

**Town of Erie
Resolution No. 24-107**

A Resolution of the Town Council of the Town of Erie Adopting Findings of Fact Related to the Denial of the Application for Approval of a Preliminary Plat for Redtail Ranch and Ratifying the Denial

Whereas, on April 15, 2021, Stratus, LLC ("Applicant") filed an application for approval of a Preliminary Plat (the "Application") for the real property generally described as Redtail Ranch and more particularly described in the Application (the "Property");

Whereas, on January 17, 2024, the Planning Commission conducted a properly-noticed public hearing on the Application and recommended the Town Council approve the Preliminary Plat with conditions;

Whereas, on April 23, 2024, the Town Council conducted a properly-noticed public hearing on the Application and denied the Applicant's request to continue the Application to a later date;

Whereas, at the next Town Council meeting on May 14, 2024, the Town Council approved a reconsideration of the Application and thereafter continued the Application to June 25, 2024; and

Whereas, on June 25, 2024, the Town Council conducted a properly-noticed public hearing on the Application and voted to deny the Application for failing to meet the applicable approval criteria in Title 10 of the Erie Municipal Code (the "UDC"), and the Town Council directed the Town Attorney to draft findings of fact for the decision based on the Council's deliberations on the record.

Now Therefore be it Resolved by the Town Council of the Town of Erie, Colorado, that:

Section 1. Findings of Fact. Having reviewed the Application and considered the recommendations of the Planning Commission and Town staff, and having heard comments from Applicant and the public, the Town Council hereby finds and determines as follows:

- a. Section 10-7-2 of the UDC requires that development applications must satisfy all applicable approval criteria, and if any criterion is not met, then the applicable decision-maker must deny the application.
- b. Section 10-7-7(D)(2) of the UDC requires that the Town Council find all of the following approval criteria satisfied to approve a preliminary plat:

1. The subdivision is generally consistent with the Town's Comprehensive Plan.

2. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.

3. 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.

4. 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.

5. 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.

6. 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.

7. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.

8. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

9. 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.

10. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

c. Section 10-1-3 of the UDC establishes the intent for all development in the Town, which in relevant part, includes:

1. Promoting the health, safety, and general welfare of the Town; and
2. Fostering quality, compatible, and efficient relationships among land uses.

d. The underlying zoning district for the Application is Rural Residential. Section 10-2-2(A) of the UDC establishes the intent of all residential zone districts, including Rural Residential, and such intent includes:

1. Providing appropriately located areas for residential development that are substantially consistent with the Town's Comprehensive Plan and with standards for public health, safety, morals, and general welfare;
2. Providing the opportunity to protect sensitive environmental and cultural resources;
3. Ensuring adequate light, air, privacy, and open space for each residential dwelling unit, and protect residents from the potentially harmful effects of excessive noise, glare and light pollution, traffic congestion, and other significant adverse environmental effects;
4. Protecting residential areas from commercial and industrial hazards such as fires, explosions, toxic fumes and substances, natural hazards such as mining subsidence and flooding, and other public safety hazards;
5. Facilitating the provision of services, such as utilities, telecommunications technology, and streets and roads to accommodate planned population densities; and
6. Protecting residential development from neighboring uses that are incompatible with a residential environment.

e. The Application fails to satisfy the following approval criteria:

1. The Application is inconsistent with the Town's Comprehensive Plan, because it encourages development in sensitive and hazard areas. UDC § 10-7-7(D)(2)(a); Town of Erie Comprehensive Plan, 2015 Update, Chapter 6. Specifically, the Application proposes residential development on and adjacent to past and current landfill sites including the site where approximately 1,500 drums containing approximately 84,000 gallons of chemical waste was disposed. Further, during the June 25, 2024 public hearing, the Applicant stated that illegally disposed-of waste remains on the site, and that instead of removing said waste

completely, the Applicant intends to simply cover the waste with dirt and install signage indicating the location is an "Environmentally Sensitive Area".

2. The site contains active oil and gas operations that have been subject to numerous complaints and releases of toluene, methane and other toxic aerosols (together, the "Environmental Hazards"). Further, the site is directly adjacent to oil and gas operations managed by KPK, an operator that has been subject to numerous sanctions, fines, and stop work and cleanup orders issued by the State of Colorado.

3. Portions of the site are subject to such stringent mitigation and maintenance requirements that trees cannot be planted in several locations without violating restrictions applicable to landfills.

4. The Application is inconsistent with the intent of the specific zone district in which it is located, because the Environmental Hazards contaminate soil, pollute the air, and harm human health that will be dangerous and harmful for residents of the proposed residential development. Additionally, the Application creates traffic concerns by creating 524 residential lots primarily taking access from County Road 5, which is currently a congested roadway and without sufficient mitigation measures. Therefore, the Application does not conform to the following intent statements applicable to the Rural Residential District:

- A. Providing appropriately located areas for residential development that are substantially consistent with the Town's Comprehensive Plan and with standards for public health, safety, morals and general welfare;
- B. Protecting sensitive environmental and cultural resources;
- C. Protecting residents from potentially harmful environmental effects;
- D. Protecting residential areas from commercial and industrial hazards such as toxic fumes and substances;
- E. Facilitating the provision of services, such as utilities and streets and roads to accommodate planned population densities; and
- F. Protecting residential development from neighboring uses that are incompatible with a residential environment.

5. The Application does not conform to the Town's standards related to health and safety, and is inconsistent with the general purposes of the UDC, because the Application creates health and safety hazards by proposing residential development on and adjacent to the Environmental Hazards. UDC §§ 10-1-3; 10-7-7(D)(2)(c).

6. The Application will result in significant adverse impacts on the natural environment that will not be substantially mitigated, because the site proposes a residential development that would result in many future residents living adjacent to and on the Environmental Hazards. UDC § 10-7-7(D)(2)(f).

5. The Application will result in significant adverse impacts on adjacent properties, because the proposed subdivision would substantially increase traffic on County Road 5 without proposing adequate mitigation measures. UDC § 10-7-7(D)(2)(h).

Section 2. Decision. Based on the foregoing Findings of Fact, the Town Council hereby ratifies its decision to deny the Application.

Adopted this 9th day of July, 2024.

Justin Brooks, Mayor

Attest:

Debbie Stamp, Town Clerk