



# City of Louisville

Louisville City Hall 749 Main Street Louisville, Colorado 80027 (303) 666-6565

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## Planning Department

September 18, 2008

Mr. Everett Wiehe  
8654 Hollyhock Lane  
Lafayette, Colorado 80026-8924

Re: Preliminary Review - Park Villas – Case # 08-004-PS-PP (Revised Submittal Received August 14, 2008).

Dear Mr. Wiehe,

The current Park Villas application for a Preliminary Subdivision Plat and PUD Development Plan was submitted on August 14, 2008 and referred out for comment. Following are City staff comments on the above referenced project:

### **City Attorney:**

**Access and Utility Easement:** There is insufficient evidence being presented that indicates the area being shown on your plat sheet as an “Ex. 15’ access & utility esmt.” (sheet 2 of 2) is dedicated or otherwise specifically available for the uses intended in your development. The 15 feet easement at issue was specifically dedicated on the Cottonwood Manor Subdivision Plat (Planfile P-4, F-2, No.34) as a “surface easement for ingress and egress to park land”. This plan proposes to use this easement for underground utilities, a vertical curb, a retaining wall, and fire access, with associated grading and trenching during construction. The phrase “to the use of the public forever” on the Cottonwood plat refers to streets and public areas intended to be owned in fee title by the City (See C.R.S. 31-12-107, stating places described as for public use on a plat are public property and fee titled thereto is vested in the city or town.) Further, the specific notation adjacent to this easement, designating it as a “surface easement for ingress and egress to park land” would seem to control over the general language in the dedication statement that dedicates “easements on the accompanying plat as easements for the installation and maintenance of public utilities.” The applicant is responsible for securing and, where applicable, conveying or dedicating to the City, all on- and off-site easements and rights-of-way required for public utilities or other purposes of the development. Therefore, applicant should response with further evidence and/or analysis demonstrating the ability to use this easement for the proposed uses. If there is any additional information surrounding the Cottonwood Manor platting that is related to this issue, that information will also need to be reviewed.

**Building Safety Division:** No comments or conflicts raised. However, it should be noted again that the Building Division will be requiring a minimum building separation of ten (10) feet.

Retaining walls greater than 30” will require the installation of a safety barrier. Retaining walls 48” and greater in height will require stamped engineered drawings prior to construction.

**Cottonwood Creek Condominiums Homeowners Association:** Comments received reflect opposition to the proposed development. Opposition is based upon concerns regarding; 1) inadequate storm facilities, 2) further erosion on the southern portion of the ditch from the proposed development, 3) location and function of the detention pond, 4) traffic congestion and insufficient circulation, 5) the use of the ingress and egress easement for emergency access – retaining wall, maintenance responsibilities and costs, 6) the buried rip rap design and potential impacts on their property.

A fourth set of referral comments were received dated September 4, 2008. Please see attached and respond in kind to each issue stated.

**Parks and Recreation:** See attached Parks and Recreation comments dated September 5, 2008. The Parks and Recreation Department have identified areas of inconsistency between the PUD and the subdivision plat.

**Open Space Advisory Board:** No comments or conflicts raised.

**Public Safety:** No additional comments received from the Department of Public Safety.

**Qwest:** No comments or conflicts raised.

**Fire Marshall:**

The following referral comment was transmitted by staff’s **July 18, 2008** referral letter: “Fire Marshall (LFPD) has stated that the proposed 15’ emergency access provided on the southeast corner of this project is insufficient for emergency vehicle purposes. He has stated that the minimum width needed for the easement is 18’ (established in the Louisville Municipal Code (LMC) as 20’). The Fire Marshall has also stated that the turning radius from the project to the access easement is too tight for their turning requirements and the use of grass-crete is unsatisfactory for the use as a drive surface. Because this project does not have an acceptable secondary access, approved by the Fire Marshall, staff will not support further processing of the proposed preliminary plan and plat”.

Current comments reflect that the position of the Fire Marshall (LFPD) was modified to reflect that the required emergency access must retain 15’ of unobstructed right-of-way. According to the “Fire Access Detail” plan sheet in your submittal, it is evident that the inclusion of the retaining wall on the south side of the emergency access is encroaching within the 15’ easement and will not provide 15’ of unobstructed access. To be able to achieve the 15’ unobstructed easement, based on your design, you would need to acquire more right-of way from the property owner.

Please refer to the City Attorney’s comment regarding the request of evidence that this “surface easement for ingress and egress to park land” can be used for emergency access.

As the 2003 International Fire Code has been adopted by the City of Louisville, the City does have the authority in the Louisville Municipal Code to enforce the provisions of the Fire Code. While it is typically the practice of staff to forward the recommendation of the Fire Marshall within the development review process to the applicant as stated, that does not limit staff's ability to modify such recommendation if necessary to protect or implement an interest of the City. Apart from the jurisdictional comment concerning the easement as noted above, the width of the existing easement may be insufficient to meet the minimum design requirements as required for the easement to function properly as a utility easement. Also, Section 15.12.120(F), of the Louisville Municipal Code (LMC), "No emergency fire lane shall exceed 300 feet in length." The proposed length of the easement is 350', exceeding the maximum length of 300'. Please also refer to Section 15.12.070. Section 503.2.3 amended-surface "The grade of the fire apparatus access road shall not exceed seven percent." According to the Fire Access Detail sheet (sheet 13 of 15) there are areas being shown in excess of eight percent grade. While the Fire District may agree to modify their minimum requirements, that action does not mandate that the City accept such a position if that position compromises another interest of the City or another interested party.

As the Fire District will not maintain the required secondary access, maintenance of that easement will need to be conveyed to a responsible party. Staff would not support designating the underlying property owner as the responsible party as that would pass on an additional expense and liability to the Cottonwood HOA. If either the Park Villas HOA or the City assumes maintenance responsibility either party will be required to maintain the easement to the standards of the Fire District, which would require that the entire width of the easement be plowed in the winter. The Fire District is requiring 15' unobstructed width. This would require the responsible party to transport the snow to a snow storage area outside the easement as there is insufficient room to push the snow off the road surface. Cottonwood HOA land may not be used for snow storage, without the consent of the owner.

The documents do not demonstrate; 1) how the hard surface fire access lane will be constructed without a temporary access easement, 2) the responsible party for maintenance, or 3) underlying property owner approval for snow storage. As the subdivider, it is incumbent on you to secure approval of the underlying property owners for additional land to add width to the existing easement. To construct an access easement that exceeds the maximum design requirements of the 2003 International Fire Code places a greater maintenance burden on the responsible party.

**Goodhue Ditch Company:** The Goodhue Ditch Company would like to have a maintenance agreement developed for that part of the project area within the Ditch Company right-of-way before Final Plat.

**Public Works:** Comments from the Engineering Division will be forwarded as soon as they are available.

**Planning Department:**  
Preliminary Subdivision Plat

- a. Please refer to the City Attorney’s statement regarding the proposed fire access. There is no evidence provided that there is a legal right for the proposed development to use this easement as a secondary fire access. Without a clear definition of use or secured right, there is not a secondary fire access for this development.
- b. Reference is made to an existing 15’ access and utility easement on the property to the east (Planfile P-2, F-3, No.34). According to the planfile being referenced, this easement is specifically dedicated on the Cottonwood Manor Subdivision Plat as a “surface easement for ingress and egress to park land”. Please modify the dedication language to reflect its current description as a ‘surface easement’.
- c. The plat does not indicate the status of the easement with respect to ownership, and / or maintenance. It is apparent that the ownership would remain with the Cottonwood HOA, but it is not clear who would be the responsible entity for maintenance.
- d. There is not an easement established for the proposed detention pond or direction assigning maintenance responsibility for the pond.
- e. The 8’ utility easement shown on the plat overlaps the existing ditch easement. The drainage plan also reflects improvements within the ditch easement related to grading and buried rip-rap. Staff has not received written confirmation from the Ditch Company that it is in agreement with such easement encroachments.
- f. As raised by staff in its April 17, 2008 referral letter, the floodplain comment has not been addressed by this most recent submittal. While staff acknowledges that the development parcel is not within the 100 year flood regulatory district, it would point out that the limits of the 100 year A Zone is located immediately downstream of the project. Section 17.56.160 of the code states, ‘that the cumulative effect of any proposed development, when combined with all other existing anticipated development shall not increase the water surface elevation of the base flood more than one foot at any point’. Staff would request a hydraulic analysis to verify that the above stated criteria will not be exceeded.
- g. The definition and allocation of public land dedication is not consistent with the public use dedication requirements of Section 16.16.060 of the Louisville Municipal Code. Based upon the comments of the Parks and Recreation Department the City will not accept that portion of Outlot C around the detention pond inclusive of the access and utility easement. The City will accept Outlot C as a 25’ corridor adjacent to and parallel with the south property line. That portion of Outlot C which is encumbered by the access and utility easement may not be represented as ‘unencumbered land’. Similarly, that portion of Outlot B which is encumbered by a proposed 8’ wide utility easement may not be counted as ‘unencumbered’ land. The consequence of these comments is that the amount of unencumbered public use dedication falls below the required 15%.
- h. The proposed plat proposes to place a 4,400 square foot off-site encumbrance on existing dedicated park land as there is not sufficient room on-site given the proposed density. Staff does not support an encumbrance of existing park land.

Preliminary PUD Development Plan

The following comments concern the PUD documents:

General:

- a. In the “Unit Coverage Schedule”, the front and rear yard setbacks should be measured from the right of way being designed for access in this development. Setbacks should be based upon building separation from the adjacent access easement. The Schedule contemplates 200’ to 400’ setbacks which are based upon the distance to South Boulder Road. How does this application become a measure of street presentation and the location of building bulk and massing adjacent to the street?
- b. There are several locations on the development where the proposed patio areas extend into the proposed 8’ utility easement. There should not be any encroachment into the proposed 8’ utility easement.
- c. Who owns and maintains the area between the homes and the ditch?
- d. There appears be a number of encumbrances in Outlot C. Please recalculate the Outlot/Open Space Summary to determine the percentage of encumbered vs. unencumbered public land.
- e. The hatch marks for the “encumbered dedicated land” and the “encumbered open space” are the same on both the legend and the PUD. Please modify.
- f. There does not appear to be a construction easement proposed for the fire access nor any snow storage. The snow storage should be shown on the PUD and the construction easement should be shown on the Plat. Both of these will require written approval from the Cottonwood Creek Condominiums HOA.

Project Layout and Building Design:

- a. Building 2 is located approximately 7 feet from the interior drive. This is an insufficient setback for the use of the proposed driveway. If any of the owners have to pull there vehicles out of their garage for any reason, they would be obstructing right of way. Staff recommends that this building be reconfigured to permit room for a vehicle to be adequately parked on a driveway.
- b. The patios for Units 42 –C and 43-B are shown on the ditch slope – please revise.

The primary issue of the submittal remains to be the secondary fire access. Staff has provided evidence the proposed easement, as designed, does not comply with the Fire Marshals requirement of 15’ unobstructed access, nor does it comply with Section 15.12.120(F), of the Louisville Municipal Code (LMC), “No emergency fire lane shall exceed 300 feet in length” nor Section 15.12.070.Section 503.2.3 amended-surface “The grade of the fire apparatus access road shall not exceed seven percent.” The City Attorney has stated “There is insufficient evidence being presented that indicates the area being shown on your plat sheet as an ‘Ex. 15’ access & utility esmt.’ (sheet 2 of 2) is dedicated or otherwise specifically available for the uses intended in your development. The 15 feet easement at issue was specifically dedicated on the Cottonwood Manor Subdivision Plat (Planfile P-4, F-2, No.34) as a ‘surface easement for ingress and egress to park land’” (please refer to the City Attorney’s comments).

The above referral comments raise a number of outstanding issues related to the adequacy of information provided, the assumptions used in the layout of the site plan, and the consequences of those assumptions as related to impacts on existing and future residents residing in the development and in the surrounding area. Based upon scope and extent of comments as noted

above, the determination of the Planning Department is that the preliminary documents do not comply with minimum established requirements for emergency access.

The documents lack clarification as to how the public use dedication is being met, and fail to demonstrate compliance with the zoning requirements of the RM zone district as well as the PUD development standards and criteria as set for in Title 17 of the Louisville Municipal Code. Based upon the non-compliance with adopted fire codes, the position of the Planning Department is that it is premature to establish notice for a public hearing before the Planning Commission until the issue of secondary access is resolved. If you disagree with the position of staff on this matter and would desire to move forward to the Planning Commission, staff would then establish notice for the next regularly scheduled meeting on November 13, 2008. It would be the position of staff that if your application does move forward without resolution regarding the designation of the easement for secondary emergency access, the application will move forward with a staff recommendation of disapproval.

Please let me know if I can be of any assistance in answering questions or clarifying any of these comments. I can be reached at (303) 335-4591 or by e-mail at [mccarts@ci.louisville.co.us](mailto:mccarts@ci.louisville.co.us).

Respectfully,

Sean McCartney  
Principal Planner

Cc: Malcolm Fleming, City Manager  
Paul Wood, Planning Director  
Tom Phare, Public Works Director  
Kathy Kron, Parks and Recreation  
Joe Stevens, Parks and Recreation Director  
Bruce Goodman, Chief of Police  
Rich Koopmann, Goodhue Ditch & Reservoir Company  
Bill Dhieux, Louisville Fire Protection District  
Tim Parker, Chief Louisville Fire Protection District  
Mike Jones, Chief Building Official