

EXECUTIVE SUMMARY  
regarding  
SERENADE PARK PROPOSAL  
by  
The Rock Ridge Preservation Society  
February 14, 2004

**I. Preamble**

Serenade Park is a proposed development west of Loveland, featuring a 9,000-person concert venue, with parking for over 3,500 vehicles. The proposed development would be located adjacent to Hwy 34, on part of a 1450-acre tract of land that spans most of the southern end of the mouth of the Big Thompson Canyon. In order for this proposal to be implemented, the zoning for the land would have to be changed from (FA-1) Farming to (T) Tourist, with a Special Review process to permit outdoor concerts, concessions, and roadside attractions. An alcohol license would also be requested.

This project is a bad idea for this location, is fundamentally flawed, and does not serve the greater civic good. Having said that, however, this society wishes to make it clear that it is not opposed to “development” or “progress” per se. Rather, we believe that any fitting and appropriate development must harmonize with currently viable and substantially well-established surrounding lands, and be representative of honorable intentions. This proposed project does not and cannot so harmonize, and it runs counter to the basic spirit and essence of the area. Surrounding land usage ranges from ranches to rural residential to agriculturally based rural church settings to conservation easements. Hundreds of lives and scores of homes and businesses that rely upon the existing agricultural zoning for their livelihoods, life-style, and well-being would be undermined and detrimentally affected by the proposed concert venue.

The project is ill advised on these merits alone. Furthermore, any one of the following points, by themselves, could also easily justify dismissal of this proposal: 1) Traffic issues are crucial and substantial. A CDOT “level of service” rating of “F” is predicted by the applicant’s own study; 2) This project repeatedly violates the Larimer County Master Plan in several areas of established public policy; 3) The property rights of the many are threatened by the presumed rights of the one, seeking to develop indiscriminately; 4) Tourist zoning drastically increases the probability of unintended consequences down the road. Serenade Park wishes to sell alcohol, and the inevitable problems created by inebriated concert-goers would unnecessarily strain fire, ambulance, and police services; 5) Wildlife and the environment would suffer deleterious and long lasting impacts; 6) Infrastructure issues of water, sewage, natural gas and road expansion are extensive. The project demand on some services would create an unneeded drain upon the already increasing demand for these services elsewhere in the county; 7) County taxpayers would inevitably have to foot the bill. The small amount of revenue garnered from the project would not offset the increased burden of additional money, manpower, and services required to accommodate Serenade Park; 8) Noise and light pollution would greatly diminish the quality of life for the many people who have been living in the area for decades; 9) Finally, the scenic quality and character of the Rock Ridge scenic corridor and the mouth of the Big Thompson Canyon would be forever lost.

In closing, we would underscore the plain fact that there is absolutely no shared community need for a major commercial amphitheater - a “Red Rocks of the North” - in a rural setting, especially one that lacks the infrastructure to support it. This is truly a beachhead moment, a turning point, for Larimer County. “Up-zoning” the current agricultural zoning would establish

an unnecessary and irresponsible precedent for future zoning “erosion,” not just in this area, but in all other similarly zoned properties in the county.

The outline below provides further expansion on these main points. This summary, however, is designed to ask that the Planning Commission and County Commissioners take a look at the “big picture” and to see how much is at stake here, both for county residents and for any visitors seeking to access Estes Park and Rocky Mountain National Park. In sum, we simply ask that an approach rooted in integrity, decency, and basic common sense be utilized in assessing and objectively examining this proposal, and encourage the same perspective and methodology be shared by others. If it is, then this re-zoning effort will not prevail. Please do not let this defective and selfish, albeit ambitious proposal backed by large funding and slick marketing deter you from your own honest and thoughtful consideration of its grave consequences. Thank you for your consideration and interest.

## II. Traffic

- A. Hwy 34 is a heavily traveled two-lane road in the summer, with many tourists using this as the main route to Estes Park, Rocky Mountain National Park, Grand Lake and beyond. Weekends are especially heavy with tourist traffic. Serenade Park is a proposal that would have 9,000 people and over 3,000 vehicles (we estimate over 4,000 are likely) descend upon this agricultural area on a regular basis. Currently, the peak weekend afternoon traffic volumes, documented by the applicant’s traffic study, result in a CDOT rating of LOS D (Level of Service D). This is not free-flowing traffic, rather it is defined as traffic that “approaches unstable flow... and driving speed is considerably affected by changes in operating conditions.” This currently results in potentially long wait times at the major intersections on Hwy 34. Among these existing intersections, four are included in the applicant’s study.
- B. The traffic study calculated events using “multiple accesses” into the venue. The applicant is only allowing for one traffic access into her property. Therefore, the traffic study is flawed, perhaps even fatally. The report notes, “These calculations are made based upon information for a facility with multiple accesses. Therefore, these volumes may be high for a single access event center.” In other words, even a small event (i.e. 3,000 people instead of 9,000 people) will result in a LOS F as calculated with two ingress and egress lanes. If only one entrance to the property is used, the traffic flows will be that much heavier and congested, with wait times much more severe than the “F” rating currently assigned to these small events (3,000 people). One can only imagine the impact of a major event with 3 times as many people and vehicles.
- C. The reports says that for the 4.5 mile segment of Hwy 34 east of the proposed park, traffic will be at a “speed and density that is commensurate” with a LOS F, and that travel times will be increased 50% before and after large events. We question this figure and believe it to be very optimistic, if not artificially low. We assert that travel times will be much worse than what is being portrayed. CDOT defines LOS F as “a zone in which... the stoppages disrupt the traffic flow so that the volume carried by the roadway falls below its capacity...” Anecdotally, we have experienced what this highway can and can’t handle. At least two of our group’s members were evacuated during the Bobcat Fire on that Tuesday afternoon in 2000 where the traffic was bumper-to-bumper from Loveland to Drake on Hwy 34. That trip took over an hour to travel what normally would take 15 minutes. The volume of cars expected for these concerts will add similar densities and congestion to segments of this highway and connected roads.
- D. In addition to the LOS F rating, the expected volume to capacity ratio (v/c), which is the measure of traffic demand on a facility or roadway, is staggering in several of the study’s charts, rating certain approaches as being multiple times over capacity.
- E. We also question the calculated number of occupants per vehicle per event. We believe

that the stated 3:1 ratio is high. Many adult-oriented concerts will likely have only 2 occupants per vehicle, based upon the clientele that the applicant anticipates would be frequenting this type of concert. So, a 2:1 ratio would put the number of cars for a large event at 4,500. The proposal calls for 3,577 parking spaces. This figure reflects a 2.5:1 ratio. They used, however, the 3:1 ratio as a basis for their traffic study. The 33 acres of parking projected would already fill up a vast majority of the land directly adjacent to the highway; a logical corollary to this is to ask where the applicant is going to put the remainder of cars that we see as potential?

- F. Also, the applicant proposes pre- and post concert activities as a way to lessen the onslaught of concert traffic. While this may reduce peak flows somewhat, spreading out traffic egress is not a viable solution. In fact, even the study admits that “the reduction in peak [flow actually] causes a lengthening [emphasis added] of the high volume condition.”
- G. The engineers calculate that 95% of the traffic will be to and from the east of the park after concerts, which the study described as a “worst case scenario.” This scenario is caused by the proposed amphitheater’s site location in relationship to the location of the preponderance of the population centers that would be drawn upon for attendants. Having Serenade’s amphitheater in the rural setting where it is proposed creates a self-generated traffic “nightmare” that is solely location-based.
- H. The study’s figures for future traffic growth are calculated at a rate of 1.7% per year. These numbers seem very small in relationship to the area’s potential growth, and do not include any business model expansion numbers. At some point, we believe the applicant will want to “expand” her business to allow for more frequent concerts due to sold out shows or the need for more revenue, etc. This would create traffic problems on more days and evenings than just a few times a month.
- I. For even a small event, the traffic will be so severe that, as the study notes, “the US 34/Site Access intersection will operate unacceptably.” Even the study’s engineers estimate a level of service F for up to 2 hours both before and after each concert. This will require manual police control to move the traffic. Also, any interest by the applicant to contribute to the cost of a traffic light at Hwy 34 and Glade Road is a mere palliative measure. It will do little to help. As the study states, “the other key intersections along Highway 34 (east) will not operate acceptably for the few peak hours before and after an event. There is little that can be done to improve the operation at these intersections [emphasis added] except providing manual traffic control. The traffic and delays will be similar to that experienced at intersections in the vicinity of Red Rocks Park or Fiddler’s Green before and after events at those facilities.” We contend Serenade Park’s traffic will be much worse, as Red Rocks has a lengthy road leading off the highway into the parking lot. This side road allows many vehicles to get off the highway immediately and wait in line for admittance into the parking lot. There will be no such luxury at Serenade Park, since all vehicles would have to wait to enter the park from Hwy 34, backing up traffic for miles.
- J. The long range “large event” traffic table shows that 10 out of 18 possible “traffic movements” (with designations like southbound approach or northbound left turn) at the five major intersections considered, will result in a LOS F. Long range “small event” data showed similar results. It has been noted that all of these key intersections will require manual traffic control for peak hours before and after concerts. That means a minimum of 5 traffic police will be needed at each large concert on Hwy 34. The study reports that dual left lanes would be required to handle the volume. Yet, since the highway cannot practically be widened here, the engineers have recommended “temporary geometry” (i.e. orange cones to re-divide the highway). This is suspect as the road shoulders in this area are narrow, at only 1-2 feet per side. The traffic situation at Serenade Park will continue to worsen in the future, and we find no way to mitigate all the issues associated with it.
- K. The traffic on the secondary roads connecting to the highway will also increase dramatically, and the applicant has offered no means to alleviate this issue. Related to this,

the applicant completely ignored the substantial number of people and vehicles who would be traveling to and from Fort Collins using CR27, CR29, and Glade Rd. to by-pass Loveland proper. All three of these county roads feed their traffic into the road (CR38E) which goes around Horsetooth Reservoir to Taft Hill in Fort Collins.

- L. The study attempts to justify the wrong placement of this proposed major commercial amphitheater, and the LOS F rating, as well as the congestion that it will cause, by comparing Serenade Park to the “Ranch” (the new Larimer County Fairgrounds and Events Center). The applicant fails to note, or perhaps even appreciate, the significance of this disruption and the fact that the Ranch is located adjacent to I-25, in the heart of a GMA (Growth Management Area), where it is appropriate to have such a sizable venue.
- M. Furthermore, there are plans in place to expand and improve access to the aforementioned rapidly growing area surrounding Hwy 34 and I-25. In contrast, Serenade Park is located off a rural, two-lane highway with no possibilities of widening this stretch of roadway. Any road expansion to add extra lanes is not a valid solution to the unwarranted increase of traffic due to the project. Additionally, there is no state or county money available for the expansion of Hwy 34 - figured at \$1,000,000/ mile. The proposed 760-foot acceleration lane that the applicant would like to add to her property’s right-of-way would be insufficient to handle even 3,000 much less 4,000 plus cars. Even if the applicant offers to pay for the expansion, this mitigation does not alter what remains a fundamentally and fatally bad idea. Any possible road expansion would still require traffic to be funneled into 2 lanes going to and from Loveland or Estes Park.
- N. Road rage, recreational rage, and drunk driving issues would significantly increase. This becomes even more problematic as the project plans call for serving alcohol on the premises.
- O. Cars backed up in traffic would use the highway’s shoulders, leading to a possible increase in bicycle and pedestrian accidents.

### III. Larimer County Master Plan

#### A. Preservation and Integrity

- The proposed development is antagonistic to, and in violation of the Master Plan and its “spirit.” The Master Plan is not just a guideline. Rather, it should serve as a mandate requiring extreme, overwhelming, and compelling evidence to overturn any part. This proposed project does not reach that level and provides no valid basis or compelling civic reason to change the Master Plan.
- Any appeals to reduce or change standards or regulations in the Master Plan in order to gain project approval would constitute a “slap in the face” and serve to undermine and thwart the basic integrity of the plan and the goals and objectives of its planners.

#### B. Open Lands

- There are protected U.S. Forest Service lands to the west of this project. Recently, lands to the north and east of the proposed project have been placed in conservation easements. The Sylvan Dale easement is 594.5 acres, a large and very worthwhile land acquisition helping to preserve the view-shed. These lands will remain undeveloped in perpetuity. A large amount of money has been spent acquiring these conservation easements, and the logical use of this property would be to place it in a conservation easement as well. These areas have been identified as “important resource areas” in the Larimer County Open Lands Master Plan. It states, “With the completion of the Open Lands Master Plan, proposals will be reviewed to determine if development proposals will impact important resource or agricultural areas identified as priorities by the Master Plan.” The county planning commission’s previous staff report states that “The intensities of the use [of the

proposed project] raised the question of appropriateness given the significant expenditure of public dollars for open space preservation in the area.” Serenade Park would alter this land from a natural area to a land ripe for tourist and commercial activities. A commercial endeavor of this scope is simply not compatible with the surrounding preservation efforts.

- The City of Loveland considers this Rock Ridge scenic corridor (the access to the mouth of the Big Thompson Canyon) as part of an "area of influence." The City has already invested \$100,000 into the partnership with GOCO (Great Outdoors Colorado-lottery conservation proceeds) and Larimer County to preserve open space across the highway on the Sylvan Dale lands.

#### C. Growth Management Areas

- The proposed project, if at all valid, should be considered for development in “growth management areas” stipulated in the Master Plan. The staff report for the county planning commission says that it is the applicant’s responsibility to “prove that there is a compelling reason that the use cannot be located in a growth management area [emphases added].” Also, the report states that any market basis for a music venue is “not a basis to suggest that the use should occur in the rural area of the county.” The report indicates that any up-zoning proposed outside of the growth management area is an extremely serious policy consideration. The applicant has utterly failed to meet this burden or demonstrate any persuasive, much less, compelling reason why this project should not have to be located in a more appropriate growth management area.

### IV. Property Rights

- A. Property values would very likely go down substantially. It is reasonable to anticipate that a prospective home or landowner would be less inclined to purchase property near a music venue. Other prospects would not even consider the idea at all. The property values would be eroded due to a lack of desirability and fewer potential purchasers. This is unfair to those who have spent many years and resources to maintain a specific type of life-style and quality of living. The applicant’s submittal side-steps this real property value issue by proffering false hope, blithely saying a “conservation parcel should significantly improve the market value of the property in the area.” This can no way offset the disastrous consequences stemming from the overwhelming presence of a major commercial amphitheater in that location.
- B. Property rights do not include the right to up-zone a property without a compelling reason to do so. There is no valid reason to up-zone for this project.
- C. Ranches and agriculturally based rural church settings have been established in this immediate area for over a half a century and have seniority. Several homesteads have been here for longer than that. In fact, the homestead immediately adjacent to the proposed amphitheater site dates back to the 1890s. Historical zones, cemeteries, and plots are located here. There is an overwhelming preponderance of previous agricultural usage - still in current use – along with a dedication to conservation among the area’s inhabitants. This necessitates that the zoning remains unchanged.
- D. The property rights of numerous homeowners, ranchers, and agriculturally based religious communities exceed and outweigh the rights of a single non-compliant property owner.
- E. Our society has no quarrel with the precept that individual liberty and rights are foundational to the essential fabric and health of our country. In fact, we strongly embrace our liberties. Individual rights do not, however, include the freedom to harm the welfare of others or otherwise detrimentally impact their lives or property – that constitutes mere license. This must be the standard and gauge by which this proposal is

judged - of fairness to all, rather than the intrusive interests, dreams or desires of one. The proposed development does not and cannot pass this test. It does not add to the greater "civic good" here. In view of the intended and unintended consequences of such a proposal, this development cannot possibly be a "good neighbor." This is particularly so if the "rights" of one land owner are to be given primacy and are predominantly driven by either the allure of having a music venue in one's own backyard or perhaps even by a "for profit" motive. Regardless of the purity of the intent, or motives of the applicant, the indisputable fact is that the impact and purpose of such a facility runs contrary to, and would be at the expense of, existing properties, residents, and the public welfare and local values.

- F. The proposed plan does not enhance the area. The dignity of the established good, and more specifically, existing homes, farms and ranches, must be respected and honored. Additionally, the original intent of the Master Plan is based upon this established common good which states that projects must be "compatible with existing and allowed uses in the surrounding area and be in harmony with the neighborhood." Furthermore, the intent of the Master Plan recognizes environmental safeguards to preserve the essence of the land here.
- G. Finally, there would be an increased risk and liability to other land and home owners if concert-goers wander (read: trespass) upon adjoining and nearby privately owned areas and land.

## V. Zoning and Land Use

### A. Zoning

- This is truly a pivotal moment. To put it another way, approval of this proposal would be tantamount to permitting the nose of the camel into the tent - with the same inevitable and grave consequences. Changing the current agricultural zoning would establish an unnecessary and irresponsible precedent for future zoning "erosion" in this area and in all similarly zoned properties in the county.
- Tourist zoning is not an acceptable zoning for this property, and certainly not of the magnitude of this proposal. Tourist zoning is also much too broad, leaving the door open for other non-compatible uses within the area – up to and including nightclubs, convenience stores, car washes, etc. This creates a large likelihood for unintended consequences with no way to "put the horse back in the barn." The applicant's submittal seeks to isolate 6 uses enumerated in the T-Tourist zone district, attempting to suggest that "bad types" of tourist-zoned uses would not be allowed, preemptively. This is designed, in our opinion, to give the illusion that only "good" uses are left, and that these uses could never happen at that site, by prohibition. However, this is merely sleight-of-hand. The law does not change just because of a current prohibition request. There is no way to positively rule out these or other uses through either future variances or new ownership changes. The county planning commission's previous staff report states, "If the use were to fail or be discontinued those other uses would be a part of any subsequent redevelopment scheme for the site. In evaluating those uses it is clear that many are inappropriate for this site." Further it states that changes to zoning must be "in a logical and orderly development pattern in the neighborhood." This would not be the case here.
- A buffer zone is needed between dense population areas and wilderness. This buffer zone would be lost if the agricultural zoning is changed to tourist. Conservation and forestlands surrounding this parcel are not subject to re-zoning, so the land zoning should not be altered. The lands to the east, west, and north are already protected by several conservation easements, and U.S. Forest Service lands. These lands will never have densities and will not be rezoned. Therefore, if

tourist development occurs on this property, the buffer zone, which is currently in place because of this land, would be lost.

B. Land Use Code Review Criteria for... “Zone Designation Changes”

- This proposed up-zoning does not adhere to the Larimer County Land Use Code as it must. To quote, “these conditions must be met.” The pertinent sections read as follows:
- 4.4.4 A. “THE PROPOSED CHANGE IS CONSISTENT WITH THE MASTER PLAN” – In the applicant’s response to this question, the submittal states, “the experience the applicant envisions... is not predominantly about the concert venue and the music. The experience is about visiting a beautiful area...” This is a fine and noble idea, but the presence of 9,000 people is a predominant influence and that cannot be “shoved under the rug.” It also states that “the open character of the area will be maintained and enhanced.” In reality, however, there is no way that 9,000 concert-goers, over 4,000 vehicles, nearly 40 acres of lighting, and noise 3 nights a week during 3 seasons of the year is maintaining an “open character.” The report states that it “will be able to meet all standards for noise and glare...” Their own noise study, though, indicates quite the contrary. This is a perfect example of why the residents of Larimer County needed a Master Plan and a solid land use code, and why they should not be undermined by this proposal.
- 4.4.4 B. “THE PROPOSED CHANGE IS COMPATIBLE WITH EXISTING AND ALLOWED USES ON PROPERTIES IN THE NEIGHBORHOOD AND IS THE APPROPRIATE ZONING FOR THE PROPERTY” – The submittal says, “Serenade Park is located to and near land along Highway 34 zoned T-Tourist and A-Accommodation...” This goes to scope and scale. This proposal cannot be compared to a mom and pop candy store catering to families with kids to stop and refresh themselves on the way to Rocky Mountain National Park. Make no mistake, Serenade Park is a major commercial venture with severe headaches attached to it at every turn.
- 4.4.4 C. “CONDITIONS IN THE NEIGHBORHOOD HAVE CHANGED TO THE EXTENT THAT THE PROPOSED CHANGE IS NECESSARY” – The key words here are “necessary” and “neighborhood.” The applicant’s language asserting that the development will cater to Colorado’s tourist industry’s general needs, is thin, self-serving and fails to recognize that it will be a major drain upon county resources. Frankly, it does not rise to the level of required proof, nor does it demonstrate that the neighborhood is begging for this change. In fact, it is quite the opposite; the neighborhood is rejecting this handily.
- 4.4.4 D. “THE PROPOSED CHANGE DOES NOT RESULT IN SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT” - The applicant’s submittal erroneously assumes that good land stewardship can only be achieved through further development and the elimination of “presently-disturbed” areas. It omits the possibility of these few eroded portions of land being returned to natural processes through wise and minimal land intervention (even their study shows only 7.8% of species are weeds). With all due respect, it is possible that the applicant’s own past misuses of the land may be a prime reason for this disturbance. This development will actually remove significant natural grazing and migration lands from unimpeded wildlife access.
- 4.4.4 E. “THE PROPOSED CHANGE ADDRESSES A COMMUNITY NEED” – The submittal states that there is a need for this venue so that “residents of Northern Colorado should not have to travel to Denver to have an experience that Serenade Park can meet or exceed for its visitors.” This “community need” is already amply

addressed and met by several other existing and newly constructed music venues in the area (mentioned in Section VIII). If the plans are really designed for strictly a rural experience, as they say, then why on earth would anyone who lives in Northern Colorado have to go to Denver to experience nature? This makes no sense. The clientele they are appealing to would only seek to go to Denver to visit Red Rocks Amphitheater. This runs counter to their appeal to “nature.” The applicant’s proposal seeks to fuse two fundamentally opposing concepts, to-wit: nature and 9,000 people with loud music. These are mutually exclusive and should not and cannot be successfully combined. There was no expressed or alluded to local desire or need that originated in our rural setting (save for the applicant herself) for a major commercial amphitheater - a “Red Rocks of the North” – especially since our rural area lacks the infrastructure for one.

- 4.4.4 F. “THE PROPOSED CHANGE RESULTS IN A LOGICAL AND ORDERLY DEVELOPMENT PATTERN IN THE NEIGHBORHOOD” – The applicant states that since Larimer County has become increasingly urbanized, their “botanical gardens” and the elimination of certain [tourist] uses will “prevent undesirable commercial and industrial development on the land...” The applicant fails to understand that it is her very own project which would create and perpetuate the very problem of major development that she professes to be preventing. The “logical and orderly” development pattern in this neighborhood is low impact uses, and the continued preservation of the lifestyle that people here for decades have come to enjoy value and protect - not a major commercial undertaking. The mouth of the Big Thompson Canyon will be choked with traffic, noise, sewage and pollution of all kinds, crime and congestion, all as a result of the project itself.

C. Criteria for “Special Review Application”

- Section 4.5.3 (amended 1-14-2002). The pertinent sections read as follows:
- 4.5.3.A. “THE PROPOSED USE WILL NOT ADVERSELY AFFECT WILDLIFE OR WETLANDS” – This project would have a devastating effect on a majority of the wildlife in the area. There would be no way to mitigate all of these effects, and many of the animals would be lost. Some wetlands would be diminished or removed altogether, further harming the wildlife habitats in the area.
- 4.5.3.C. “THE PROPOSED USE WILL BE COMPATIBLE WITH EXISTING AND ALLOWED USES IN THE SURROUNDING AREA AND BE IN HARMONY WITH THE NEIGHBORHOOD” – Current surrounding uses are open spaces acquired with conservation easements, Forest Service lands, rural neighborhoods, ranches, and agriculturally based religious communities. Neighbors have voiced strong opposition to this project, and they do not find any possible harmony with a music venue.
- 4.5.3.D. “OUTSIDE A GMA DISTRICT, THE PROPOSED USE IS CONSISTENT WITH THE COUNTY MASTER PLAN” (subsection amended 3-18-2002) - The Larimer County Master Plan has identified this area as the “mouth of the Big Thompson Canyon” and an “Important Resource Area.” These areas are given high priority for preservation through conservation easements, etc. This development is inconsistent and contrary to the Master Plan. There is no compelling reason to alter the Master Plan in order to accommodate this development.
- 4.5.3.F. “THE PROPOSED USE WILL NOT ADVERSELY AFFECT PROPERTY VALUES IN THE AREA AFFECTED BY THE PROPOSED USE” – (see “Property Rights”)

VI. Environmental  
A. Wildlife

- This area is utilized by a large number of animal species including elk, mule deer, bighorn sheep, mountain lions, black bears, bobcats, coyotes, fox, black-tailed prairie dogs, and other small mammals. Bird species, including western burrowing owl, ferruginous hawk, red-tailed hawk, ravens, pigeons, golden eagles, bald eagles, prairie falcons and cooper's hawks are found in the area. Numerous threatened and endangered species may reside on the property, including the northern leopard frog, the swift fox, and the common garter snake. The preble's jumping mouse is another threatened species which may be on the premises, though none were trapped in the single 2001 study.
- Many bird species will be especially harmed if this develops. Threatened and endangered species potentially residing in this area include western burrowing owls, bald eagles, ferruginous hawks, peregrine falcons and mountain plover. The cliffs to the north and east of the site are home to nesting raptors including the rare prairie falcon, red-tailed hawk, and golden eagles. The applicant plans to conduct a 5-year raptor study to see if these nesting birds will be harmed once the amphitheater is built. Unfortunately, most of the harm to the raptors will be caused during the first year, when the amphitheater is under construction. Also, there is no explanation of what will be done if they discover the amphitheater is harming the raptors. Do they intend to just go ahead and continue building Serenade Park, and watch the birds leave the area? What good is that? The damage will already be done.
- A major food source for the raptors are the black-tailed prairie dogs (a species of concern in Colorado, and a candidate for an endangered species). The black-tailed prairie dog is not yet listed as endangered only because of an overabundance of other high-priority endangered species. The prairie dog colony is located in the primary development area. The applicant plans to "passively" relocate the prairie dogs from their colony. This means the colony will be bulldozed, and the prairie dogs will be left to relocate to a replacement habitat on their own. This will have a detrimental effect on the colony. As the prairie dogs are a food source for other predators, including the raptors, it will harm numerous animals. Even without the loss of the prairie dog food source, the Division of Wildlife believes the nesting birds would likely leave the area due to the negative impact of many concert-goers every week. The report, dated January 26, 2001, says that Jerry Craig, a Division of Wildlife state raptor biologist, identified nest sites on the cliffs near the proposed Serenade Park to be those of prairie falcons, red-tailed hawks, ravens, and golden eagles. He and Rick Spowart, District Wildlife Manager, also observed cooper's hawk and pigeons, as well as a prairie falcon perch. "Jerry expressed a concern that the impact of several thousand concert-goers once a week all throughout the summer may very well be enough to cause nesting birds to vacate those sites. The attraction of the prairie dogs may not be enough to keep the golden eagles nesting across the road..."
- It is believed that year-round activities would affect the bighorn sheep, mule deer and elk grazing. The location of the amphitheater and parking lot would be superimposed over a significant grazing and migration range for these animals. While some grazing is seasonal, all grazing activities would be negatively impacted. These species would lose much of their foraging area to the parking structures and buildings. What additional effects this would have remain unknown. Migratory elk and mule deer patterns would be disturbed and may be largely diminished.
- Wildlife and people do not mix. The possibility of bears will need to be mitigated by bear-proof trash receptacles, but that in no way prevents a bear encounter. The animals would be attracted to the food and smells, exacerbating existing bear problems. Mountain lion attacks on both people and pets are on the rise in Colorado,

including at least 2 such documented attacks occurring on adjacent properties in the last 6 months; obviously, we can expect more encounters with this species, particularly on the “nature trails” and in other areas.

- Finally, the area is also home to a substantial venomous snake population (rattlesnakes). The likelihood for encounters with concert-goers utilizing the grounds is great, with the obvious harmful, if not potentially fatal, consequences.

#### B. Wetlands

- There are 14 wetlands on the property, which are habitats for migratory songbirds, small amphibians, and small mammals. Seven of these wetlands are jurisdictional, meaning that the U.S. Army Corps of Engineers will have to approve any disturbances to these wetlands. The largest of these wetlands is #6, at 1.71 acres. The applicant plans to relocate portions of wetlands 6 and 8, with impacts to wetland 9. It can take years for wetlands to regenerate, if they ever do completely, harming species in the interim.
- According to the U.S. Army Corps of Engineers, any wetland disruption may disturb habitats of downstream animals like the prebel’s jumping mouse by altering flow regimes and changing sedimentation. The Corps also suggests that riparian habitats may be disturbed. This development will require a special permit from the U.S. Army Corps of Engineers.
- Additionally, Larimer County requires wetland setbacks of 50-100 ft. The size and value of the wetland determine this distance. The applicant will need a variance to relocate or alter the wetlands.

#### C. Endangered Plant species

- The Colorado Natural Heritage Program believes this area to be of “high significance” because of the plant communities and the animals that utilize the area. It is believed this very important “wetland resource area” also helps to recharge groundwater.
- Serenade Park is home to two “globally imperiled plant communities.” One is the ponderosa pine / mountain mahogany / big bluestem plant association. These plant communities are known only along the Front Range in Colorado, and occur on the property. Also found is the mountain mahogany / needle-and-thread plant association, discovered only on the eastern flank of the foothills of the Front Range.
- Two federally threatened plant species may occur at the site, the Ute Ladies’ Tresses Orchid (which was not found during a 2001 study), and the Colorado Butterfly Plant (which has never been formally studied on the property).

#### D. Conservation Easements

- The applicant “proposes to donate a perpetual conservation easement... conditioned upon the approval of the application.” Any “trade for open space” to gain approval is not in the best interest of the community. If the applicant is genuinely civic and conservation-minded, then the land should be set aside separate from the project. We would also encourage the governmental officials and officers reviewing this submittal to do so strictly on the merits of the development and not in relationship to any “carrots” or inducements, or threats of other types of development.
- Moreover, due to the nature of limited funding available for conservation easement purchases in general, it may be difficult to find a qualified third party organization to take over management of the proposed conservation easement area. The property would be far less valuable as open space and wildlife habitat with a commercial amphitheater commanding the prime grazing space, and dominating the view-scape.

- Land held in a privately held account, cannot be truly considered “open lands.” A public trust, ideally established under county control, is the only valid way to guarantee true “open lands.” Also, a verbal agreement to not develop the remainder of the developer’s property is not a sufficient threshold. If this proposed development becomes a reality and then the land and its business are sold to others, the agreement to not develop the remainder of the property would likely vanish.

## VII. Emergency Services and Infrastructure

### A. Police Services

- There is, on average, only 1 sheriff’s patrol car per shift for this area of Larimer County (from Harmony Rd. to the southern border of Larimer County and from east of the town of Drake to Highway 287) and only 5 deputies per shift among all 5 areas of the county. This includes shift supervisors. Although a maximum of 8 deputies is theoretically possible, with vacations, injuries, leave due to instructor requirements, and vacancies, this is highly unlikely and virtually never happens. (Larimer County Sheriff’s Office, 9-11-2003) During a February conversation with a Larimer County deputy, he commented that the Sheriff’s Office is currently short 15 deputies and that the Serenade Park issue is something they’d rather not think about.
- Larimer County’s Sheriff staffing for sworn officers per 1000 people in unincorporated areas of the county ranks in the 1/3 lowest for the entire state of Colorado. (Loveland Herald-Reporter 9-9-2003)
- “The overall crime rate for Larimer County was up 10.4% between 2001 and 2002... Also, the number of callers forced to wait for a deputy to respond increased 40% in 2002.” (Loveland Reporter-Herald 9-9-2003)
- The Sheriff’s Academy and its extensive continuing education programs already take deputies off the streets to serve as instructors.
- Departmental resources are already compromised, and in some cases, tapped-out. Funding would have to be diverted from other needed areas to address problems inherent in managing the impacts of a major music venue. Of note is the addition of the new Larimer County Fairgrounds and Events Center, which we are told is being patrolled by on-duty, not off-duty, deputies. This further depletes the Sheriff’s manpower resources.
- The Sheriff’s Department cannot police these additional concert-goers adequately. The applicant’s so-called 24-hour privately funded security would amount to, as the submittal states, efforts to “monitor patrons and guests for impairment.” Even if this were possible or even partially successful, this staff would not and could not police the surrounding area. That responsibility would needlessly fall upon the Sheriff’s Office. No matter how well-trained the security staff would be, it is an unwelcomed and unnecessary burden to the sorely understaffed Sheriff’s Office and the neighboring citizens. Concert revelers would be partying both before and after concerts. The greatest concern is after concerts, which would let out at 10 p.m. The park, however, would stay open for another hour. Revelers would likely congregate in the “serene” nearby neighborhoods until 2-3 in the early morning. Any off duty sheriffs working these concerts could not address this concern at all as they would only be present during the actual concert times and not in these related off-property, high incident periods. Also, off duty sheriffs working these concerts would have to be taken from a depleted pool of available sheriffs and would be diverted from other off-duty activities for which they may otherwise be hired. These revelers would just add to the existing late-night youth partying that is already prevalent and is beyond the Sheriff Department’s reasonable response time. Currently, a 45-minute to 3-hour

response time in the evening and night is not uncommon in several of the nearby neighborhoods.

- Vandalism, vagrancy, public indecency, rowdiness, and trash would increase and overall public safety would decrease. If festival seating is part of the ticket structure, hundreds and potentially thousands of anxious concert-goers would be turned away at sold out events. That overflow would deleteriously affect the neighbors as some of that overflow would likely loiter and party nearby in order to hear the concert for free at a distance.
- Alcohol consumption and drunks traveling on the winding roads would increase, substantially decreasing public safety.

#### B. Ambulance Services

- What will happen to county residents who happen to live west of Serenade Park if they have an emergency and the county services (including the police) cannot respond because Hwy 34 is clogged with visitors coming and going to Serenade Park? There is no alternative roadway into the Big Thompson Canyon.
- The egress and ingress possibilities are not capable of becoming modified or of being made adequate to meet the needs arising in the event of natural or man-made disaster.

#### C. Fire mitigation

- Emergency services would be restricted by traffic during peak hours.
- There would be an increased likelihood of fire danger due to the presence of careless concert-goers (e.g. cigarette butts could easily start fires in the dry roadside grasses), and the possibility of pyrotechnics (fireworks) usage and malfunction during concerts. The minimum amount of water needed to put out fires created at this concert venue would be huge, requiring on-site fire flow water storage of approximately 340,000 gallons and at least 10 fire hydrants.
- All buildings would need a defensible fire space surrounding them, requiring much vegetation to be removed, which would be further detrimental to numerous animal species.

#### D. Water

- The project would rely on Little Thompson Water District water. An underground 340,000-gallon storage tank and an above ground 12,000-gallon storage tank would need to be constructed, having a very negative and dramatic effect on the land and the general area. There is no guarantee that the project's water demand would not have an adverse effect upon the overall water supply and monthly water fees for other Little Thompson Water District customers. This is all the more aggravated by the prevailing drought that has persisted in recent years, and may well do so into the foreseeable future.
- Cascade Creek runs through the applicant's property flowing downhill to neighboring properties. Water for these adjacent properties is fed by this creek, the underground aquifers related to it, and possible seepage from the Hanson Feeder Canal. Development on the property will likely create an adverse effect in water quality for neighbors due to "non-point source pollution" - infiltrating contaminants of vehicle fluids such as gasoline, transmission and engine oils, antifreeze, salts, and other humanly introduced materials. A parking lot of the size proposed, approximately 33 acres, along with its access roads and the necessary highway expansions, will have a dramatic and deleterious effect on the water quality for downstream wetlands, irrigation, and human domestic water consumption.

- Cascade Creek deposits into two water supply ditches serving two cities downstream. The Home Supply Ditch, which runs to Lone Tree Reservoir, becomes the drinking water supply for Johnstown. The Handy Ditch, which runs to the Welch Reservoir, becomes the water supply for Berthoud. These ditches serve tens of thousands of people. Both supply companies have shared with us their concerns about the possibility of contamination to the water supply.
- Water drainage problems already exist in the valley. The addition of buildings, concrete sidewalks, and 33 acres of asphalt parking lots will increase the water runoff by 103.8 to 120.5 cubic feet per second (determined by the two methods of analysis used in the applicant's recent drainage study). This is equivalent to up to 54,080 gallons per minute. These impermeable surfaces, combined with the fact that bedrock is very close to the surface on properties in this valley, means that the soil is very shallow and more subject to erosion due to runoff. The applicant's study indicates that "due to the topography of the site, not all project storm water will be routed [through] the proposed detention ponds." Only "six of the twelve sub-basins... flow into the proposed detention ponds." This would alter the natural habitat of the area by unnaturally creating 3 new sub-basins, and is another explanation for the increase in water runoff. Soil erosion can be expected, and sedimentation may harm species downstream.
- The developers are hoping and relying on possible future Federal repairs to the Hanson Feeder Canal to offset some of the additional runoff due to the development of the property. This mitigation is minimal, speculative, and avoids the real issues at hand.
- Additionally, the drainage study relies heavily upon the implication that it is the prairie dog and the weeded areas that have already presumably increased storm water runoff. The study uses this notion to justify this ill-advised development. However, to those who know of the historical use of this property, it appears that it is the lack of land stewardship by the applicant and resident that has largely precipitated the rapid decay of the surface soil quality. This study erroneously assumes that it is only through this proposed development that better land management can be achieved. It omits the possibility of these eroded portions of land being returned to natural processes through wise and minimal land intervention.
- Of the 14 documented wetlands in the applicant's study, 7 are under jurisdiction by the U.S. Army Corps of Engineers. One thing the Corps considers is flood control, and the act of paving or surfacing 33 acres for parking can have a significant effect on the amount and speed of runoff.
- Finally, the study's perimeters end at the east edge of the applicant's property. What will be the effect of the runoff on the sizing of the culvert under the bridge over Hwy 34 and the three culverts immediately downstream within ½ mile? There has been no study regarding the effects of the increased water flow after it leaves the site where the area narrows, moving into a waterfall basin.
- The construction due to the addition of a new 6" water line along Hwy 34 for nearly a mile would inconvenience numerous property owners. Land easements for adding water lines will become necessary, perhaps relocating or disturbing existing structures.

#### E. Sewage

- The City of Loveland has rightly chosen to decline the applicant's request to accept wastewater from the proposed project site. This venue, therefore, would need to construct a large central sewage system to accommodate in excess of 2,000 gallons per day. This would include sewage surge tanks, grinder pumps, a pressurized main

line, and a wastewater treatment facility 2,500 feet away consisting of 2 aerated ponds, a polishing pond, a holding pond and a land application area. Problems associated with sewage systems can include leakage and odors (and they will smell) as well as significant disturbance to the native land. Open sewage ponds would be hazardous to the wildlife as well as a nuisance and a noxious presence to nearby neighbors. The applicant's submittal indicates that "monitoring wells" will be needed in order to sample the level of groundwater contamination. This is a huge sewage system and will be needed to handle the volume of large concerts at peak periods.

F. Roads

- It is impractical, if not impossible, to expand the highway to meet the volume of vehicles expected. Attempts to do so would destroy the scenic view corridor highly valued in the Master Plan. The highway currently runs through significant gateway mountain passes. This fact greatly constrains the nature of the expansion that can reasonably be done to the highway. Therefore, there is no way for the developers to remedy the unacceptable CDOT rating of "F" for the ingress and egress of 9,000 passengers along Hwy 34.
- There would be extra costs and additional manpower required to clean-up the trash strewn on the highway which would be specifically generated by the project's mere existence.

G. Electric, Natural Gas, Trash

- Electric service will be needed and obtained by construction of a new service line from an existing buried service line north of the area.
- Natural gas service will be needed and obtained by construction of a new service line from an existing buried service line 2,100 feet east of the area.
- The applicant indicates that all trash dumpsters will be bear-proof and wildlife-proof, but, of course, that is not always the case in practice. Also, the mere smell is a draw to wildlife and further erodes the ecological balance in this highly prized, scenic, and environmentally sensitive area.

## VIII. Economics

A. Taxpayers' burden

- The development would become a taxpayer's financial drain and a potential "black hole." There would be many unintended consequences that would add to the taxpayers' burden. Tax revenues generated from ticket and concession sales would not offset county taxpayer losses. County resources (i.e. Sheriff manpower, fire protection, and ambulance) would be severely strained and likely overwhelmed.
- The project property is on a state highway, yet the state patrol does not have jurisdiction over county matters. The whole burden would fall upon county resources to service the area.
- This project would unwisely compete with other amphitheater venues, drawing revenue away from substantial investments such as the venue in Estes Park and the taxpayer funded new Larimer County Fairgrounds and Events Center. Taxpayers have already paid for such an amphitheater - we built it. Also the Rialto Theater, owned by the City of Loveland would likely suffer some booking issues.
- Maybe the types of musical groups that the applicant is seeking to attract would be better housed at the "old" Larimer County Fairgrounds that are coming under the City of Loveland's purview. Mishawaka in the Poudre Canyon and the venue in Boulder County in Lyons are also well suited for the applicant's concert approach.

(Noteworthy is the fact that the Lyons venue was built on land congruent with similar “prior use.”)

- The applicant argues that there is no such venue in Northern Colorado, but this ignores the facts. Serenade Park is not a better proposal than using what we already now have available: the vacant Larimer County Fairgrounds or the new Budweiser Events Center, both of which already have all of the facilities and parking needed. The applicant’s argument simply does not make sense factually or economically.
- The Denver Post printed an article this summer on the many music venues and how competitive the industry has become in Northern Colorado. The industry is not filling existing seats. In fact, a professional regional concert booking-agent commented recently that “we just don’t have the music buying public to support this.”

B. Business degradation

- Turn and acceleration lanes would take away private property, requiring the loss of a minimum of 32 feet. As an example, the “Wild Things” business parking lot would have to be removed for road expansion.

IX. Quality of Life

A. Noise pollution

- Most sound mitigation is designed to address mid and high frequencies. These frequencies are mostly directional in nature and require less dense materials to absorb. Low frequencies - bass sounds – however, are omni-directional in nature, and require significant density and mass, or sophisticated membrane resonance chambers to mitigate. (This booming effect is familiar to us all. We have all been at a stop light along side of a car whose trunk is filled with boom box speakers – the car’s materials cannot stop the bass end sounds.) In an open concert arena sound mitigation is virtually impossible to accomplish.
- The disturbance level due to the music, applauding, and yelling would be a nuisance and would not be controllable by the concert management. The maximum noise level cannot exceed 55 decibels during the day, and 50 decibels after 7:00 p.m. as per Larimer County’s noise ordinance 97-03. This would be difficult, if not impossible, to maintain. Additionally, sound levels are generally much louder than simulated testing levels can reveal. The applicant’s noise study (October 2003) states with respect to the county’s “noise disturbance” provision that “there is no objective way to determine that condition.” It goes on to state that “maximum sound levels from an event can be difficult to predict because they tend to be very brief and often depend on individual actions.” In other words they are saying, in the final analysis, there is no way to prevent noise problems because you are not going to be able to fully predict or control 9,000 concert-goers.
- The study also attempts to minimize the impact of the concert noise on the surrounding neighbors by suggesting that traffic noise will quickly “mask” the amplified music. This seems to suggest that citizens who bought homes prior to this proposed major commercial amphitheater shouldn’t mind the imposition. The study also ignores the fact that only one or two of the nearby homes are close enough to Hwy 34 to have this dubious alleged “benefit” of the traffic “masking” noise generated by the amphitheater. In addition, the study did not take into account the reverberation factor that occurs because of the unique topography of the canyons and valley “walls.” Considerations, such as the echoing effect and “boom factor” of amplified music, were never addressed. This is particularly the case for homes in the adjacent valley connected via the Rock Ridge Pass (which is directly behind the amphitheater) where there is greater home density. Accordingly, the applicant’s

- sound study makes the far-fetched and erroneous claim that “no existing homes should be impacted by noise.” Indeed the sound study seems to suggest that a virtual “cone of silence” would descend upon the amphitheater, thereby preventing sound waves from reaching the neighboring homes. Suffice it to say that logic and physics alone indicate that this is impossible. However, the study does acknowledge that, “with a concert in progress at Serenade Park, sound levels in the immediate area will, of course, be higher than the typical background levels and the music will be audible [in the surrounding area].”
- The study modeled projected traffic conditions and indicated that the difference in sound would be an increase of 2 times the sound energy. It, however, attempts to minimize this 100% increase saying, “most people do not notice a difference...,” proposing that we should not be concerned and that this doubling of the noise levels is of minimal impact.
  - Finally, the study concludes by saying, “the observers (those in the concert simulation team) cannot speak for the actual [emphasis added] property owners as to what constitutes a disturbance...” and that “changing the modeling assumptions could also produce different results.” This is a massive under-statement, inasmuch as the neighboring property owners are quite convinced and concerned that this will create an unacceptable intrusion and disturbance. Furthermore, they were never contacted or consulted by the study team.
  - The bias of a noise study may show up in the type of song, music, and testing volume levels chosen, as well as its overall assumptive constraints. One of the assumptive constraints in this study was found in its selection of methodology. The study used a filtering method known as A-weighting. “A-weighting is a way to approximate how the human ear perceives a sound by reducing lower frequency sound levels by a specified amount.” This is accomplished by reducing the valued weight of frequencies below 1000 Hz and increasing the valued weight of frequencies between 1000-5000 Hz. The problem with this methodology is that noise is not just a function of the “perception” of the human ear and mere decibels. Low-frequency noise does not have to be 'loud' to have an effect upon the body and mind. For instance, low frequencies below 25 Hz are not even audible to the human ear but have a significant effect in terms of the body and its ability to relax. A constant drone of low frequency impacts is disruptive and reduces quality of life. “Timber [or frame] construction will typically give good insulation against speech, but very poor insulation against a low frequency...” “The noise complained of need not be injurious to health; the criterion can be one of interfering with ordinary comfort or amenity.” (quotes by Anthony Sneider BA (Hons) M.Phil FIMBM MIMgt MCIM Building Technologist -[www.imbm.org.uk](http://www.imbm.org.uk))
  - “Sound level meters usually contain different weighting networks [or filters] (designated A, B, C, D) to discriminate against different frequencies. The very low frequencies are discriminated against quite severely by the A network [filter], in a manner similar to the response of the ear, but only moderately by the B network and hardly at all by the C network. Since the A-weighting network corresponds to the tendency of the ear to discriminate against low frequency sounds, it is often employed in decibel measurements of community noise. Such measurements are designated dBA. The sound level meter, however, does not take into account the predominant frequency region of the noise, or other factors which may cause annoyance.” It is this type of annoyance that is not accounted for in the study. (quote from [http://www2.sfu.ca/sonic-studio/handbook/Sound\\_Level\\_Meter.html](http://www2.sfu.ca/sonic-studio/handbook/Sound_Level_Meter.html))
  - “Noise sources from low-frequency components, like boom cars [or concerts], deserve special consideration. ‘Disturbances may occur even though the sound

pressure level during exposure is below 30 dBA.’ (from “Guidelines for Community Noise: Adverse Health Effects of Noise”) Low-frequency noise will penetrate walls and barriers more readily than high frequency noise. Events that disturb and harm our physical, emotional, and mental health are called stressors. Stressors can lead to the body initiating the fight-or-flight adrenaline response.... Boom cars [or concerts], with their high-intensity / low-frequency sounds and infrasound, are a known stressor that can lead to specific, negative events in the body.” (quote from <http://www.lowertheboom.org/trice/reacting.htm>)

B. Light pollution

- This project would need to be well lit to serve 9,000 concert-goers. It could be up to 40 acres of lighting including 4 parking lots. Many people move to rural areas to get away from lighting created by high population centers. Serenade Park would generate substantial light pollution at least 3 nights a week throughout the spring summer, and fall seasons.
- The applicant’s light study remarks that “the overall light level... will add essentially zero perceived [emphasis added] light pollution to the sky and the immediate vicinity.” This type of remark is an attempt to disregard the whole issue of light pollution and mocks the intelligence of our citizenry. They must be counting on our collectively numbed senses to not see what is there.
- Many of the proposed concerts would be in the evening. New research shows that light pollution “threatens wildlife by disrupting biological rhythms and otherwise interfering with the behavior of nocturnal animals.” (*National Geographic Today*, 4-17-2003)
- Glare can be disabling to the drivers passing by on the highway. If the 33-acre parking lot is 25 feet higher than the highway, due to the topography of the site, and the lights are mounted on poles raising them an additional 15 feet (even though they may be considered “low-height fixtures”), they will be difficult to shield from Hwy 34.
- “Ground-reflected light can account for as much as 20% of sky glow, and can hamper...attempts to view the night sky” (“Lighting for Exterior Environments” by the Engineering Society of North America).

C. Appropriateness

- Serenade Park would not add to the “serenity” of the area, the county, or the region, despite its lofty goals and claims. Changes to the area must be in “harmony” with the environment and surrounding neighbors, most of who are adamantly opposed and view this as an unwarranted intrusion and incursion into their lives and families.
- Contiguous neighbors, businesses, communities, and homeowner’s associations would be adversely and permanently affected.

D. Aesthetics

- This proposed development would stand in stark contrast to the rural nature of the area. The most dominant view from the highway will be the 33 acres of parking lots and a 76,754 square foot 3-story building, 2 stories being above ground. No matter how hard you try, or how many specially funded studies and reports you submit, you simply cannot make such site usage “flow” or magically become compatible with the scenery appropriate for that area. The project would effectively and single-handedly destroy the scenic view corridor.