

## RESOLUTION #11-01 PDP

### **A RESOLUTION DENYING APPROVAL OF AN AMENDMENT TO A PRELIMINARY PUD DEVELOPMENT PLAN FOR LOTS 1-5, BLOCK 1 AND OUTLOTS A, B, C AND D OF MARIANA BUTTE 23RD SUBDIVISION LOCATED WITHIN THE MARIANA BUTTE PLANNED UNIT DEVELOPMENT (#P-8), CITY OF LOVELAND, LARIMER COUNTY, COLORADO**

**WHEREAS**, on June 11, 2007, the Planning Commission for the City of Loveland approved Resolution #07-04 PDP approving a Preliminary PUD Development Plan for PUD #P-8, for Tract A Mariana Butte PUD, Tenth Subdivision,; and

**WHEREAS**, a proposed Amendment to the Preliminary PUD Development Plan for PUD #P-8 for that portion of the Mariana Butte PUD #P-8 known as Lots 1-5, Block 1 and Outlots A, B, C and D of Mariana Butte PUD 23<sup>rd</sup> Subdivision and referred to herein as the "Amended PDP", has been submitted to the Loveland Planning Commission for consideration pursuant to Chapter 18.41 of the Loveland Municipal Code; and

**WHEREAS**, the Mariana Butte 26<sup>th</sup> Subdivision Preliminary Plat (the "Preliminary Plat") for the same portion of the Mariana Butte PUD #P-8 has also been submitted to the Planning Commission for consideration, pursuant to Code Section 16.20.060; and

**WHEREAS**, the applications for the Amended PDP and the Preliminary Plat were considered as a joint application under Code Section 18.41.080; and

**WHEREAS**, pursuant to Code Section 18.41.050.E.2 and after due notice had been given, the Planning Commission held a public hearing on August 22, 2011 regarding said Amended PDP and Preliminary Plat; and

**WHEREAS**, at said hearing the recommendations of the Current Planning Division as set forth in the Planning Staff Report dated August 22, 2011 and all attachments thereto (the "Staff Report") were received and duly considered by the Commission, as well as all necessary testimony from the applicant, John Baxter on behalf of B & B I, LLC, the applicant's representative, Ken Merritt of Landmark Planning and Engineering, and the public; and

**WHEREAS**, the Commission has considered the application for approval of the Amended PDP in light of the intent and objectives of Chapter 18.41 of the Loveland Municipal Code, and more specifically the factors set forth in Code Sections 18.41.050.E.2.a-c, which expressly require consideration of the factors set forth in sections 18.41.050.D.4.b and c, and has determined that the Amended PDP does not satisfy these factors and must be denied; and

**WHEREAS**, the Commission took no action on the Preliminary Plat as it cannot be approved since the Amended PDP is not approved.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION FOR THE CITY OF LOVELAND, COLORADO:**

**Section 1.** That the Amended PDP is for 5.3 acres, more or less, being a portion of the Mariana Butte Planned Unit Development General Development Plan (#P-8), more particularly described as follows:

**LOTS 1-5, BLOCK 1 AND OUTLOTS A, B, C AND D OF MARIANA BUTTE 23RD SUBDIVISION, MARIANA BUTTE PUD, City of Loveland, Larimer County, Colorado,**

is on file in the office of the City of Loveland Planning Division, and is incorporated herein by this reference.

**Section 2.** That the Amended PDP does not, for the reasons set forth below, meet the requirements of Code Section 18.41.050.E.2, and more specifically the following factors set forth in Sections 18.41.050.D.4.b and c (which are set forth in Findings C3. and C.5, respectively, of the Staff Report):

- a. **Section 18.41.050.D.4.b:** *Whether the proposed development [permitted by the Amended PDP] will ... have a detrimental impact on property that is in sufficient proximity to the proposed development to be affected by it.*
- b. **Section 18.41.050.D.4.c:** *Whether the proposed development [permitted by the Amended PDP] will be complementary to and in harmony with existing development and future development plans for the area in which the proposed development is to take place by:*
  - a. *Incorporating natural physical features into the PDP design and providing sufficient open spaces considering the type and intensity of proposed land uses.*
  - b. *Incorporating site planning techniques that will foster the implementation of the Loveland Comprehensive Master Plan.*
  - c. *Incorporating physical design features that will provide a transition between the project and adjacent land uses through the provisions of an attractive entryway, edges along public streets, architectural design, and appropriate height and bulk restrictions on structures.*
  - d. *Incorporating an overall plan for the design of the streetscape within the project, including landscaping, auto parking, bicycle and pedestrian circulation, architecture, placement of buildings and street furniture.*

The Planning Commission finds that the character of the area adjacent to Buckingham Reservoir in which the development proposed by the Amended PDP is located, presents unique building opportunities and substantial investments to property have been made by the property owners. Development proposed by the Amended PDP will have detrimental impacts on property in close proximity to the development proposed by the Amended PDP and will create negative impacts on the surrounding property due to the density proposed in the Amended PDP.

The Planning Commission further finds that the proposed development of 11 residential lots on the site as set forth in the Amended PDP will not be complementary to and in harmony with the existing development and future development plans for the area around the Reservoir, in which

the development proposed by the Amended PDP is located, due to the density proposed in the Amended PDP.

**Section 3.** That the application for approval of the Amended PDP is therefore denied.

**Section 4.** That since the applications for the Amended PDP and the Preliminary Plat were considered as a joint application under Code Section 18.41.080, the Planning Commission's denial of the application for approval of the Amended PDP is also a denial of the application for approval of the Preliminary Plat under Code Section 18.41.080.A.

**Section 5.** That the Preliminary Plat also does not meet the requirement set forth in Code Section 16.20.030.A (which is set forth in Finding C.4 of the Staff Report) that the "*subdivision does not create, or mitigates to the extent possible, negative impacts on the surrounding property.*" for the following reasons:

The Planning Commission finds that the character of the area adjacent to Buckingham Reservoir in which the subdivision proposed by the Preliminary Plat is located, presents unique building opportunities and substantial investments to property have been made by the property owners. The subdivision proposed by the Preliminary Plat will have negative impacts on the surrounding property which are not sufficiently mitigated, due to the density proposed in the Preliminary Plat.

**Section 6.** That as of the date set forth below, this Resolution shall constitute the final decision and the written findings and conclusions of the Planning Commission with respect to the application for approval of the Amended PDP and Preliminary Plat pursuant to Code Section 18.41.050.E.3. Any party in interest as defined in Chapter 18.80 of the Loveland Municipal Code may file a written notice of appeal conforming to the requirements of Code Section 18.41.030 with the City of Loveland Planning Division within ten (10) days of the date of this Resolution.

Dated this 12th day of September, 2011.

CITY OF LOVELAND PLANNING COMMISSION

By:

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Rob Molloy, Planning Commission Chair

ATTEST:

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Planning Commission Secretary

APPROVED AS TO FORM:

J. West Schmidt  
Deputy City Attorney