



## **MINUTES OF THE BOARD OF COUNTY COMMISSIONERS**

**MONDAY, NOVEMBER 4, 2024**

### **LIQUOR LICENSE HEARING**

The Board of County Commissioners met at 11:00 a.m. with David Ayraud, Deputy County Attorney. Chair Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also present were Elizabeth Carter, Manager, Clerk and Recording Department, and Deirdre O'Neill, Deputy Clerk.

Mr. Ayraud explained that the matter brought before the Board today is a Change of Manager for the Ft. Collins Lodging LLC dba The Clarion Hotel. Mr. Ayraud had the applicants state their names and state the address of the licensed business. Bruce Rahmani, owner and Stephani Johnson, potential new manager, were present. Mr. Ayraud asked if there was anyone present to speak in opposition to the application. There were no members of the public present. Mr. Ayraud had the clerk swear in the applicants.

Mr. Ayraud noted that this hearing is for the filing of a change of manager for a liquor license establishment. Mr. Rahmani had previously obtained a Hotel & Restaurant license for the premises in September 2024. As part of the original liquor license application, the original proposed manager was separated from employment prior to the hearing and Mr. Rahmani became the listed manager at the time of the hearing with the intent of hiring a new manager in the near future. It is a requirement to alert the local licensing authority of a change of manager, which they have done. The proposed new manager, Ms. Stephani Johnson, was required to submit a background check and an individual history report. The criminal history report indicates an arrest in 2016 for cruelty to non-livestock which she received a deferred sentence in 2017 with copies of this presented to the Board. There was also an arrest in 2022 for theft of services greater than \$30,000 but less than \$150,000. This hearing has been set to allow the proposed manager the opportunity to further explain both of these matters and answer any questions brought forth by the Board of County Commissioners.

Ms. Johnson stated that on the charge of animal cruelty, her home was sold by the courts and the new owner had called the sheriff because Ms. Johnson was still living on the property. A search warrant was issued and during the search of the property the sheriff found a dead animal in the well house. The animal did not belong to Ms. Johnson but because she was the caregiver for her elderly mother,

she accepted the plea deal and paid the fine instead of the possibility of jailtime for fear her mother would be left alone.

Mr. Ayraud did ask why she answered no on the application relating to “Have you ever been convicted of a crime or received a suspended sentence or deferred sentence?” Ms. Johnson responded that she believed the question referred to current sentencing and that her intention was not to deceive or not be truthful on her application.

Ms. Johnson then proceeded to explain the second charge of theft of services. She stated that her uncle, William Johnson Jr had put her in charge of helping with his finances while he was living in Honduras and needed someone to pay bills stateside, so he transferred money to Ms. Johnson from time to time for this purpose. His children from his first marriage brought the charges forth but Ms. Johnson was able to provide emails between herself and Mr. Johnson and subsequent payments for bills and the charges were dropped.

The Board did have some questions on clarification of Ms. Johnson and thanked her for being forthcoming.

Mr. Ayraud outlined the criteria for the Board including that the licensee may not hold a liquor license if they employ any person who is not of good character and reputation. The local authority may consider the nature of the conviction, whether there is a direct relationship concerning the conviction relating to the duties and responsibilities of the job or whether the duties and employment would place other employees or the public in a vulnerable position and time elapsed since the conviction.

The Board asked Mr. Rahmani if he would like to add any comments. Mr. Rahmani stated that they also do background checks on all their employees via a third party and this information was not provided to him. Moving forward Mr. Rahmani did state the Ms. Johnson would only manage the bar area of the hotel but would also have a co-manager who would be responsible for the entire hotel.

The Board deliberated and stated that they would be in support of Ms. Johnson as the liquor license manager and believed that she has satisfied all the requirements and has paid her dues.

## **MOTION**

Commissioner Stephens moved to approve the transfer of manager for the Ft. Collins Lodging LLC dba The Clarion Hotel.

### **Motion carried 3-0**

The Board adjourned at 11:35 am

## **LAND USE HEARING**

The Board of County Commissioners met at 3:00 p.m. with Jenny Axmacher, Planning Manager. Chair Kefalas presided. Commissioner Shaddock-McNally and Commissioner Stephens were present. Also present were Laura Culleton, Planner II, Christina Scrutchins, administrative support Community Development; Rebecca Everette, Community Development Director; Lea Schneider, Health and Environment; David Pringle, Engineering; Frank Haug, Assistant County Attorney, and Deirdre O'Neill, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

## **PLEDGE OF ALLEGIANCE**

### **PUBLIC HEARING DISCUSSION ITEM:**

**1. WOLF PROPERTIES LLC APPEAL, FILE NO. 24-GNRL0559:** This is an appeal request to sections 4.3.7.B.1 and 4.3.7.B.2 of the Land Use Code for a proposed single-unit residence to use a well as the primary domestic water source within the Northern Colorado Water Association area.

Jenny Axmacher briefly went over section 4.3 of the Land Use Code- adequate public facilities, stating the purpose of section four of the Land Use Code is to implement the Comprehensive Plan goal of ensuring that adequate public and/or private utilities, facilities, and services are provided and maintained concurrently with development. Section 4.3.7.B states that for a development to be served by a well, it must meet the following requirements:

1. The development cannot physically be served by a public community water system whose distribution system is within one mile of the development.
2. The development is outside any existing or planned water district and/or water service area.
3. An augmentation plan has been approved and the Colorado Division of Water Resources confirms that permits will be issued.
4. Evidence is submitted showing that adequate water quality and quantity can be made available for development. Evidence may include test well data, laboratory analyses of water quality, and geologic and hydrologic analysis. Applicants shall show that the water source will be safe, adequate, and reliable. In turn, the State Engineer shall review the water supply information and issue an opinion regarding injury to other vested water rights and the adequacy of the water supply.
5. A well that supplies water as part of a collection, treatment, and distribution system for development and meets the criteria of a public water system shall comply with the State of Colorado Design Criteria for Potable Water Systems policy, regulated by the Colorado Department of Public Health and Environment's Water Quality Control Division.

The intent behind this language is to make sure that when properties develop, they have adequate public facilities, in this case water service, to function successfully. Further, if urban level services, such as water provided by a water district, are available to a property, then those should be used to support urban level development, rather than connecting to less reliable utility sources such as a well. Wells, while permitted through the State Division of Water Resources, are not permitted with any guarantees of how much water can be pumped or if the water is of a quality that would be acceptable for human consumption, hence criteria four above. Many of the water districts in Larimer County were created to provide water to areas where drilling wells were found to be unproductive.

The County is now in a unique and unexpected situation where land was subdivided and developed within a water service area and that water service provider, Northern Colorado Water Association (not

to be confused with the Northern Colorado Water Conservation District), has now enacted an indefinite moratorium on issuing any new taps. NCWA has expressed to staff that the moratorium will not end any time soon, if ever. The Land Use Code was not drafted with this potential situation in mind, so staff are looking to the Board of County Commissioners for guidance on how to handle these issues moving forward, which is why no staff recommendation is provided.

Ms. Axmacher stated that it is worth noting that Northern Colorado Water Association (NCWA) is not a State-approved special district like East Larimer County Water District or South Fort Collins Loveland Water District, which collect taxes in addition to fees. NCWA has a water service area, not a district boundary, and views themselves as a member-owned association where members pay the base fee and then the water rates, but nothing else on top of that. Ms. Axmacher introduced Laura Culleton, Planner II to give the presentation.

Laura Culleton presented the appeal to the Board stating that the property in question is located at 6233 East County Road 62 in Wellington, Colorado. In this specific case, the subject property currently contains an existing principal single-unit residence constructed in 2008. The applicant is proposing to construct a larger single-unit residence on the property and convert the existing residence to an Accessory Living Area (ALA). The existing residence is serviced by septic and the Northern Colorado Water Association (NCWA).

On August 23, 2024, Larimer County received notice from NCWA that the water district will no longer be approving a new water service for any new memberships or any accessory dwelling units. Therefore, the applicant is not able to connect their newly proposed single-unit residence to public water service. The applicant is requesting approval of this appeal to Section 4.3.7.B.1 and 4.3.7.B.2 so that they may utilize a well inside of the Northern Colorado Water Association boundaries as the domestic water source for their proposed primary residence. The existing single-unit residence will be converted to an Accessory Living Area and will remain connected to NCWA.

#### REVIEW CRITERIA

- A. Approval of the appeal will not subvert the purpose of the standard or requirement.
- B. Approval of the appeal will not be detrimental to the public health, safety, or property values in the neighborhood.
- C. Approval of the appeal is the minimum action necessary.
- D. Approval of the appeal will not result in increased costs to the public.
- E. Approval of the appeal is consistent with the intent and purpose of the Code.

#### DEVELOPMENT SERVICES TEAM RECOMMENDATIONS:

The Development Services Team is not making a specific recommendation on the Wolfe Properties LLC Appeal File No. 24-GNRL0559 and has presented all the information by which the Board of County Commissioners may base their deliberation and decision.

The Board had questions for Lea Schneider, Health and Environment, on the analysis of adequate quality and quantity regarding the proposed well and if this is conclusive. Ms. Schneider explained to the Board production rates and that .5 gallon per minute is the bare minimum but until the drilling of the well is complete, they will not have a conclusive answer until testing can be done.

Chair Kefalas invited the applicants to approach the Board.

David Wolfe, Jaden Wolfe and Caleb Kramer spoke on behalf of the applicant, Jaden Wolfe. Jaden purchased the property at 6233 ECR 62 in Wellington, Colorado. Before purchasing the property, he inquired about a water tap from Northern Colorado Water Association (NCWA). He was informed that no new taps were available, but since he already had a tap on the property for a rental house, he would be able to also have that same tap supply the new home he planned to build. Due to the rising cost of water, Mr. Wolfe also applied for a permit for a well. That permit was approved by the Colorado Division of Water Resources. After the NCWA approval and while waiting for the Accessory Living Area approval, he was informed by the NCWA that due to a new moratorium on water taps, he can no longer use the existing tap to service the new home. Mr. Wolfe went back to Larimer County planning and applied for a well permit and was granted it on September 18, 2023.

Since then, Jaden Wolfe has been informed that due to an existing rule (4.3.7.B.1 and 4.3.7.B.2) that he will not be able to use that well. The rule states that you cannot drill a well within one mile of an existing municipality water tap. Mr. Wolfe believes that this would cause severe hardship in that he would not have water supply for his new home. He has been informed that his is the only property east of County Road 3 that is serviced by NCWA.

The Board had some questions of staff and the applicants concerning boundary lines and how NCWA differs from special districts. The Board asked if the applicant is aware of the five conditions of approval and that the planning department would need to receive evidence of adequate water quality and quantity before a building permit could be issued. The applicant stated that they are aware of the conditions of approval.

The Board also had questions on soil reports and testing. Mr. Kramer noted that soil testing was done before and after the property was purchased. The applicant also read a letter stating that NCWA does not object to a well being drilled on the property. There are water wells on surrounding properties in all directions that are served by water wells that provide adequate water production for the residences at these properties.

Chair Kefalas opened the hearing for public comment. No attendees were present in person or on-line.

Chair Kefalas closed public comment.

The Board had questions for staff on how many properties are affected by this moratorium and if the Board will potentially see more appeals in the future. Ms. Axmacher stated that this was just something

that the code did not consider, and it lumps these associations into the same category as special districts and those two entities operate differently. Ms.Axmacher had knowledge of at least six property owners that are in the same situation. Frank Haug, Assistant County Attorney, explained that this appeal is for a well permit called a domestic well permit which is typically allowed over 35-acres.

The Board deliberated and announced that they are inclined to approve the appeal due to the size and rural nature of the property with the five conditions of approval being met as well as the review criteria that have been met. The applicant has followed the process and done his due diligence, and we want to make sure these homes have adequate water supply.

## **MOTION**

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the Wolfe Properties LLC Appeal, File No. 24-GNRL0559, subject to the following conditions:

1. The piping system supplied by a private well shall not be connected to the Northern Colorado Water Association potable water system.
2. The existing residence must maintain its connection to Northern Colorado Water Association or be converted into a non-habitable structure with the water tap removed.
3. The Planning Division shall be provided with sufficient water quantity and quality information for the Well, as determined by Larimer County Community Development and Department of Health and Environment staff, prior to the issuance of a building permit for the primary residence.
4. The primary dwelling will be designed and constructed in such a way that should water service from a water provider be available in the future, the structure could be converted to that supply, instead of the well, at the request of the County.
5. While the Health Department comments note the possibility of using a cistern to augment the well supply, a cistern cannot be used as the primary source of water supply to this project or property as it would not meet the code requirement for a permanent domestic water supply.

## **Motion carried 3-0**

With there being no further business, the Board adjourned at 3:55 pm.

**TUESDAY, NOVEMBER 5, 2024**

## **ADMINISTRATIVE MATTERS MEETING**

There was no Administrative Matters Meeting held this week.

A handwritten signature in blue ink, reading "John Kybalas", is written over a horizontal line.

JOHN KEFALAS  
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS  
CLERK AND RECORDER

ATTEST:

  
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Deirdre O'Neill, Deputy Clerk



