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February 28, 2022

Via E-mail: Hader, Matt - CA mhader@c3gov.com

Matt Hader
Interim City Attorney – City of Commerce City
7887 E 60th Ave.
Commerce City, CO 80022
(303) 289-8130

Re: Reunion Filing 38 Final Plat Public Hearing - Recusal of City Council Member Kristi Douglas

Dear Mr. Hader:

Spencer Fane, LLP represents Clayton Properties Group II, Inc. d/b/a Oakwood Homes (“Oakwood”). Oakwood owns approximately 21.9 acres of property located at the southeast corner of E. 112th Ave & Chambers Rd., commonly referred to as Reunion Filing 38 (“Reunion Filing 38”). Oakwood’s application for final subdivision plat approval of Reunion Filing 38 is currently pending with Commerce City (“City”). Please accept this correspondence as Oakwood’s formal request for Commerce City Council (“Council”) Member Kristi Douglas to immediately recuse herself from the March 7, 2021 public hearing before City Council regarding the Reunion Filing 38 Final Plat application (“Hearing”).

A. Background

Per the City’s Land Development Code, process, applications for final subdivision plats are generally administratively approved by City staff, unless a hearing is requested by the director, City Council, or the public. *Commerce City, Colorado Land Development Code, Article III, Sec. 21-3200*. City Council voted on whether to require the public hearing process for the Reunion Filing 38 Final Plat (wherein Kristi Douglas voted City Council should require public hearings). However, this vote did not amass the necessary majority of votes to pass the motion, and therefore, a public hearing for the Reunion Filing 38 application was not required by City Council.

City Council member Kristi Douglas’ husband, Steve Douglas (“S. Douglas”) (an alternate of the Planning Commission and former City Council member), testified in opposition to the Reunion Filing 38 Final Plat and in favor of public hearings at City Council’s meeting wherein Council failed to pass a motion requiring public hearings. Following City Council’s failed vote to require

public hearings, Steve Douglas posted on his Facebook account, on two separate occasions, posts calling the relevant public to request a public hearing for the disapproval of the Reunion Filing 38 application and indicating his opposition to the Reunion Filing 38 development. Copies of Steve Douglas' social media posts are attached hereto as Exhibit 1.

As a result of Steve Douglas' social media postings, per public request, the Hearing for the Reunion Filing 38 application before City Council was requested and scheduled for March 7, 2022.

Finally, on February 10, 2022, over Oakwood's objection, Steve Douglas served on the Planning Commission for its hearing on the Reunion Filing 38 Final Plat, where he again voiced his opposition to Oakwood's planned development of Reunion Filing 38 and voted in opposition to a 3-2 motion by Planning Commission to recommend Council approval.

B. Kristi Douglas' Lack of Impartiality

Per Council Policy, the upcoming Hearing is quasi-judicial in nature and requires all City Council members, including Kristi Douglas, to conduct themselves in an impartial manner when determining whether or not to approve the Reunion Filing 38 application. See COUNCIL POLICY #CP-22 (Procedure for Quasi-Judicial Hearings) ("The conduct of quasi-judicial public hearings by the City Council shall be accomplished in a legal manner that is fair to all members of the public. In this regard, the City Council intends that each quasi-judicial public hearing shall be conducted in an open and impartial manner that recognizes the concerns of all members of the public having a legitimate interest in the proceeding and allows an opportunity for the City Council to give fair consideration to all issues presented at the public hearing.").

Kristi Douglas, however, is incapable of serving as an impartial decision maker in the quasi-judicial Hearing. Steve Douglas' social media usage regarding the Reunion Filing 38 application and Hearing and Planning Commission vote in opposition to the Reunion Filing 38 application evidence Kristi Douglas' improper ex-parte communications with Steve Douglas. Further, Steve Douglas' clear personal interest/bias in the Reunion Filing 38 matter is attributable to Kristi Douglas.

First, it's clear from Steve Douglas' public social media posts, testimony at the initial Council meeting wherein a call-up vote failed and his comments at the Planning Commission hearing that ex-parte communications have occurred between Kristi Douglas and Steve Douglas. Facts such as Kristi Douglas and Steve Douglas being married, and the extent of knowledge Steve Douglas has regarding the Reunion Filing 38 matter and Hearing, sufficiently evidence ex-parte communications between Kristi Douglas and Steve Douglas.

Second, the staunch positions taken by Steve Douglas against the development of Reunion Filing 38 in his Facebook posts are attributable to Kristi Douglas. Given Kristi Douglas' and Steve Douglas' marital status, the ex-parte communications between Kristi Douglas and Steve Douglas detailed above, and how Kristi Douglas has previously voted on the public hearing for the Reunion Filing 38 development (i.e., in favor of a public hearing), it's plausible to conclude Steve Douglas' views are shared by Kristi Douglas.

Kristi Douglas' ex-parte communications and her husband's social media usage and vote at the Planning Commission hearing reveal a conflict of interest thereby necessitating Kristi Douglas' recusal from participating and voting in the upcoming Hearing. The conduct of Kristi Douglas and her husband surpasses the conduct for which other council members recused themselves. See, *Soon Yee Scott v. City of Englewood*, 672 P.2d 225, 228 (Colo. App. 1983) (finding a council member properly recused himself when said council member organized a petition drive in opposition to an applicant's proposed massage parlor, and published an article in the Denver Post urging citizens to answer opinion polls in order to prevent the issuance of an unwanted license).

Moreover, Steve Douglas' social media pre-Hearing usage, attributable to Kristi Douglas, is more blatant than the hypothetical improper conduct posed by Colorado Intergovernmental Risk Sharing Agency (CIRSA) which would warrant a council member's recusal from participating in a quasi-judicial matter on the basis their non-neutrality has been revealed. See Ethics, Liability & Best Practices for Elected Officials Handbook, CIRSA, Second Edition 2019, at 49-50.

C. Kristi Douglas' Council Policy Violations

Kristi Douglas' conduct also fails to comply with several Council Policies. For example, COUNCIL POLICY #CP-22 (Procedure for Quasi-Judicial Hearings) (N) requires Kristi Douglas to take precautions to avoid and prevent improper ex-parte communication with any party in interest and refrain from any activity which could give the perception of an improper ex-parte communication with a party in interest. Kristi Douglas' conduct does not comport with this policy.

As such, Kristi Douglas, in accordance with COUNCIL POLICY #CP-14 (Ethics Policy) (D)(1) and COUNCIL POLICY #CP-22 (Procedure for Quasi-Judicial Hearings) (N), must disclose her personal interest in the Reunion Filing 38 matter and shall elect to not vote thereon, and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

If Kristi Douglas participates and votes in the Hearing, she will be in violation of COUNCIL POLICY #CP-14 (Ethics Policy) (A) & (C) and COUNCIL POLICY #CP-20 (Public Comment during City Council Meetings) (E). Also, if Kristi Douglas fails to disclose her conflict of interest in the Reunion Filing 38 matter, she will be in violation of COUNCIL POLICY #CP-14 (Ethics Policy) (D) and COUNCIL POLICY #CP-22 (Procedure for Quasi-Judicial Hearings).

D. Request for Recusal

Given Kristi Douglas is incapable of serving as an impartial decision maker in the upcoming Hearing for the reasons set forth herein, her recusal is necessary to avoid a biased City Council decision and to properly afford Oakwood, as applicant, due process. Therefore, we request Kristi Douglas immediately recuse herself from the Hearing and elect to not vote thereon in accordance with Council Policies and Colorado law. Please provide the City's assurances Kristi Douglas will do so no later than Friday, March 4, 2022.

Please contact the undersigned should you have any questions or would like to discuss this matter further. We look forward to your anticipated cooperation in this matter.

Very truly yours,
SPENCER FANE LLP

A handwritten signature in black ink, appearing to read "Michelle L. Berger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michelle L. Berger

Exhibit 1

Steve Douglas
December 5, 2021

City Council will be voting on whether two development plats will receive public hearings or will be staff-approved (administrative approval). Please find information regarding these two plats below. It appears the 112th & Chambers is for Oakwood's (they're planning to utilize the Carriage House and Porchlight home series.) and the second one on 96th and Tower (I believe) could possibly be a rental complex!

On Monday night Dec. 6, City Council needs to hear from you either by signing up for public comment or making written comments. Registration to speak or written submission must be made before noon Dec 6th, 2021!!

The meeting will be around approximately 6:30 p.m. or immediately following the prior council orientation.

Members of the public can participate in citizen communication remotely using the Zoom videoconferencing app and watch meetings live on Channel 8 or at c3gov.com/video. Members of the public can submit written comments in advance OR register to comment live virtually during citizen communication via Zoom by noon on December 6.

<https://c3gov.zoom.us/j/71933DRD6tltEXCW3fw>

Register to comment live: bit.ly/3lkjBoU

c3gov.com/video

CCTV Channel 8, HD 881 (Xfinity cable)

For live Spanish interpretation, call 720-386-9023 and enter conference code 104091*.
Habrá interpretación disponible en español en vivo por teléfono. Llame al 720-386-9023 e ingrese el código de conferencia 104091*.

Visit bit.ly/3lwOoFt for the meeting agenda, which includes:

#1
Oakwood Homes is requesting approval of the Reunion Filing No. 38 Final Plat, to create 153 residential lots and 11 tracts on approximately 21.9 acres, for the property located at the southeast corner of E. 112th Ave & Chambers Rd, zoned PUD (Planned Unit Development District).
To view the full (PUD) zoned PUD (Planned Unit Development District), click on the link below!
<http://commerce.legistar.com/gateway.aspx?M=F...>

#2
96 Tower, LLC is requesting approval of the Settlers Crossing Filing No. 3 Subdivision Final Plat to create 154 residential lots & 11 tracts for the property located at the northeast corner of E. 96th Ave & Tower Rd, zoned PUD (Planned Unit Development District).
To view the full (PUD) zoned PUD (Planned Unit Development District), click on the link below!
<https://commerce.legistar.com/View.ashx?M=F&ID=10319176...>

21.9 acres, for the property located at the southeast corner of E. 112th Ave & Chambers Rd, zoned PUD (Planned Unit Development District).
To view the full (PUD) zoned PUD (Planned Unit Development District), click on the link below!
<http://commerce.legistar.com/gateway.aspx?M=F...>

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To view the full (PUD) zoned PUD (Planned Unit Development District), click on the link below!
<https://commerce.legistar.com/View.ashx?M=F&ID=10319176...>



3 16 Comments 2 Shares

Like Comment Share

Rob Hamlin
Is it too much to ask what Oakwood Homes will do in return for the community?
I feel like the "deep pocket" like Oakwood Homes come in collect their home sales money and move on. In turn there are more metro districts formed, leaving the future homeowners to foot the bill for all of the infrastructure going in, for decades to come. I feel like the builders don't pay thier fair share for the infrastructure that they will profit from.
Am I wrong or off base here? Is there a solution to this? I feel like there are a lot of homeowners or future

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Am I wrong or off base here? Is there a solution to this? I feel like there are a lot of homeowners or future homeowners with this same concern.
We need another grocery store, ballfields, a few big community pools etc. Most builders do the old catch phrase: "We're going to build a park." A park is pennies compared to what the things this community really needs. Thousands of people flock to surrounding cities daily to enjoy what Reunion doesn't offer.
I understand that Oakwood Homes remodeled the coffee house next to the rec center, they maybe have done more for the community that I'm completely unaware of.
Lastly, do you think that there is a solution to this?

Steve Douglas
Rob Hamlin all valid points you raised. Please submit written comments in advance OR register to comment live virtually during citizen communication via Zoom by noon on December 6.

Steve Douglas
https://c3gov.zoom.us/j/zoom/register/WN_qpD7iQ3DRD6tltEXCW3fw

Commerco CITY
C3GOV.ZOOM.US
Welcome! You are invited to join a webinar: City Council...

Dawn Cary
How do I submit a written comment? I only am finding the link for registering for the webinar.

Steve Douglas
Dawn Cary How to Comment at City Council Meetings
You can speak at the meeting or submit your comments in advance in a number of ways. All forms of comment hold the same weight. Registration to speak and/or advance submittal are required.... See more

Ed Hanson
We're in the middle of a nasty drought. Where's the water coming from?

Amy Hill
Like 96th is able to even handle the current traffic load during peak times?!

Regina Hurtado
Amy Hill and chambers. Its a nightmare trying to leave subdivisions because of traffic and only one light at 112th

Amy Hill
Regina Hurtado I am East of Chambers luckily. I'm on the last street of the east end of Fronterra. I've had days it's easily taken 20 min just to get onto Tower.

Lisa Herrera
No more people, and definitely no more ugly carriage homes.

Candice Ecidnac
Yes, because we need more people to move here

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February 28, 2022
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Steve Douglas
December 12, 2021 · 🌐

UPDATE: As a result of the posting and notice sent out regarding the proposed development at the intersection of 112th Avenue and Chambers Road a person with legal standing raised a valid objection. As a result, Filing 38 will be called up for a public hearing. The date for the Planning Commission public hearing has been set for February 1, 2022.

If all goes according to schedule, then the case will come to the City Council in a public hearing on March 7, 2022.

Stop Adverse Growth: Address the Planned High-Density Residential Development at 112th & Chambers

URGENT NOTICE: City Staff has recommended a high-density development for 153 (3 & 2 story carriage and attached) residences at the southeast corner of 112th and Chambers. This will be approved unless staff hears from the public by 5:00 pm, tomorrow Monday the 13th.

Councilmembers Ford, Davis, Hurst and Grimes voted AGAINST holding a Public Hearing last Monday night. Councilmembers Noble and Douglas, Mayor Huseman and Mayor Pro-Tem Allen-Thomas all asked that your voices be heard via a Public Hearing. That vote failed, but this is how you can express your dismay.

Movement: Meet the Deadline to Demand No High-Density Residential Development at the SE Corner of 112th & Chambers by contacting Jennifer Jones via email at jjones@c3gov.com or by phone at 303- 227-8774.

As established residents in Commerce City, we already have problems with inadequate school capacity, along with the absence of many other services, and most concerning - insufficient infrastructure to support even higher volumes of traffic. It is time to reassess our overall development, including the development process, before adding in more residential at such an alarmingly fast pace.

In addition, you may want to demand that we take a pause and start fresh, providing the city an opportunity to re-establish proper impact, drainage, and other fees required to assure better and more responsible development moving forward.

Case: S-776-20-21 Reunion Filing No. 38: Oakwood Homes is requesting approval of the Reunion Filing No. 38 Final Plat, to create 153 residential lots and 11 tracts on approximately 21.9 acres, for the property located at the southeast corner of E. 112th Ave & Chambers Rd, zoned PUD (Planned Unit Development District).

Jennifer Jones via email at jjones@c3gov.com or by phone at 303-227-8774.

[Access the links below for more information.](#)

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Access the links below for more information.

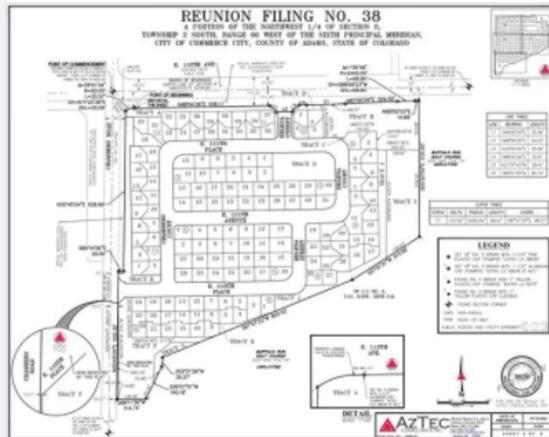
Council Communication <https://commerce.legistar.com/View.aspx?M=F&ID=10314817...>

Vicinity Map <https://commerce.legistar.com/View.aspx?M=F&ID=10314818...>

Vicinity Map <https://commerce.legistar.com/View.aspx?M=F&ID=10314818...>

Reunion F38 Plat <https://commerce.legistar.com/View.aspx?M=F&ID=10314819...>

Reunion F38 Plat <https://commerce.legistar.com/View.aspx?M=F&ID=10314819...>



👍 8

6 Comments 13 Shares

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David Polley
Steve Douglas what was the original planned use for this area? commercial?

Like Reply 7w



Steve Douglas
David Polley I believe a gated residential community like the back nine, not this aggressive infrastructure.

Like Reply 7w



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8 6 Comments 13 Shares

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Like Reply 7w



David Polley
Steve Douglas How many homes were originally planned for and how many now?

Like Reply 7w

View 1 more reply



Chantini Marie Miller
Leon Miller

Like Reply 7w



Steve Douglas
Note there may have been an objection from someone living in the greens on the north side of 112. Anyone within 300' feet of the development would have received a letter indicating that they could object in writing by a certain date. Those residents would definitely have "legal standing" but I don't know if that would apply to anyone else that objected.

Like Reply 6w