

TOWN OF ERIE
BOARD OF TRUSTEES AGENDA ITEM
July 28, 2020

SUBJECT:	Agenda # 20-393: PUBLIC HEARING A Resolution of the Board of Trustees of the Town of Erie Approving with Conditions the Preliminary Plat for the Westerly Subdivision
CODE REVIEW:	Erie Municipal Code, Title 10
PURPOSE:	Review of the proposed 268.11 acre Preliminary Plat, for the first phase of development of the Westerly subdivision, which includes 530 residential lots and 60 tracts for future development, parks, landscaping, trail and utility purposes.
DEPARTMENT:	Planning and Development
PRESENTER:	Deborah Bachelder AICP, Planning Manager & Deputy Director of Planning & Development

STAFF RECOMMENDATION: Approval with Conditions

Staff recommends the Board of Trustees approve the Westerly Preliminary Plat subject to the following conditions:

- a. At the time of Final Plat, Applicant shall execute a Development Agreement in the form provided by the Town.
- b. The Westerly Zoning Map that adjusted the zoning boundary between the NMU-Neighborhood Mixed Use zone district and the LR-Low Density Residential zone district shall be recorded for approval of the Preliminary Plat to be effective.
- c. The Westerly P.U.D. Overlay District that modified the NMU-Neighborhood Mixed Use zone district and the LR-Low Density Residential zone district shall be recorded for approval of the Preliminary Plat to be effective.
- d. The Screening Report for Federal-State Listed Threatened and Endangered Species and General Wildlife for Erie Site, Weld County, Colorado dated July 27, 2018 shall be followed by the owner/developer of the property to protect the species identified in the report. The protection measures identified focused on raptor nests, migratory birds, and western burrowing owls.
- e. The Final Plat Landscape Construction Plans shall include a tree replacement plan, that is in conformance with the Existing Vegetation sheet in the Preliminary Landscape Plans, that identifies existing trees to be removed and where required replacement trees (MC 10.6.2) are to be placed.
- f. Existing monitoring wells on the property shall be abandoned through the CDPHE process. Documentation of the approval from CDPHE shall be submitted to the Town prior to approval of a Final Plat.

- g. The Mine Subsidence Investigation dated December 15, 2018 shall be followed for development of the property. The report identifies development restrictions for areas that are undermined and within the greater than 0% strain areas. A Final Plat application submittal for lots and development within these restricted areas shall include notes on the plat that list the restrictions for the specific lots. The Final Plat shall be reviewed by Colorado Geological Survey (CGS) for verification that recommendations in the report and from CGS referral comments have been adequately addressed.
 - h. Existing structures and facilities shall be removed during the first phase of construction.
 - i. Existing easements that conflict with proposed development in a Final Plat shall be vacated or relinquished prior to a Final Plat submittal to the Town. The recorded vacation of relinquishment of the easement and current title with the document acknowledged shall be required with the Final Plat submittal.
 - j. A Final Plat that includes the proposed lots on the east side of the property that back to the permanent oil and gas pipeline shall not be submitted to the Town until the associated 20-foot temporary construction easement no longer impacts these lots. Documentation that the temporary construction easement is no longer impacting the lots shall be submitted with a Final Plat that includes these lots.
 - k. The Final Plat Landscape Construction Plans submitted to the Town shall address all requirements in the referral memo from Parks and Open Space dated June 4, 2020. Landscape Construction Plan acceptance is required for Final Plat approval to be granted.
 - l. The Final Plat Construction Plans submitted to the Town shall address all requirements in the referral memo from Engineering dated June 3, 2020. Construction Plan acceptance is required for Final Plat approval to be granted.
 - m. Final Plats shall meet the Town User Guide requirements for all lots and tracts to be prepared at a scale so that all survey data for a single lot or tract is located on a single sheet.
 - n. Adequate easements shall be provided on the Final Plat submittal to address utility provider referral comments.
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PLANNING COMMISSION RECOMMENDATION: Approval with Conditions

Planning Commission unanimously approved Resolution P20-14 recommending the Board of Trustees approve the Westerly Preliminary Plat subject to the conditions listed above in the staff recommendation. During the public hearing the following items were topics of discussion related to the Preliminary Plat:

- Existing land uses to the south.
- Traffic/transportation improvements on adjacent roads.
- Easements.
- Development phasing.
- Subsidence report findings.
- Oil/gas facilities/pipelines.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Location: South of Erie Parkway and West of Weld County Road 5.

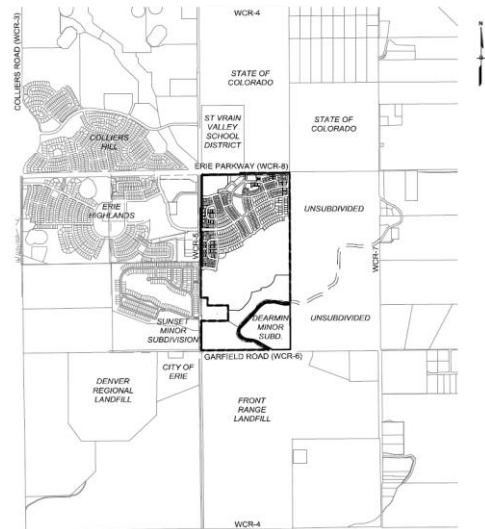
Owners: Erie Land Company, LLC
Heidi Majerik
1225 17th Street, Suite 2420
Denver, CO 80202

Existing Conditions:

Site Condition: Agricultural land

Property Size: 268.11 acres

Adjacent Land-Use/Zoning:



	ZONING	LAND USE
NORTH	PLI – Public Land and Institutions Weld County - Agricultural	School Agriculture
SOUTH	PD- Planned Development	Landfill
EAST	Weld County - Agricultural	Agriculture
WEST	CC – Community Commercial Weld County – Agricultural LDR – Low Density Residential	Erie Highlands – Vacant Commercial Salvage yard Vacant / Town Open Space

Property History:

The Dearmin Property was annexed into the Town of Erie as the Horst Property in 1990. At that time the owner anticipated the property to be used as a landfill site. The pre-annexation and annexation agreements that outlined the landfill requirements for the property that were terminated in 2017 when the Town rezoned the property from Rural Preservation 3 to LR-Low Density Residential, NMU-Neighborhood Mixed Use and AG/OS-Agriculture/Open Space.

A Sketch Plan was originally reviewed for this property in 2017 and then an updated Sketch Plan was reviewed in February 2019.

A current Rezoning application was reviewed by the Planning Commission on May 20, 2020 and was approved by the Board of Trustees on June 23, 2020. The Rezoning

application shifts the boundary between the NMU-Neighborhood Mixed Use and LR-Low Density Residential zone districts which increased the NMU zoned district and reduced the LR zone district by 3.72 acres.

Proposed Preliminary Plat:

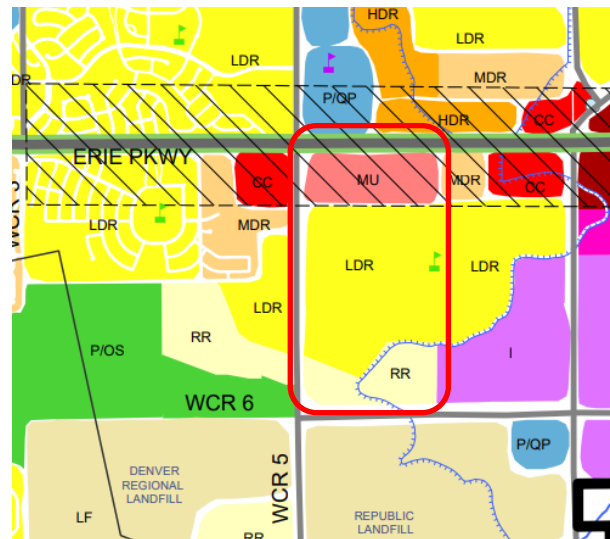
The Preliminary Plat proposes the first phase of development for the Westerly neighborhood. The Preliminary Plat includes 530 residential lots that can accommodate a variety of housing types such as townhome, duplex; and single family in a mix of alley loaded garages and traditional front loaded garages.

Development Information:

- Preliminary Plat Size: 268.11 acres
 - Future Development Area: 99 acres
- Number of Lots: 530 lots
- Number of Tracts: 60

Compliance with Town of Erie Comprehensive Plan:

The Preliminary Plat application is in general compliance with the Land Use designations on the 2005 Comprehensive Plan, Land Use Plan Map.



Compliance with Town of Erie Zoning Map and Westerly Planned Unit Development (PUD) Overlay District:

The property is zoned NMU – Neighborhood Mixed Use in the northern portion, LR - Low Density Residential in the central portion and AG/OS – Agriculture / Open Space on the south. A PUD – Planned Unit Development overlay is proposed for the property and being reviewed concurrently with this Preliminary Plat application.

The PUD Overlay, that is being reviewed concurrently with the Preliminary Plat is a condition of approval. The PUD must be approved and recorded for the Preliminary Plat to take effect.

When the Rezoning and PUD overlay are recorded, the Preliminary Plat will be in compliance with the zoning requirements.

Housing Diversity:

The Town of Erie has a housing diversity requirement that is based on the acres of residentially zoned property to ensure that as the Town grows, a variation in housing choices are provided. The overall Westerly property has 218 acres zoned LR - Low Density Residential. This quantity of residentially zoned land will require the Westerly developers to provide either:

- 4 housing types, or,
- 3 housing types and 1 housing type variation, or,
- 2 housing types and 2 housing type variations.

Below is a listing of what is considered a housing type and what is considered a housing type variation:

Housing Type	Housing Type Variation
Duplex	Front Loaded
	Alley Loaded
Stacked Tri-plex / Quad-plex	Three Dwelling Units per Building
	Four Dwelling Units per Building
Manor Home	Variation in Building Length 30% or More
	Variation in Building Footprint 30% or More
Townhouse (Single-Family Attached)	Front Loaded
	Alley Loaded
Apartment (Multi-family)	Variation in Building Length 30% or More
	Variation in Building Footprint 30% or More
Live-Work Units	Front Loaded
	Alley Loaded
Single Family Detached	Front Loaded
	Alley Loaded
	Lot Size Under 5,000 Square Feet
	Lot Size 5,000 – 9,999 Square Feet
	Lot Size 10,000 – 39,999 Square Feet
	Lot Size 40,000 Square Feet or More

The Westerly Preliminary Plat will meet the housing diversity requirements by providing the diversity of housing proposed in the PUD that includes:

Housing Types:

- Single Family Detached – Front Loaded
- Duplex
- Townhome
- 1 Housing Type Variations:
 - Single Family Detached - Alley Loaded

Schools:

Westerly is located in the St. Vrain Valley School District. The school district has identified this general area for a future middle school site that would require a land dedication of 25 acres. The applicant and school district have agreed to locate the school on their adjacent Swink property (east of Westerly) which is annexed into the Town.

Parks, Open Space and Trails:

Parks:

The required dedications for public parks and open space dedications are based on the UDC requirements and on the Westerly PUD Zoning Map that identifies the general location of the neighborhood park and open space to be dedicated. This first Preliminary Plat includes 3 pocket parks and a 48.8 acre tract for open space. The development will not be dedicating a community park which has a minimum size requirement of 30 acres and a neighborhood park will be dedicated in future phase of development. A neighborhood park has a minimum size requirement of 7 acres.

The dedication requirements generated by the 530 lots proposed in the Preliminary Plat are:

	Required for 530 residential DU's	Preliminary Plat Proposes
Pocket Park:	0.77 acres	1.52 acres (3 pocket parks)
Neighborhood Park:	4.60 acres	Future Phase on PUD
Community Park:	7.66 acres	Fee
Open Space:	26.04 acres	48.85 acres (Tract BC)

Open Space and Trails Advisory Board (OSTAB):

The Preliminary Plat includes an open space dedication on the south end of the property that will exceed their dedication requirement for this first phase of development.

OSTAB has reviewed the application materials and provided referral comments in the attachments.

As noted in the OSTAB referral there are no Natural Areas Inventory sites within the Preliminary Plat area.

Pedestrian Trails:

The Westerly Preliminary Landscape Plan proposes trails along the arterial streets and internally through their central greenway. A spine trail is provided through the open space on the south edge of the property.

Threatened and Endangered Species:

The Screening Report for Federal-State Listed Threatened and Endangered Species and General Wildlife for Erie Site, Weld County, Colorado dated July 27, 2018 identified protection measures that are focused on raptor nests, migratory birds, and western burrowing owls. The report states that raptor nests are typically active February 15 – July 15 and that during this period, if there is an active nest, that there is a 1/3 mile radius buffer required. Additionally, there is a possibility that migrating birds may be present and their active nesting season is from April 1 – August 31; and, because there are prairie dog burrows on site there is a possibility that the Western Burrowing Owl could be present during their active nesting season of March 15 – October 31.

A condition of approval for the Preliminary Plat includes that the recommendations in the report be followed by the owner/developer of the property to protect the species identified in the report.

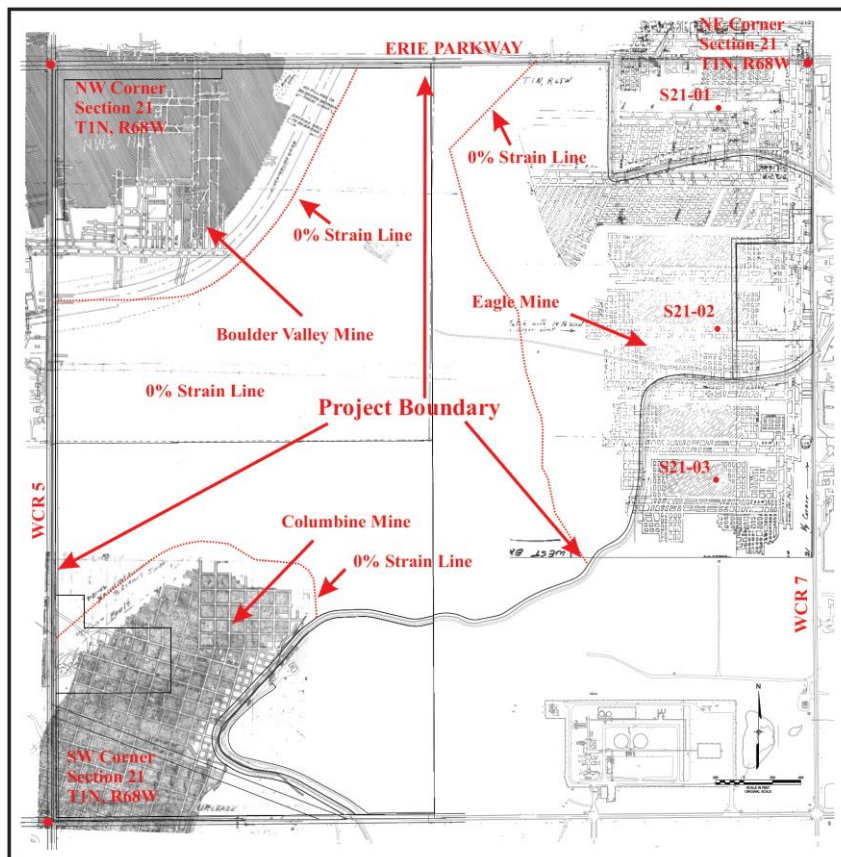
Oil/Gas Facilities:

Oil/ gas wells are not located on the subject property. The applicant materials include documentation that surface rights have been relinquished to the property owner. The oil/gas wells on adjacent properties are located further than 350 feet from development proposed on the Westerly Preliminary Plat which is the UDC 10.6.14. required development setback to existing and future wells.

There is an oil and gas pipeline easement on the east side of the proposed development. The easement has a temporary construction easement that effects some of the lots in that area. Staff is recommending that a Final Plat application not be submitted for those affected lots until the temporary easement is vacated or relinquished.

Geology:

There are two mines located on the Westerly property; they are the Boulder Valley Mine, and the Columbine Mine. The Eagle Mine is located on the adjacent Swink property. The Mine Subsidence report identifies development restrictions for areas that are undermined and within the greater than 0% strain areas; that include:



- Boulder Valley Mine: building sections shall not exceed 154 feet.
- Eagle Mine: building sections shall not exceed 93 feet.
- Columbine Mine, upper seam: building sections shall not exceed 98 feet.
- Structures should be limited to 2 stories and be constructed with wood or metal framing.
- If larger structures are proposed additional drilling and studies will be required.

Staff is recommending that these restricted areas be included in notes on the Final Plat and that the Final Plat be reviewed by Colorado Geological Survey (CGS) for verification that recommendations in the report and from CGS referral comments have been adequately addressed.

Emergency Services:

The Erie Police Department and Mountain View Fire Protection District will provide service to the property.

Roadways and Alleys:

The Transportation Report has been reviewed by the Town and our consultants. All of the streets proposed are public roads. The streets and improvements proposed are in general compliance with the Towns Specifications and Standards.

Proposed alleys will be located in tracts and will be privately owned and maintained by the Metro District.

Utilities:

The Town of Erie will provide both water and wastewater services to the property.

A large detention pond for storm water will be located at the intersection of Erie Parkway and WCR 5 as illustrated in the Preliminary Utility Plan.

Utility service providers for the property are United Power for electric, Xcel Energy for gas, Century Link Communications for telephone services and Comcast for cable television. Utility easements for these providers will be finalized at the time of final plat.

STAFF REVIEW AND ANALYSIS

Staff finds the application, with recommended conditions of approval, to be consistent with the Preliminary Plat approval criteria in Municipal Code, Section 10.7.7.C.10, as outline below:

- a. The subdivision is generally consistent with the Town's Comprehensive Master Plan.
- b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.

Staff has conditioned the approval of the Preliminary Plat on the recordation of the Westerly Rezoning and the Westerly - PUD Overlay District. When the Rezoning and PUD Overlay are approved and recorded, the Preliminary Plat will be consistent with the zoning for the property.

- c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC.
- d. The subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter or this UDC. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.

Staff has conditioned the approval of the Preliminary Plat on the recordation of the Westerly Rezoning and the Westerly - PUD Overlay District. When the Rezoning and PUD Overlay are approved and recorded, the Preliminary Plat will be consistent with the applicable use, development and design standards for the property.

- e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
- f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.
- h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.
- i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
- j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

NEIGHBORHOOD MEETING

As required by the Municipal Code a Neighborhood Meeting was held:

Neighborhood Meeting Date: September 4, 2019

Neighborhood Meeting Location: Erie Community Center

The required posted and mailed notice of the Neighborhood Meeting was provided as required.

PUBLIC NOTICE

Notice of this Public Hearing has been provided as follows:

Published in the Colorado Hometown Weekly:	July 8, 2020
Property Posted:	July 10, 2020
Letters to adjacent property owners within 500':	July 10, 2020