

Planning Division  
15151 E. Alameda Parkway, Ste. 2300  
Aurora, Colorado 80012  
303.739.7250



April 11, 2017

Craig Romary  
Romary Architects  
3622 Zuni Place, Ste B  
Sedalia, CO 80135

**Re: Second Submission Review – Sterling Ridge – Site Plan and Replat**  
Application Number: **DA-1052-23**  
Case Number: **2016-4018-00; 2016-3056-00**

Dear Mr. Romary:

Thank you for your second submission, which we started to process on Friday, March 10, 2017. We reviewed it and attached our comments along with this cover letter. The first section of our review highlights our major comments. The following sections contain more specific comments, including those received from other city departments and community members.

Since several important issues still remain, you will need to make another submission. Please revise your previous work and send us a new submission on or before Friday, April 21, 2017.

This revision letter discusses the following plan sets: Site Plan, Subdivision Replat, and Architectural Elevations.

All our comments are numbered. When you resubmit, include a cover letter that responds to each item. The Planning Department reserves the right to reject any resubmissions that fail to address these items. If you have made additional changes to your documents other than those requested, be sure to list them in your letter.

Your estimated Planning Commission hearing date is tentatively set for Wednesday, May 10, 2017. Please remember that all abutter notices for public hearings must be sent and the site notices must be posted at least 10 days prior to the hearing date. These notifications are your responsibility and the lack of proper notification will cause the public hearing date to be postponed. It is important that you obtain an updated list of adjacent property owners from the county before the notices are sent out.

Please give me a call if you have any comments or concerns. I can be reached at (303) 739-7220.

Sincerely,

Jonathan Woodward, Planner II  
City of Aurora Planning Department

Attached: Rock Ridge HOA Letter

cc: Karen Henry – Henry Design Group 1501 Wazee St, Suite 1-C Denver CO 80202  
Mary Avgerinos, Neighborhood Liaison  
Mark Geyer, ODA  
Filed: K:\SDA\1000-1099\1052-23rev2.rtf



## *Second Submission Review*

### **SUMMARY OF KEY COMMENTS FROM ALL DEPARTMENTS**

- Rock Ridge HOA provided a letter from attorney
- Masonry table needs to be included
- Provide CAD or SHP file (Addressing)
- Additional street lights needed (Civil Engineering)
- Label fire lane, public access and utility easement (Life Safety)
- Correct the Filing Number (Real Property)
- Remove portion of Building 10 and 14 located in easement (Real Property)
- Proceed with Licensing Agreements (Real Property)
- Add pedestrian crossing signage (Traffic)
- Show water meters to scale on plans (Aurora Water)

### **PLANNING DEPARTMENT COMMENTS**

Reviewed by Jonathan Woodward / [jwoodwar@auroragov.org](mailto:jwoodwar@auroragov.org) / 303-739-7220 / PDF comments in purple.

#### **1. Community Questions Comments and Concerns**

1A. Rock Ridge HOA provided a letter from their attorney HaynesBoone which states their opposition to the project. **See Attached Letter.**

#### **2. Completeness and Clarity of the Application**

2A. Site Plan: Text is not legible on Site Data Table.

2B. Please include calculations for building materials that demonstrate the Residential Design Standards (Section 146-1302 Table 13.1 and 13.2).

2C. Masonry table is missing from the Site Plan and Elevations Plans. Please include this. For the townhomes, see Table 13.4 for Masonry Standards.

2D. Elevations Submittal: The Trellis & Post (#7) are not shown on the majority of the sheets. Please call out this information on the elevations.

#### **3. Landscape Design Issues**

Reviewed by Chad Giron / [cgiron@auroragov.org](mailto:cgiron@auroragov.org) / (303) 739-7185 / PDF comments in Teal.

##### **3A. Sheet LP-1**

- Modify the table numbers and notes as described.
- Match the Property Boundary line in the legend to match the plan.
- Add “Not For Construction” to all Landscape Plan sheets.

##### **3B. Sheet LP-5**

- Add labels for the wall and pedestrian lights in the Plan Enlargement.

#### **4. Architectural and Urban Design Issues: Elevations Sheets**

4A. Elevations Submittal: The right and left side elevations of the duplex and a number of the triplexes contain sparse architectural detail on the garage wall and garage elevations. Consider adding ribbon windows to enhance these elevations. This feature would also provide more natural light for the residents.

4B. Consider adding ribbon windows to some of the identified redlined elevations.

4C. Provide fourth light sconce for garage doors. The interior corner is missing the sconce.

4D. The triplexes are still dominated on the front by garage doors. Add enhanced exterior treatment to the garage doors or a high quality door with some contemporary design elements.



## REFERRAL COMMENTS FROM OTHER DEPARTMENTS AND AGENCIES

### **5. Addressing**

Reviewed by Cathryn Day, Planner II/GIS Addresser / [cday@auroragov.org](mailto:cday@auroragov.org) / 303-739-7357

5A. Please provide the city with an acceptable a cad.dwg or ARCMAP .SHP file in NAD83(feet) Stateplane, Central Colorado projection showing, streets, boundaries and building footprints.

### **6. Civil Engineering**

Reviewed by Kristin Tanabe / [ktanabe@auroragov.org](mailto:ktanabe@auroragov.org) / 303-739-7306 / PDF comments in green.

6A. Sheet C2.0: Cite COA standard details.

6B. Page 4:

- Sheet Number should match sheet index.
- Add a street light.
- Per details on Sheet C3.0, the grid will extend into the Public ROW. A different wall product will be required.
- Overflow will not flow into the swale. Address this issue in the construction plans.

6C. Page 5:

- Page number does not match sheet index.
- Provide additional street light.
- Show street lights per photometric plan.

### **7. Life Safety**

Reviewed by Neil Wiegert / [nwiegert@auroragov.org](mailto:nwiegert@auroragov.org) / 303-739-7613 / PDF comments in blue.

7A. Sheet C1.0:

- Please add the requested notes on cover sheet.
- Data table should reflect 2015 IBC.

7B. Sheet C2.0:

- Revise this table to reflect only the requirements for the proposed 74 units.
- Label as 26' Fire Lane, Public Access and Utility Easement.
- Typical – Identify all gray-toned units as Ranch-style "Type A" units. Clarify if this is not the intent.
- Accessibility Points Required: this must be legible.
- Identify whether the clubhouse is the leasing office or the clubhouse.
- Accessible exterior routes shall interconnect the public sidewalks with all common site elements, accessible parking spaces, extend accessible route of travel. Provide an accessory ramp in areas where accessible route crosses a vertical curb at accessible parking spaces.

7C. Sheet C3.0: See signage notes.

7D. Sheet LP-7: Include note on the monument sign that address characters must be a minimum of eight inches.

7E. Sheet E1:

- Delete Note Number 7.
- Show accessible route using solid dashed-delineated lines. Maintain minimum 1 foot candle at walking surface.
- Light fixtures are not permitted to encroach in to the width of the Fire Lane easement.

### **Subdivision Replat**

7F. Page 2:

- Label as "26' FIRE LANE, PUBLIC ACCESS AND UTILITY EASEMENT".
- Please represent the easements similar to the other fire lane easements on the plat and not as a gray tone.
- Show pocket utility easement for fire hydrant shown here on the Site Plan.



## **8. Real Property**

Reviewed by Darren Akrie and Ronald Mesick / [dakrie@auroragov.org](mailto:dakrie@auroragov.org) and [rmesick@auroragov.org](mailto:rmesick@auroragov.org) / 303-326-8009 / PDF comments in Magenta.

8A. Cover Sheet: Correct Legal Description and Filing Number (Change Filing Number on subsequent sheets.)

8B. Sheet C2.0:

- A portion of Building 10 and 14 are located in an easement. Please remove structure out of the easement.
- Proceed with obtaining license agreements from Real Property for the retaining walls.
- Correction to the lengths
- Correct the labeling of the easements.

8C. Page 4:

- Proceed with obtaining license agreements from Real Property for the retaining walls.
- Correct the labeling of the easements.
- Move label for utility easement to make easier to read

8D. Page 5:

- Easement labels are missing.
- Proceed with obtaining license agreements from Real Property for the retaining walls.
- Correct the Filing Number.
- No portion of a structure can be in an easement or right-of-way but some types of encroachments are allowed by obtaining a License from Real Property. Please discuss with Real Property.

## **Subdivision Replat**

8E. Sheet 1:

- Correct the Filing Number.
- Please see other requested corrections.

8F. Sheet 2:

- Show the Record measurements along the boundary of the Plat, if different from the as-measured ones
- Do not show street names, if streets will be private (owned by someone other than the City).
- Label as "26' fire lane, public access and utility easement.
- Show on all sides of the new plat adjoining or departing lot lines; size and type of abutting or departing easements (City owned or private)
- Show S1/4 of sec 27 called out in legal description and modify illustration to show section corners used, and need monument record for S ¼
- Need 10 UE easement dedicated.
- See other notes regarding northwest corner, which should not be part of the easement.

## **9. Traffic Engineering**

Reviewed by Victor Rachael / [vrachael@auroragov.org](mailto:vrachael@auroragov.org) / 303-739-7309 / PDF comments in Gold.

9A. Sheet C2.0: PREVIOUS COMMENT: Add pedestrian crossing signage.

## **10. Aurora Water**

Reviewed by Steve Dekoski / [sdekoski@auroragov.org](mailto:sdekoski@auroragov.org) / 303-739-7490 / PDF comments in Red.

10A. Sheet C2.0 Clubhouse will require a fixture unit table to determine the water meter size.

10B. Page 4: License agreements will be required for private driveways and landscaping features located within the U.E. (typ)

10C. Page 4: There is a conflict with MH and curb. MH's may not be located within curb and gutter or drain pans.

10D. Page 4: Show water meters to scale on plans. Water meters are required to be 2' from any concrete. Appears there may be a conflict with proposed inlet, and driveways.(typ)



- 10E. Page 4: Sewer services can't be located under driveways. If there is no alternative, then all sewer services under driveways are required to be sleeved.(typ)
- 10F. Page 5: Try to straighten out this main line and use a cross at the intersection. A bend to hydrant lateral could be added.
- 10G. Page 5: Fix this angle on sanitary main.
- 10H. Page 5: All storm water lines are to be labeled as private.
- 10I. Page 5: Show location of irrigation meter, and easement (if needed) for this site.
- 10J. Page 5: No trees are to be planted within Utility Easements.

**John D. Fognani**  
Direct Tel: 303 382 6207  
Fax: 303 382 6210  
*john.fognani@haynesboone.com*

March 29, 2017

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Planning Department Case Manager  
Planning & Development Services  
Planning Division  
City of Aurora Colorado  
15151 E. Alameda Parkway, Ste. 2300  
Aurora, Colorado 80012

**RE: *Reply Letter in Response to Shari Baker Letter of February 24, 2017 and in Opposition to Development Application DA-1052-23 - Sterling Ridge Site Plan Replat***

Mr. Woodward:

The homeowners of Rock Ridge Condominiums ("Rock Ridge"), by and through their representative Rock Ridge Condominium Association, Inc. (the "Rock Ridge HOA" or "HOA") and the undersigned legal counsel for the HOA, respectfully provide this letter to the Department of Planning & Development Services of the City of Aurora. Through and with this letter, the Rock Ridge HOA reiterates its opposition to Development Application DA-1052-23, the Sterling Ridge Site Plan Replat (the "Development Application"), as stated in the HOA's January 20, 2017 letter. This letter further responds to the Department and addresses Shari Baker's letter of February 24, 2017, which we only recently received.

Interestingly enough, Ms. Baker never actually identifies in her letter precisely who she represented as counsel. Instead, she merely states that she "represented the developer entities". Additionally when Ms. Baker makes reference to "the bizarre and legally unsupportable claim of entitlement to ownership of any portion of the Sterling Hills property" it clearly indicates that she is wholly unfamiliar with prior arbitration orders that contradict her statement.

#### **Background**

By letter of January 20, 2017, the Rock Ridge HOA formally lodged its opposition to the Development Application, which letter is incorporated herein by reference. Thereafter, Kelly Begg responded through his counsel, Shari Baker, by letter of February 24, 2017. Counsel for the Rock Ridge HOA did not receive a copy of Ms. Baker's letter until March 20, 2017 and now responds to that letter.

**Haynes and Boone, LLP**  
**Attorneys and Counselors**  
1801 Broadway Street, Suite 800  
Denver, Colorado 80202  
Phone: 303.382.6200  
Fax: 303.382.6210

Jonathan Woodward  
Planning & Development Services  
City of Aurora Colorado  
March 29, 2017

The Rock Ridge HOA has requested that the Development Application be denied based on the prior development history and performance of the applicant and/or related entities or individuals. Planning & Development Services has the authority to deny the application pursuant to Aurora Municipal Code, Ch. 146-406(F)(11) ("The city council and the planning commission are authorized to consider the past performance of an applicant in their consideration of any site plan. The planning commission or city council may deny any approval of a site plan if the applicant or developer thereof is determined to be in violation of *any* requirements, conditions or representations on a prior development.")

### Argument

Based on a review of Ms. Baker's brief letter, Mr. Begg's development application must be denied because (i) although admitted by Ms. Baker's letter, Mr. Begg's affiliation with Rock Ridge and Sterling Hills Condominiums ("Sterling Hills") has not previously been publicly disclosed; (ii) Mr. Begg was undeniably, intimately involved with the development of the Rock Ridge and Sterling Hills projects; (iii) Mr. Begg and/or his related entities directed the improper transfer of Sterling Hills Filing No. 12 (which properly belongs to Rock Ridge); and (iv) without evidence to the contrary, the misconduct during and after the development of Rock Ridge by its developer and sponsors is fairly attributable to Mr. Begg.

#### **I. Kelly Begg's Relationship with Rock Ridge and Sterling Hills was not Previously, Publicly Disclosed in the Development Application**

Ms. Baker's letter clearly confirms that Mr. Begg was affiliated with the Rock Ridge and Sterling Hills projects. However, prior to Ms. Baker's admissions in the February 24, 2017 letter, it appears that no single document filed in the publicly available Development Application records have identified Mr. Begg's affiliation with the Rock Ridge or Sterling Hills projects. The *Sterling Ridge – Letter of Introduction*, submitted by The Henry Design Group with the initial submission documents on December 22, 2016, lists Sterling Ridge, LLLP as the applicant and owner. In support of the Development Application this same letter expressly states that:

Sterling Ridge, LLLP has not developed anything in this area. However, some members of the ownership have been members of other partnerships which have developed several neighborhoods throughout the metropolitan area. Their performance is evidenced by the high quality of this proposed neighborhood.

The *Sterling Ridge – Letter of Introduction* does not disclose which developments in the "metropolitan area" members of Sterling Ridge, LLLP have developed. Undoubtedly, prior developments should be the standard by which the applicant's past performance is measured, not the developer's own claim that its neighborhood will be of a high quality. Rock Ridge and Sterling Hills, which projects are both adjacent to the proposed project, are the standard by which this applicant's development performance should be measured. By that standard, the



Jonathan Woodward  
Planning & Development Services  
City of Aurora Colorado  
March 29, 2017

applicant has fared poorly. The conduct imputed to Mr. Begg, as outlined in the January 20, 2017 letter includes failing to complete projects without significant construction defects, failing to pass title or clear title to purchasers as and when promised or required and otherwise undertaking conduct with no rational purpose other than to harm the homeowners to whom it/he previously sold condominium units.

If the members of Sterling Ridge, LLLP believed that disclosure of their involvement with prior developments would assist in approval of the Development Application, such disclosure presumably would have been made early on in the application process—not after the Development Application was challenged by a neighboring community. The Rock Ridge HOA respectfully requests that Planning & Development Services fully investigate why Mr. Begg's affiliation with the Rock Ridge and Sterling Hills projects was not previously disclosed.

## **II. Kelly Begg was Intimately Associated with the Rock Ridge and Sterling Hills Projects**

Not only does it appear that Mr. Begg's prior development history has been intentionally obscured, Ms. Baker's letter attempts to obfuscate Mr. Begg's prior involvement with development of Rock Ridge and Sterling Hills. It cannot be denied that Mr. Begg was the sponsor and developer of those projects and/or so intimately related to the sponsor and developer as to be fairly characterized as a controlling person. Ms. Baker asserts that Mr. Begg had no ownership interest in or control over any entities involved in the development of these projects. Ms. Baker further asserts that Mr. Begg was merely an employee of the various entities involved in these projects. However, to state that Mr. Begg had such a de minimis role is belied by the facts.

Notably, Ms. Baker has provided no documentation to support her contentions that Mr. Begg was nothing more than an employee of the various entities that developed Rock Ridge and Sterling Hills. Without something more than Ms. Baker's bare assertions that Mr. Begg was not directing the development of these projects, denial of the Development Application is appropriate.

## **III. Kelly Begg Transferred Title to Sterling Hills Filing No. 12 (Rock Ridge's Land) to the Sterling Hills Condominium Association**

Ms. Baker misunderstands the allegations lodged against Mr. Begg with respect to the improper transfer of title to Sterling Hills Filing No. 12 in 2009. Sterling Hills Filing No. 12 plats the property underlying Rock Ridge. The developer of Rock Ridge never issued partial releases to Sterling Hills Filing No. 12 to the Rock Ridge homeowners. In fact, it was not until 2009 that the Rock Ridge HOA entered into the Mutual Release and Settlement Agreement with the developer of Rock Ridge, Norstar Residential, LLLP and Sterling Hills Condominium Association, Inc. January 20, 2017 Letter, Ex. 24. Mr. Begg executed the Mutual Release and



Jonathan Woodward  
Planning & Development Services  
City of Aurora Colorado  
March 29, 2017

Settlement Agreement on behalf of Norstar Residential, LLLP, as the President of Norstar, Inc., its general partner, and Sterling Hills Condominium Association, Inc. as its President. Ms. Baker has provided no evidence that Mr. Begg was not in control of the entities responsible for the development of Rock Ridge. Instead, Ms. Baker asserts that she is offended by the “legally unsupportable claim of entitlement to ownership of any portion of the Sterling Hills property....” Ms. Baker apparently does not understand that Sterling Hills Filing No. 12 is the Rock Ridge HOA’s property.

As part of that Mutual Release and Settlement Agreement, a 50% interest in only the shared recreation facilities was to be reserved to Sterling Hills. However, Mr. Begg later transferred 50% of the entire parcel encompassing Sterling Hills Filing No. 12 (the land under the Rock Ridge condominiums) to Sterling Hills Condominium Association, Inc. Simply put, Rock Ridge claims an interest in Sterling Hills Filing No. 12, not the property underlying the Sterling Hills Condominiums. Mr. Begg was intimately involved with both developments and knew that such a transfer was not the intent of the Mutual Release and Settlement Agreement. Apparently, Ms. Baker is confused—Rock Ridge is entitled to the property that Mr. Begg intentionally and improperly transferred to Sterling Hills in 2009. Furthermore, Ms. Baker has not offered a rational reason to support the 2009 transfer.

#### IV. The Developer’s Misconduct Before and After Development of Rock Ridge and Sterling Hills is Fairly Attributable to Mr. Begg

Rock Ridge and Sterling Hills were developed by various corporate entities which acted through their authorized representatives—Mr. Begg held himself out as the authorized representative of many of those entities. By way of example, Mr. Begg signed the development application for Sterling Hills as the Vice President of its corporate manager, DA-1052-10, and was listed as the primary contact for the applicant. *January 20, 2017 Letter – Ex. 3.* The site plan for Sterling Hills Filing No. 11, Sterling Hills, was executed by Gary Begg, who on information and belief is Kelly Begg’s father. *January 20, 2017 Letter – Ex. 4.* Kelly Begg executed the condominium declarations for Sterling Hills on behalf of the developer of that entity. *January 20, 2017 Letter – Ex. 5.* Kelly Begg executed the development application for Rock Ridge as the Vice President of its corporate manager, DA-1052-10, and was listed as the primary contact for the applicant. *January 20, 2017 Letter – Ex. 7.* The site plan for Sterling Hills Filing No. 12, Rock Ridge, was executed by Gary Begg, who, again, on information and belief is Kelly Begg’s father. *January 20, 2017 Letter – Ex. 8.* When the developer of Rock Ridge made a minor application amendment, Case No. 2001-4005-03, such application was executed by Kelly Begg as the Vice President of its manager. *January 20, 2017 Letter – Ex. 9.* Kelly Begg signed the Rock Ridge condominium declarations on behalf of the declarant. *January 20, 2017 Letter – Ex. 10.* Kelly Begg executed the Mutual Release and Settlement Agreement, settling certain claims with Rock Ridge, on behalf of a developer related entity and as the President of its general partner. *January 20, 2017 Letter – Ex. 24.*

Jonathan Woodward  
Planning & Development Services  
City of Aurora Colorado  
March 29, 2017

This is just a short list of the publicly available records related to the Rock Ridge and Sterling Hills developments which show Kelly Begg acted as an officer of various entities involved in the development of these projects. As an officer of numerous entities related to the development of Rock Ridge and Sterling Hills, these projects are fairly attributable to Kelly Begg, Ms. Baker's contentions to the contrary notwithstanding.

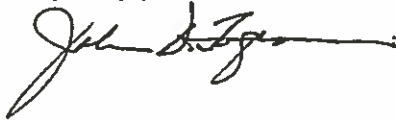
Conclusion

Planning & Development Services should take into account the prior development history of the applicant including Rock Ridge and Sterling Hills. Mr. Begg was so intimately involved with the Rock Ridge and Sterling Hills projects that imputation of the misconduct outlined in the January 20, 2017 letter to Mr. Begg is appropriate. Ms. Baker has not offered any evidence or information to disprove the allegations that Mr. Begg owned or was in control of the entities that sponsored or developed Rock Ridge or Sterling Hills. Furthermore, it appears that Mr. Begg's affiliation with Rock Ridge and Sterling Hills may have been intentionally concealed to prevent Planning & Development Services from exploring the applicant's past development activities. The Rock Ridge HOA requests that Planning & Development Services further investigate why Mr. Begg's affiliation with Rock Ridge and Sterling Hills was not previously disclosed.

Ms. Baker's letter also does not address a single concern with respect to the actual site plan raised by the Rock Ridge HOA included at pages 15-20 of the January 20, 2017 letter.

Further and finally, the Rock Ridge HOA requests that, for the reasons stated in the January 20, 2017 letter and herein, Planning & Development Services deny Mr. Begg and Sterling Ridge, LLLP's Development Application.

Very truly yours,



John D. Fognani  
Partner

cc: C.J. Matthews, President of Rock Ridge Condominium Association, Inc.  
Cole Hansen, Vice President of Rock Ridge Condominium Association, Inc.  
Andrew Gillespie, Esq., Haynes and Boone, LLP  
Hon. Steve Hogan, Mayor, City of Aurora  
Members of the Aurora City Council  
Michael J. Hyman, City Attorney, City of Aurora  
Dan Money, Assistant City Attorney, City of Aurora  
George Adams, Department Director, City of Aurora, Planning Department  
Mindy Parnes, Planning Manager, City of Aurora, Planning Department  
Marsha Osborne, Neighborhood Services