agreement are finalized. City Attorney Kelly stated the agreement would need to be amended and that could not be done as part of this resolution. The applicant stated they have no plans to start grading and would be happy to amend the agreement.

Councilmember Kern stated she would appreciate any efforts to make this area more of a native habitat and to be mindful of how the space feels with buildings.

Mayor Pro Tem Dickinson is appreciative of the amount of open space that is being offered.

Mayor Leh noted there has been a lot of discussion and he is glad the applicant has rethought where it should be and that OSAB approved.

Councilwoman Kern expressed ongoing concerns with traffic on Dillon and improvements will be funded. Director Zuccaro stated the City obtains transportation impact fees that are used for road improvements.

Mayor Leh stated that the application meets the requirements of the municipal code, is consistent with the Comprehensive Plan, meets the zoning requirements and applicable state and City laws.

Mayor Leh closed the public hearing.

MOTION: Mayor Leh moved to approve the resolution with the following conditions 1) prior to final plat hearing the applicant shall provide an agreement with the Northwest Parkway on Campus Drive alignment 2) resolve any outstanding comments from Public Works and mobility study 3) an agreement with Boulder Valley School District concerning right of way and 4) an amendment to the prior Planned Community Zone District agreement concerning grading not to occur for four months from tonight based on criteria 16.04.020 N & S; seconded by Mayor Pro Tem Dickinson.

Councilmember Hamlington made a friendly amendment to add that the final plat application will include a detailed plan on getting kids to and from school safely and would like consideration of a condition based on criteria 16.04.020 K.

Motioner and seconder accepted the friendly amendment.

VOTE: Motion carried by unanimous roll call vote.

**ORDINANCE NO. 1869, SERIES 2024 – AN ORDINANCE APPROVING THE
VACATION OF THREE EASEMENTS LOCATED ON LOT 1 DEDICATED BY THE
EMPIRE ROAD SUBDIVISION (1303 EMPIRE ROAD) – 1st READING – SET PUBLIC
HEARING 3/5/24**

Mayor Leh introduced the ordinance by title.

MOTION: Mayor Pro Tem Dickinson moved to approve the ordinance on first reading and set the public hearing for March 5, 2024; seconded by Councilmember Fahey.

VOTE: Motion passed by unanimous voice vote (Councilmember Hoefner absent).

CITY ATTORNEY'S REPORT

None.

**COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF
FUTURE AGENDA ITEMS**

None.

ADJOURN

Members adjourned at 11:46 pm.

Christopher M. Leh, Mayor

Meredyth Muth, City Clerk