



MINUTES OF THE BOARD OF COUNTY COMMISSIONERS

MONDAY, APRIL 8, 2024

LAND USE HEARING

The Board of County Commissioners met at 3:00 p.m. with Rebecca Everette, Community Development Director. Chair Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also present were Michael Whitley, Community Development; Justin Currie, Community Development; Connor Sheldon and David Pringle, Engineering; Frank Haug, Assistant County Attorney; and Tessa Beaty, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING CONSENT ITEMS:

1. LUCKY THREE RANCH APPEALS, FILE NO 23-ZONE3542

DISCUSSION: This request contains two appeals to the Larimer County Land Use Code (LCLUS), including 1) an appeal to Article 3.4.5.A.3.b. which limits the size of a detached accessory living area (ALA) to 40% of the square footage in the single-family dwelling, excluding any garage or basement area, whether finished or not, or 1,200 square feet, whichever is less, and 2) an appeal to Article 3.4.5.A.4.c., which states that "If the accessory living area is located in a detached building, to the maximum extent practicable it shall be located within 300 feet of the primary residence."

The two subject properties are located at 2425 and 2457 S. County Road 19 in Loveland, Colorado, which are located ~0.2 miles northwest of the intersection of W. County Road 16 and S. County Road 19. The subject properties are owned by the Meredith S. Hodges Trust and are part of the Lucky Three Ranch.

2425 S. County Road contains an existing 1,489-square-foot three-bedroom manufactured home constructed in 1996 (Permit No. 96-L6785) and several outbuildings. 3457 S. County Road 19 contains an existing 6,154 square-foot single-family residence (not including a basement or attached garage), constructed in 1927, and several outbuildings. Both properties are zones RR-2 – Rural Residential.

The owner has applied and received approval for a combined Amended Plat/Boundary Line Adjustment (File No. 22-LAND4217) to combine the two subject properties, in addition to other adjacent properties, to create one 85-acre lot. Per the applicant, the combined Amended

Plat/Boundary Line Adjustment proposal is to clean up these properties by consolidating certain lots and recognizing all properties on one plat.

However, this proposal results in the two previously mentioned primary residences residing on one lot, which is not permitted in the RR-2 – Rural Residential zoning district. To rectify this issue, the owner has applied to convert the existing manufactured home, located at 2425 S. County Road 19, to an accessory living area. The single-family residence, located at 2457 S. County Road 19, would remain as a primary residence on the newly combined lot. Recording of the final documents for the combined Amended Plat/Boundary Line Adjustment application will occur if approval of the accessory living area is received.

As noted above, the square footage of the detached accessory living area is limited to 40% of the primary residence, not including the finished basement, or 1,200 square feet, whichever is less, since the existing lot is greater than 2.3 acres. 40% of the primary residence is 2,461 square feet; therefore, the accessory living area could not exceed 1,200 square feet. The proposed accessory living area is 1,489 feet, which is approximately 24% of the square footage of the single-family dwelling, and it exceeds the 1,200-square-foot limit by approximately 289 square feet.

Please note that the Larimer County Land Use Code was updated in November 2023 to allow for an accessory living area not to exceed 75% of the main residence rather than 40%. However, this application was submitted in August 2023 and is therefore being evaluated in the Larimer County Land Use Code effective at the time of submission.

Additionally, as noted above, a detached accessory living area must be located within 300 feet of the primary residence to the maximum extent practicable. According to the applicant's project description, the proposed accessory living area is located ~526 feet from the primary residence.

The applicant's project description indicated that the accessory living area will not be used as a long-term rental and will be used solely for the owner's guests. Both dwellings will be accessed off S. County Road 19. Adequate parking for the residence and accessory living area is provided on-site.

The property owner submitted an Administrative Special Review and Appeals application. If the Appeals area is granted by the Board of County Commissioners, the Administrative Special Review can be approved administratively by the Community Development Director.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends approval of the Lucky Three Ranch Appeals, File No. 23-ZONE3542, subject to the following conditions of approval:

1. The Accessory Living Area shall be located as shown on the approved site plan.
2. The use of the Accessory Living Area must be approved through the Administrative Special Review process.

The Development Services Team notes that if the proposed Appeals are approved, additional conditions will be placed on the Administrative Special Review approval, including meeting all

development standards, the need for obtaining all applicable permits, and an expiration of the Administrative Special Review approval.

MOTION

Commissioner Stephens moved the Board of County Commissioners to approve the consent agenda subject to the conditions outlined in the staff report and further moved the Chair to sign the Findings and Resolution.

Motion carried 3-0.

TABLED ITEM FROM MARCH 25, 2024:

1. LEMMON FAMILY TRUST CONSERVATION DEVELOPMENT, FILE NO. 22-LAND4255

PROJECT DESCRIPTION/BACKGROUND: The applicant proposes to subdivide a 241-acre (+/-) parcel zoned RR2 – Rural Residential into forty-five (45) residential lots, each measuring approximately 2 acres. Since the property is over 30 acres and located outside a Growth Management Area, the required land division process for this parcel is a Conservation Development, which requires that a certain percentage of the land be set aside as open space in a residual lot while still allowing for the division of smaller lots in clusters. Based on the zoning and the utility infrastructure already in place, the required ratio of developable land to residual land is 50/50.

Of the 241 acres, 7.3 acres will be dedicated as right-of-way for County Rd. 4 and County Road 21, leaving 234 acres. Of those 234 acres, approximately 24 acres are non-developable due to their location in the floodplain, leaving the total project site as 209 acres. As mentioned above, since this is a 50/50 developable-to-residual land ratio, approximately 104.5 acres are eligible for development, and approximately 104.5 acres must be used for residual land, which is required to be conserved in perpetuity.

The property is currently being used for agricultural purposes, with the remaining portions being undeveloped land. The proposed subdivision will be served by the Little Thomspon Water District, and the residential lots will utilize an on-lot septic for their sewer requirements.

The application was sent out to both referral agencies and community members. No comments were received from any community members. Referral agencies that provided comments are listed below.

Comments were received from the following referral agencies:

- Larimer County Engineering
- Larimer County Code Compliance
- Larimer County Department of Natural Resources, Weed District
- Division of Water Resources
- Little Thomspon Water District
- Berthoud Fire Dept.

- Town of Berthoud
- Century Link
- Colorado Geological Survey
- USPS (United States Postal Service)
- WAPA (Western Area Power Administration)
- Platte River Power Authority

Comments were not received from the following referral agencies:

- Larimer County Health Department
- Colorado Parks and Wildlife
- Larimer County Parks
- Larimer County Addressing
- Larimer County GIS
- Larimer County Soil Conservation
- Eagle Ditch Company

A neighborhood meeting was not required for this proposed subdivision.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked about wetland protection. Mr. Currie explained that a wetland protection line is required to be 100 feet from development.

Commissioner Shadduck-McNally asked about the location of the trail and whether there could be greater than 100 feet of protection. Mr. Currie explained that 100 feet from wetlands is the minimum, but more could be allocated.

Commissioner Shadduck-McNally asked about the agricultural buildings and the requirement to keep those out of the floodplain. Mr. Currie explained that any agricultural development would meet the requirements of the Land Use Code and the riparian level.

Commissioner Shadduck-McNally asked about the riparian area and whether trails enter it. Mr. Currie explained that the setback applies to the structures, not the open space designation.

Commissioner Shadduck-McNally asked if other approval conditions could be applied. Mr. Currie confirmed it could.

Commissioner Kefalas asked about a planning condition for approval of the trail easement that would connect with other trail systems. Mr. Currie explained that this specific condition is no longer required.

DELIBERATION:

Commissioner Shadduck-McNally explained that it is important to remember the 2013 flood and the damage to this area. She expressed concern about structures within the floodplain, trails, and things

within the riparian area and how potential wetlands could be damaged. Commissioner Shadduck-McNally asked for the trail not to be right up against the river and for further protection of the open space.

Commissioner Shadduck-McNally expressed a want to have the distance between the development and the open area be pushed to 150 feet. Commissioner Shadduck-McNally explained that it is not always possible to stop development from occurring but that it is important to protect wildlife as much as possible.

Ms. Everette asked whether the concern is the trails or the development. Commissioner Shadduck-McNally clarified that she is concerned about the protection of the riparian area.

Ms. Everette asked for clarification of the intent of the approval condition.

Commissioner Kefalas asked about the Land Use Code that required the 100-foot setback. Mr. Curries explained that the code requires a 100-foot setback from buildings. Mr. Currie highlighted how the development, as proposed, is currently outside of the 100-foot setback from the riparian area.

Commissioner Kefalas asked if Commissioner Shadduck-McNally wanted to increase the 100-foot setback to a 150-foot setback.

Commissioner Shadduck-McNally asked about the possibility of building restrictions on the closest building envelope to stop development into the buffer. Mr. Curries demonstrated the specifics of where the riparian line and the riparian buffer zone are on the map.

Commissioner Kefalas asked the applicant to come and speak.

Alex Hoime, with HT Land Partners 200, LLC, addressed the Board. Mr. Hoime explained that the trail's intention was to limit the area that people could traverse and that the trail material would be chosen to limit issues with wildlife.

Commissioner Kefalas asked about the setback and whether the trail could exist in it. The applicant confirmed that it could, as the 100-foot setback is for structures. Commissioner Shadduck-McNally confirmed that she would want both the building and the trail to be 150 feet back from the riparian line. Mr. Hoime explained that a pavilion structure would have to be moved if the 150-foot setback was approved.

Commissioner Kefalas asked about the trail and whether it could be changed. Mr. Hoime confirmed that it could be moved or removed, though it was intended to help focus the access area to one place instead of social trails.

Commissioner Kefalas explained that public comment expressed a want to remove access to the Big Thompson.

Commissioner Shadduck-McNally requested that the trail be moved away from the riparian area and have the 150-foot setback. Mr. Hoime expressed a willingness to do so. Mr. Currie explained that this would change the site plans but is doable.

Commissioner Shadduck-McNally asked whether the agricultural buildings would have to be removed from the Riparian area. Mr. Currie explained that it would be.

Commissioner Stephens thanked those who came to speak and expressed their concerns. Commissioner Stephens explained that the traffic concerns have been noted and will be kept in mind moving forward. Commissioner Stephens noted other concerns that were expressed in public comment. Commissioner Stephens expressed her inclination to support this application. Commissioner Stephens noted that with the 500-foot notice, some people were likely excluded from this discussion. She noted that the 500-foot notice might need to be adjusted moving forward.

Commissioner Stephens asked about concerns about social paths vs. delineated paths. Ms. Everette explained that it depends on the volume of foot traffic and that having a delineated path might help in suburban areas.

Commissioner Stephens asked about how the 150-foot boundary would impact the buildings. Mr. Currie highlighted that there would be likely some impacts but likely would be able to be mitigated.

Commissioner Stephens asked for further conversation about the delineation of a path. Commissioner Shadduck-McNally explained that social paths would likely occur but expressed a want to have the trail moved. Commissioner Shadduck-McNally highlighted a desire for the Homeowners Association to help keep this area protected. Commissioner Stephens asked about the specifics of the trail. Commissioner Shadduck-McNally expressed a want for natural delineation and to have the trail pulled back.

Commissioner Kefalas expressed support for this application and for the condition of approval discussed previously. Commissioner Kefalas outlined the reasons that he would support this application and how it has met the Land Use Code requirements. Commissioner Kefalas continued to explain that this is a preliminary plat and how further steps would be required for final approval. Commissioner Kefalas expressed an opinion that concerns have been addressed or will be addressed moving forward. Commissioner Kefalas expressed a desire to change the notification process because it seems that some people were missed.

Ms. Everette expressed that there should be flexibility in the conditions to allow for the design of the trail in regard to the floodplain.

Mr. Haug asked for clarification of the intent of the condition of approval. Commissioner Shadduck-McNally explained that she would want buildings to exist at least 150-feet from the riparian area and for the trail to be pulled away from the river. Mr. Haug explained that there are two separate things being discussed. The structures, including trails, must be 150-feet away from the riparian area, and that the building materials for the trail be natural and consistent with the floodplain.

Commissioner Kefalas asked about the implications of pushing this setback line. Mr. Currie explained that this proposed setback would exclude all trails from the area, and the gazebo would need to be moved. Ms. Everette highlighted that one lot exists in this line and would exclude sheds from being built in that corner of the lot.

Commissioner Kefalas clarified that trails and structures would need to be taken out of the buffer zone. Mr. Currie clarified that it was the case. Commissioner Kefalas asked Commissioner Shadduck-McNally if this was what she was intending. Commissioner Shadduck-McNally explained that unless the Homeowners Association makes it clear that this area is off-limits, social trails will occur regardless. Commissioner Shadduck-McNally clarified that she would be ok with the trail being in the setback as long as it is out of the riparian area itself. Commissioner Kefalas worked to explain the approval conditions.

Mr. Currie asked if the intent of the approval condition would be for structures to be 150 feet back and remove the trail out of the riparian area. Commissioner Shadduck-McNally confirmed that that would allow her to support this application.

Ms. Everette highlighted the need to include flexibility in the language of the motion to allow for trail design.

MOTION

Commissioner Shadduck-McNally moved the Board of County Commissioners to approve the Lemmon Family Trust Conservation Development, File #22-LAND4255, subject to the conditions found in the staff report and the conditions of increasing the riparian area setback for structures to 150 feet, no trails would be allowed within the Riparian area, the trail itself would be made with flood plain status in mind, and a sign delineating that all pets must be kept on leashes.

Mr. Haug asked for clarification on the approval condition, which was discussed by Mr. Haug, Commissioner Kefalas, and Commissioner Shadduck-McNally.

Commissioner Stephens asked for clarification about the intent of the condition of approval and suggested a sign be put up to keep dogs on leashes.

Motion carried 3-0.

Commissioner Shadduck-McNally was excused.

PUBLIC HEARING DISCUSSION ITEMS:

1. CROWN CASTLE APPEAL OF THE ADMINISTRATIVE DENIAL OF CASE 23-WCF0105, FILE NO. 24-GNRL0550:

BACKGROUND: This request is an appeal of a decision by the Community Development Director to deny an application for a Supplemental Site License to construct a 30-foot tall (+/-) small cell facility within the public right-of-way of the south side of W County Road 38E, approximately 380 feet east of the intersection of Windom Street and W County Road 38E. The proposed location is adjacent to 2404 Ideldale Drive, Fort Collins.

A Wireless Communications Facilities Master License Agreement between Crown Castle Fiber, LLC and Larimer County was approved by the Board of County Commissioners on March 8, 2022.

That Master License Agreement is an agreement to allow Crown Castle to construct and operate approximately 16 small cell wireless communications facilities (poles and associated equipment) within the US Highway 36 public right-of-way between the Larimer County line and the Town of Estes Park town limits.

The Master License Agreement specifies requirements and permissions regarding permits, construction, operation, and maintenance of small cell wireless communication facilities in the public right-of-way.

The Master license Agreement also contains a requirement for approval of a Supplemental Site License prior to the construction of any given facility. The purpose of the Supplemental Site License is to allow for public notice and review of specific proposed locations of each small cell wireless communication facility.

Seventeen small cell facilities were approved in the US Highway 36 right-of-way through Supplemental Site Licenses in June 2022.

The first amendment to the Master License Agreement was approved by the Board of County Commissioners on May 16, 2023. That amendment expanded the geographic area covered by the Master License Agreement to the vicinity of the intersection of S Taft Hill Road and W County Road 38E and allowed for the construction of up to four small cell facilities in that vicinity. Each facility is subject to approval through a Supplemental Site License.

Crown Castle applied for two Supplemental Site Licenses for the construction of small-cell wireless communication facilities in the area.

The first was proposed on the south side of W County Road 38E, approximately 380 feet east of the intersection of Windon Street and W County Road 38E (File No. 23-WCF0105). The second was proposed on the northwest corner of Mead Street and Dalton Drive (File No. 23-WCF0106).

The facility on the south side of W County Road 38E would have been a 30-foot-tall pole. The antennas and associated equipment were proposed to be housed within the pole.

There are 13 residential structures within 250 feet of the proposed pole.

Director's Decision

On December 21, 2023, the Community Development Director denied applications No. 23-WCF0105 and No. 23-WCF0106 based on noncompliance with Larimer County Land Use Code Sections 9.4.2.G and 9.4.3.E.4, noncompliance with Larimer County Urban Area Street Standards section 12.3.2C.1, and noncompliance withdrawing 1603 (Access Ramp Details) found in the Urban Area Street Standards.

Section 9.4.2.G of the Land Use Code (Wireless Communications Facilities (WCFs) Adjacent to Residential Uses) reads:

“WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures. WCFs shall not be within 250 feet of any residential structures unless it is

demonstrated there is no other technically feasible alternative. When placed near a residential property, the WCF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties or on the corner formed by two intersecting streets. If these requirements are not reasonably feasible from a construction, engineering, or design perspective, the applicant may submit a written statement to the Director requesting the WCF be exempt from these requirements.”

Section 9.4.3.E.4 of the Land Use Code (Wireless Communication Facility Appearance) reads,

- “a. With respect to a pole-mounted small cell facility, be located on, or within, an existing utility pole serving another utility.
- b. Be camouflaged/concealed in a manner consistent with other existing natural or manmade features near the location where the facility will be located.
- c. With respect to a pole-mounted small cell facility, be located on, or within, a new utility pole where other utility distribution lines are aerial if there are no reasonable alternatives and the applicant is authorized to construct the new utility poles.
- d. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the facility.
- e. Be sited to minimize the negative aesthetic impacts to the right-of-way and adjacent property.
- f. Be designed such that antenna installations on traffic signal standards are placed in a manner so that size, appearance, and function of the signal will not be materially altered, as determined by the county in its sole discretion.

Section 12.3.2.C.1 of the Larimer County Urban Area Street Standards reads,

“Location. Poles, signs, and any other above-ground streetscape (except regulator signs) should be located within 5 feet of the right-of-way line or 10 feet from the travel lane (flowline), whichever is most restrictive.”

Drawing 1603 in the Urban Area Street Standards is the construction drawing illustrating access ramp details.

The letter from the Community Development Director notes several reasons that the application was denied, including:

- The application materials did not demonstrate compliance with the requirement that the proposed pole placement be within 5 feet of the right-of-way line.
- Adequate information was not provided demonstrating that moving the pole to a less impactful location is technically feasible/
- No maps or documentation were provided that show that it would be technically infeasible to locate the facility at least 250 feet from any residential structure or to a less visually impactful location/

- The application has not demonstrated that the proposed location minimized visual impacts and did not seek input from adjacent property owners regarding visual impacts or location preferences.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Board of County Commissioners may choose to:

1. Affirm the Director's decision to deny Supplemental Site License application 23-WCF0105.
2. Affirm with modifications the Director's decision to deny Supplemental Site License application 23-WCF0105.
3. Reverse the Director's decision to deny Supplemental Site License application 23-WCF0105.

Because this matter has already been decided by the Director on behalf of the Development Services Team, the staff does not offer a specific recommendation with this report.

STAFF PRESENTATION:

Mr. Whitley gave a brief presentation about the two discussion items. Mr. Haug suggested that though the staff presentation is given once, the rest of the process should be divided into two separate sites.

Commissioner Kefalas clarified the location of the second site.

Commissioner Kefalas asked for the definition of preponderance of evidence. Mr. Haug explained this definition and how it relates to this situation.

APPLICANT PRESENTATION

Meredith Marshall and Matthew Dorin, Crown Castle Fiber LLC, addressed the Board. Ms. Marshall gave a brief history of 2404 Ideldale Dr. and how the company came to choose this site for its proposed small-cell facility. Ms. Marshall explained the specifics of federal law and how they relate to this situation. She continued to explain why they submitted this appeal and why Crown Castle disagreed with the Director's decision. Ms. Marshall explained how the pole would be located on an arterial roadway and not within the neighborhood.

Ms. Marshall explained how the Land Use Code does not require the company to consult with neighbors before submitting their proposal. She continued to state the reasons that the company does not usually ask the neighbors about their proposed location.

Ms. Marshall concluded that the County cannot, by federal law, consider the environmental and health implications of a small cell facility. Additionally, Ms. Marshall highlighted the federal restrictions of the County for dictating where small wireless facilities can go up.

Commissioner Stephens asked how the placement was developed and whether the neighbors were consulted. Commissioner Kefalas asked what involvement the neighbors had in this process. Mr. Dorin explained that the neighbors were not consulted, but the City of Fort Collins was.

Commissioner Kefalas asked about how much service one cell facility could provide. Mr. Dorin explained that neither he nor Meredith are engineers, but to their understanding, the rings depicted on the map are not representative of actual coverage.

PUBLIC COMMENT:

Gregory Bridwell, the resident of 2404 Ideldale Dr., addressed the Board. Mr. Bridwell explained that the small cell facility is close to his residence and is in the line of site. Mr. Bridwell explained that it would be located on his property. He continued to ask why this site was chosen specifically and spoke about his cell phone signal is ideal.

Commissioner Kefalas confirmed that Mr. Bridwell was not consulted prior to the application.

Commissioner Kefalas closed public comment.

REBUTTAL:

Ms. Marshall explained that other locations were considered, but it was decided that it was not an ideal site. Ms. Marshall explained that wireless connection is important, but depending on which provider someone has, it can affect the quality of the service. Therefore, the client is trying to provide better service for their customers.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked about the maps of the search area and whether it was provided with the application. Mr. Whitley explained that there was no explanation about why that specific spot was chosen and why other spots were not ideal. Mr. Whitley told the commissioners that the community development department had not received much supporting documentation.

Commissioner Stephens asked about the discussion with the City of Fort Collins and whether their standards apply to this situation. Mr. Whitley explained that even though the City of Fort Collins standards don't apply here, it was recommended that the applicant comply with those standards, and it appears that they did. No comment from the City was received.

Mr. Haug explained that while it is recommended that the municipality be consulted in a growth management area, the county ultimately makes the decision.

Commissioner Stephens asked whether the County requires fixtures like these to be placed on arterial roadways. Mr. Whitley confirmed that the County does not have this requirement.

Commissioner Stephens asked about the notification process and the applicant's assertion that notification would cause conflict among neighbors. Ms. Everette explained that the Land Use Code relates to small cellular facilities. Ms. Everette further explained that the applicant had shown that it would be technically infeasible to place this facility 250 feet away from a dwelling. However, there was not enough evidence that this location was the least visually impactful place. Ms. Everette asserted that the best way to find the least visually impactful place is to talk to the residents. Ms.

Everette concluded that County staff constantly must weigh tradeoffs between community input and applications.

Mr. Haug stated that in the Land Use Code, the applicant was not required to consult with residents before submitting the application and urged the Commissioners to keep in mind the applicable criteria.

Commissioner Stephens asked about local aesthetics and whether other local poles create an aesthetic. Mr. Whitley spoke about colocation being highly recommended, and it did not appear in the application that the applicant looked at colocation options.

Commissioner Kefalas asked about the specifics of the language within the code. Mr. Whitley and Mr. Pringle discuss the differences within the code and the intent of the code. Mr. Pringle discussed the clear zone requirement and whether the road would meet that if it was built out.

Commissioner Kefalas asked about the reference in the code to positioning a pole between two neighbors' property lines. Ms. Everette explained that when Community Development asked the applicant to consider other places. There was a discussion on the property line that is proposed, and there was a discussion that the pole could not be moved to the East because of an existing tree, but there was no conversation about moving the pole to another property line.

Ms. Whitley clarified the language in the code.

Commissioner Kefalas asked Ms. Marshall to speak about the differences in the language in the code as the applicant understood it. Ms. Marshall explained why she brought up the code saying "should" vs "shall."

DELIBERATION:

Commissioner Stephens affirmed the director's decision to deny this application. Commissioner Stephens spoke about the importance of colocation and local anesthetic. She continued to mention the importance of talking to neighbors to get their opinions. Commissioner Stephens described the lack of evidence that was presented to staff to make an informed decision.

Commissioner Kefalas agreed with Commissioner Stephens and expressed his belief that the Director did not make an error in this case.

MOTION

Commissioner Stephens moved the Board of County Commissioner to affirm the Director's decision to deny application 23-WCF0105.

The motion carried 2-0, with Commissioner Shadduck-McNally being excused.

2. CROWN CASTLE APPEAL OF THE ADMINISTRATIVE DENIAL OF CASE 23-WCF0106, FILE NO. 24-GNRL0551:

BACKGROUND: This request is an appeal of a decision by the Community Development Director to deny an application for a Supplemental Site License to construct a 30-foot tall (+/-) small cell facility within the public right-of-way on the northwest corner of the intersection of Mead Street and Dalton Drive. The proposed location is adjacent to 2424 Dalton Drive, Fort Collins.

A Wireless Communications Facilities Master License Agreement between Crown Castle Fiber, LLC and Larimer County was approved by the Board of County Commissioners on March 8, 2022.

The Master License Agreement is an agreement to allow Crown Castle to construct and operate approximately 16 small-cell wireless communication facilities (poles and associated equipment) within the US Highway 36 public right-of-way between the Larimer County line and the Town of Estes Park town limits.

The Master License Agreement specifies requirements and permissions regarding permits, construction, operation, and maintenance of small cell wireless communication facilities in the public right-of-way.

The Master License Agreement also contains a requirement for approval of a Supplemental Site License prior to the construction of any given facility. The purpose of the Supplemental Site License is to allow for public notice and review of specific proposed locations of each small cell wireless communication facility.

Seventeen small cell facilities were approved in the US Highway 36 right-of-way through Supplemental Site Licenses in June 2022.

The first amendment to the Master License Agreement was approved by the Board of County Commissioners on May 16, 2023. That amendment expanded the geographic area covered by the Master License Agreement to the vicinity of the intersection of S Taft Hill Road and W County Road 38E and allowed for the construction of up to four small cell facilities in that vicinity. Each facility is subject to approval through a supplemental Site License.

Crown Castle applied for two Supplemental Site Licenses for the construction of small-cell wireless communication facilities in the area.

The first was proposed on the south side of W County Road 38E, approximately 380 east of the intersection of Windom Street and W County Road 38E (File No. 23-WCF0105). The second was proposed on the northwest corner of the intersection of Mead Street and Dalton Drive (File No. 230WCF0106).

The facility on the northwest corner of the intersection of Mead Street and Dalton Drive would have been a pole approximately 30 feet tall. The antennas and associated equipment were proposed to be housed within the pole.

There are 22 residential structures within 250 feet of the proposed pole.

Director's Decision

On December 21, 2023, the Community Development Director denied applications No. 23-WCF0105 and No. 23-WCF0106 based on noncompliance with Larimer County Land Use Code Sections 9.4.2.G and 9.4.3.E.4, noncompliance with Larimer County Urban Area Street Standards section 12.3.2.C.1, and noncompliance with drawing 160 (Access Ramp Details) found in the Urban Area Street Standards.

Section 9.4.2.G of the Land Use Code (Wireless Communication Facilities (WCFs) adjacent to Residential Uses) reads,

“WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures. WCFs shall not be within 250 feet of any residential structure unless it is demonstrated there is no other technically feasible alternative. When placed near residential property, the WF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties or on the corner formed by two intersecting streets. If these requirements are not reasonably feasible from a construction, engineering, or design perspective, the applicant may submit a written statement to the Director requesting the WCF be exempt from these requirements.

Section 9.4.3.E.4 of the Land Use Code (Wireless Communication Facility Appearance) reads,

- a. “With response to a pole-mounted small cell facility, be located on, or within, an existing utility pole serving another utility.
- b. Be camouflaged/concealed in a manner consistent with other existing natural or manmade features near the location where the facility will be located.
- c. With respect to a pole-mounted small cell facility, be located on, or within, a new utility pole where other utility distribution lines are aerial if there are no reasonable alternatives, and the appliance is authorized to construct the new utility poles.
- d. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the facility.
- e. Be sited to minimize the negative aesthetic impacts to the right-of-way and adjacent property.
- f. Be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be materially altered, as determined by the county in its sole discretion.

Section 12.3.2.C.1 of the Larimer County Urban Area Street Standards reads,

“Location. Poles, signs, and any other above-ground streetscape (except regulatory signs) should be located within 5 feet of the right-of-way or 10 feet from the travel lane (flowline), whichever is most restrictive.”

Drawing 1603 in the Urban Area Street Standards is the construction drawing illustrating access ramp details.

The letter from the Community Development Director denying the application notes several reasons that the application was denied, including:

- The application materials did not demonstrate that the proposed pole placement would not interfere with the ability to construct a curb/access ramp in the future.
- Adequate information was not provided, demonstrating that moving the pole to a less impactful location in the neighborhood is technically feasible.
- No maps or documentation were provided showing that it would be technically infeasible to locate the facility at least 250 feet from any residential structure or in a less visually impactful location.
- The applicant has not demonstrated that the proposed location minimizes visual impacts and does not seek input from adjacent property owners regarding visual impacts or location preferences.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Board of County Commissioners may choose to:

1. Affirm the Director's decision to deny Supplemental Site License application 23-WCF0106.
2. Affirm with modifications the Director's decision to deny Supplemental Site License application 23-WCF0106.
3. Reverse the Director's decision to deny Supplemental Site License application 23-WCF0106.

APPLICANT PRESENTATION:

Ms. Marshall gave a brief presentation about why Crown Castle believed that the Director made the denial in error. Ms. Marshall explained that the Master Licensing Agreement that Crown Castle has entered with the County requires them to be able to move their facility if a public works project conflicts with the site. Ms. Marshall further explained that colocation is always considered. Ms. Marshall asserted that in the neighborhood being discussed, having a small cell facility 250 feet away from a resident is not possible. Ms. Marshall explained that the county solicited comments from the neighbors, so they were consulted, even though Crown Castle was not the one to do it. Ms. Marshall gave further details about the plan to have this small cell facility look like a streetlamp to better blend into the surroundings.

Commissioner Kefalas asked if the neighbor whose lot this small cell facility would be located on was consulted. Ms. Marshall confirmed that the County notified the neighborhood.

Commissioner Kefalas asked about the need for this cell facility in this neighborhood. Ms. Marshall explained that the information given to Crown Castle by the cell providers is confidential. Ms. Marshall explained the rings of influence that the cell providers provide to meet their objectives.

PUBLIC COMMENT

Ashley Waddell, resident of the proposed neighborhood, addressed the Board. Ms. Waddell explained that she owns property across the street from the proposed cell facility. Ms. Waddell expressed concern for the cell facility for a few reasons. These reasons include already having good cell service in the neighborhood, no communication from Crown Castle, and the proximity to a place of residence. Ms. Waddell brought up a concern about long-term risks to human health. Commissioner Kefalas informed Ms. Waddell that the County cannot make a decision on the building of small cell facilities because of the risk to human health. Ms. Waddell also brought up a concern about property values decreasing because of the building of a small cell facility in the neighborhood.

REBUTTAL:

Ms. Marshall explained that Crown Castle's customer deemed this small cell facility necessary due to its coverage and capacity. Ms. Marshall explained that they were not urged to speak with landowners until they received the denial letter. She continued to highlight that small cell facilities are considered a utility under federal law, and local governments are not supposed to consider property values in these decisions.

COMMISSIONER QUESTIONS:

Commissioner Stephens asked staff about the Master Licensing Agreement and the right-of-way for public works. Mr. Whitley explained that the goal was not to have to move a small cell facility due to a public works project. If it were properly located to begin with, it would not have to be moved. Commissioner Stephens asked if having a pole here could delay public works projects that might update the sidewalk. Mr. Whitley explained that the Master Licensing Agreement stipulated that it would have to be moved within a certain timeframe upon request.

Commissioner Stephens asked whether the County could require maps of the location, even though the federal government does not have this requirement. Ms. Everette explained that staff had asked for maps to show the gaps in coverage, but Crown Castle explained that it has to do more with capacity than coverage, and they were not, under federal law, required to provide maps. Ms. Everette explained that Crown Castle was missing showing there were other alternatives considered, and the location chosen was the only feasible option.

Commissioner Stephens asked about the history of the County working with Crown Castle. Mr. Whitley confirmed that previous permits were issued, primarily in the Estes Valley.

Commissioner Stephens made the point that the County is not trying to prohibit the construction of wireless facilities. Ms. Everette further explained that there is a higher bar that needs to be met with the situation at hand because the request is closer than 250 feet to a residence.

Commissioner Kefalas asked about the part of the Land Use Code that states that it is possible to build a small cell facility closer to a resident as long as it is proven that it would be unfeasible to build it elsewhere. Ms. Everette asserted that staff understand that it is technically infeasible to build a small cell facility in this neighborhood that is 250 feet away from a property. She continued to explain that the staff lacked evidence as to why this specific location was chosen over other spaces. Ms. Whitely affirmed Ms. Everette's statement and explained that the staff did ask for alternatives that Crown Castle did not provide.

Commissioner Kefalas asked about the County's notification process. Mr. Whitley explained that a notification was sent out to the neighboring property owners once the County had received the application. However, Mr. Whitley asserted that the stipulation that the facility is the least visually intrusive is a conversation of the neighbors. Ms. Everette explained that the applicant was asked to provide consultation before the rejection letter.

DELIBERATION:

Commissioner Stephens stated that she would be affirming the Director's decision based on the idea that the application was not fully flushed out and alternatives haven't been provided. Commissioner Stephens expressed that there was not enough information provided to make an informed decision.

Commissioner Kefalas also affirmed the Director's decision for reasons similar to those presented by Commissioner Stephens.

MOTION

Commissioner Stephens moved the Board of County Commissioners to affirm the Director's decision to deny the application 23-WCF0106.

The motion carried 2-0, with Commissioner Shadduck-McNally being excused.

With there being no further business, the Board adjourned at 5:40 p.m.

TUESDAY, APRIL 9, 2024

ADMINISTRATIVE MATTERS MEETING

The Board of County Commissioners met at 9:00 a.m. with County Manager Lorenda Volker. Chair Kefalas presided. Commissioner Shadduck-McNally and Commissioner Stephens were present. Also, present were Sarah Martin and Tom Clayton, Commissioner's Office, and Tessa Beaty, Deputy Clerk.

Commissioner Kefalas opened the meeting with the Pledge of Allegiance.

PUBLIC COMMENT:

No one addressed the Board.

Commissioner Kefalas closed public comment.

2. APPROVAL OF THE MINUTES FOR THE WEEK OF APRIL 1, 2024:

MOTION:

Commissioner Stephens moved that the Board of County Commissioners approve the minutes for the week of April 1, 2024.

Motion carried 3-0.

3. REVIEW OF THE SCHEDULE FOR THE WEEKS OF APRIL 15, 2024: Ms. Martin reviewed the upcoming schedule with the Board.

4. CONSENT AGENDA:

AGREEMENTS

1. MEMORANDUM OF UNDERSTANDING BETWEEN BIG ELK MEADOWS ASSOCIATION AND LARIMER COUNTY FOR STREAM AND PRECIPITATION MONITORING

APPOINTMENTS

1. RECOMMENDED REAPPOINTMENT TO THE LAND STEWARDSHIP ADVISORY BOARD – RONALD HARRIS

2. RECOMMENDED REAPPOINTMENTS TO THE PARKS ADVISORY BOARD – RUTHIE ROLLINS AND BILL PRATER

3. RECOMMENDED REAPPOINTMENT TO THE BOARD OF HEALTH - BRIAN DELGROSSO

4. RECOMMENDED REAPPOINTMENTS TO THE EQUITY, DIVERSITY, AND INCLUSION ADVISORY BOARD – LYNNE ADAME, DAYSI SWEENEY, AND KARINA LEDEZMA

5. RECOMMENDED REAPPOINTMENT TO THE SMITHFIELD PUBLIC IMPROVEMENT DISTRICT – SUE DORITY

6. RECOMMENDED APPOINTMENTS TO THE ENVIRONMENTAL AND SCIENCE ADVISORY BOARD – ZACHARY MAFFEO AND LEO GRASSENS

7. RECOMMENDED REAPPOINTMENTS TO THE BOARD OF APPEALS – CLINT HANNA AND STEPHEN STEINBICKER

LETTERS OF SUPPORT

1. LOVELAND WAREHOUSE BUSINESS ACCELERATOR: LETTER OF SUPPORT

LIQUOR LICENSES

1. LIQUOR LICENSE RENEWAL – DBLD LIQUOR LLC DBA GLEN ECHO LIQUOR – BELLVUE, COLORADO

LIQUOR LICENSE RENEWAL – 3DT INC DBA GLEN ECHO RESORT – BELLVUE, COLORADO

MISCELLANEOUS

1. NOTICE REGARDING GRANTOR'S RESERVED SUBDIVISION RIGHT – DEED OF CONSERVATION EASEMENT ROCKIN' K DIAMOND RANCH
2. REQUEST AN ADDITIONAL FULL-TIME EQUIVALENT INVESTIGATOR AND THE CONVERSION OF EXISTING POSITIONS INTO 2 CIVILIAN FULL-TIME EQUIVALENT INVESTIGATIVE POSITIONS
3. REQUEST BCC APPROVAL OF THE 2024 IMPACT FUND GRANT PROGRAM RECOMMENDATIONS
4. LEGISLATIVE PRIORITY REQUEST FOR SB24-136 UNIFORM GUARDIANSHIP & CONSERVATORSHIP ACT
5. MDC COAST 15 LLC STIPULATION AS TO TAX YEAR 2023 VALUE
6. PHILIP L SMITH STIPULATION AS TO TAX YEAR 2023 VALUE
7. WALTON COLORADO LLC STIPULATION AS TO TAX YEAR 2023 VALUE
8. REV REAL ESTATE INC. STIPULATION AS TO TAX YEAR 2023 VALUE
9. OB-GYN INVESTMENTS LLP STIPULATION AS TO TAX YEAR 2023 VALUE

RESOLUTIONS

1. FINDINGS AND RESOLUTION APPROVING THE WINDCLIFF ESTATES LEGISLATIVE REZONING
2. FINDINGS AND RESOLUTION APPROVING THE LINDA VISTA SUBDIVISION PRELIMINARY AND FINAL PLATS

MOTION

Commissioner Shadduck-McNally moved the Board of County Commissioners to approve the Consent Agenda for April 9, 2024.

Motion carried 3-0.

5. COMMISSIONERS' GUESTS:

Tina Harris, Larimer County Clerk and Recorder, addressed the Board. Clerk Harris shared some statistics about the recent Presidential Primary election. The return of ballots before election day was higher than in past years. Additionally, Clerk Harris highlighted that ballots cannot be forwarded through the mail, so Clerk Harris urged the public to keep their voting address updated. Clerk Harris further described the upcoming Congressional election that will take place on June 25, 2024.

Commissioner Kefalas asked if it was a VSPC (Voting Service and Polling Center).

Commissioner Shadduck-McNally asked about the details of the upcoming Congressional election. Clerk Harris explained how different ballots will be distributed for different folks, depending on whether they are affiliated or unaffiliated and depending on where they live in Larimer County. Only those in Congressional District 4 will vote in the Congressional election. The areas in Congressional District 4 are Loveland, Wellington, and Windsor. Commissioner Shadduck-McNally thanked Clerk Harris for bringing the news to the Board.

Commissioner Stephens explained the reasons for the congressional election as Ken Buck gave up his seat. Clerk Harris explained the language surrounding the ballot.

Commissioner Kefalas asked about the vacancy within the congressional district and how the names are listed on the ballot. Clerk Harris explained that the vacancy is left open until the election in June, as determined by the Secretary of State. The person voted on in this election will hold office until the November election.

Clerk Harris highlighted that the polls are open for the I Voted sticker contest. The winning sticker will be used for the I Voted sticker during the 2024 General Election. The election can be found at larimer.gov/ivotedsticker. Commissioner Kefalas asked for some history of this contest. Clerk Harris explained that high school students in Larimer County were encouraged to draw a new sticker to be associated with the ballot. Clerk Harris highlighted information that could be found on Facebook and X.

Commissioner Shadduck-McNally asked about Ranked Choice Voting, as the sticker contest will be conducted as a Ranked Voting Election. Clerk Harris explained that this is a learning opportunity for the staff and the public.

Clerk Harris highlighted the other offices in the Clerk and Recorder department.

Maelly Oropeza, Conservation Corp Program Manager, addressed the Board and gave a brief history of the program. Mr. Oropeza further explained how projects move through the Land Conservation Project Workflow. Some of the projects highlighted included forest thinning to reduce the risk of fire. Mr. Oropeza spoke about the program's accomplishments and the budget for the entirety of the program. The projects projected for 2024 were also discussed.

Commissioner Stephens asked about the application process. Mr. Oropeza explained that some positions are still open, but the application went live in January. The application goes live nationwide, but the program does focus on hiring locally. Mr. Oropeza explained that the majority of the people hired are between the ages of 18 and 25. Commissioner Stephens expressed excitement for the work being done. Mr. Oropeza highlighted the soft skills and hard skills that this program helps teach their employees.

Commissioner Stephens asked if any experience was required. Mr. Oropeza explained that there is no experience required, but the correct attitude is vital.

Commissioner Shadduck-McNally congratulated Mr. Oropeza for the good work being done. She continued to explain how important this program is and how it benefits both the community and the environment. Commissioner Shadduck-McNally spoke about Senate Bill 5 and the grant that helps expand programs like this.

Commissioner Shadduck-McNally asked about the total acres covered last year for fire mitigation. Mr. Oropeza explained that it was about 100 acres. Commissioner Shadduck-McNally asked about funding for this program. Mr. Oropeza explained that he would bring numbers to the commissioners those numbers. Commissioner Shadduck-McNally highlighted how expensive work like this is and how the work being done by the Conservation Corp is a "good deal."

Commissioner Shadduck-McNally asked about the burn piles. Mr. Oropeza explained that a task force is looking into sustainable ways to dispose of the material cleared away in the process. Some of the wood was donated to a wood bank in Nederland. Mr. Oropeza explained the wood cleared is not structural wood, and many places that could utilize the wood can't handle the volume. Commissioner Shadduck-McNally continued the discussion about how to handle excess material that is cleared from the forests.

Commissioner Kefalas asked about the audits for home energy and water usage. Mr. Oropeza explained Loveland Water and Power and Fort Collins Utilities and how this service is offered to those two customer bases. Information about this program is available at <https://www.larimer.gov/ewd/lccc/energy>. The program helps address areas of water/energy loss.

Commissioner Kefalas asked about income guidelines. Mr. Oropeza confirmed that there are no income guidelines; all you need to be is a customer of Loveland Water and Power or Fort Collins Utilities.

Commissioner Kefalas highlighted Mark Johnston, the Economic and Workforce Development Director, for the work being done in Larimer County.

6. DISCUSSION ITEMS:

1. 2024 PROCLAMATION DECLARING NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK: John Feyen, Larimer County Sheriff, addressed the Board. Sheriff Feyen highlighted the work being done by 911 operators and how important this work is for the community.vSheriff Feyen explained that these workers must do a very difficult job and are the

first of the first responders within Larimer County. Sheriff Feyen introduced some of the dispatch workers who joined the meeting.

Commissioner Stephens read the proclamation.

MOTION

Commissioner Stephens moved the Board of County Commissioners to approve the Proclamation declaring April 14-20, 2024, as National Public Safety Telecommunicators Week.

The Board thanked those who worked with the residents of Larimer County in very difficult times and helped them in these types of situations. Public safety telecommunicators play a vital role in the first responder response to emergency situations.

Manager Volker expressed amazement at the hard work being done by these responders.

Motion carried 3-0.

2. THE DEPARTMENT OF HUMAN SERVICES AND THE LARIMER COUNTY SHERIFF'S OFFICE HAVE BEEN AWARDED THE 2024 SPIRIT OF THE CONVENING AWARD FROM THE COLORADO STATE COURTS FOR OUR COLLABORATIVE IMPLEMENTATION OF SB23-039: Heather O'Hayre, Human Services Director, addressed the Board. Ms. O'Hayre highlighted the collaboration that it took to achieve this award. Thad Paul, Human Services, addressed the Board. Mr. Paul spoke about how Larimer County was nominated for this award and, specifically, how the team shows a commitment to excellence. This award usually is given to an individual, but this year has highlighted the importance of the entire team. The program helps provide family time for and with incarcerated parents. Merrissa Scranton, Ronna Davis, and Becky Smith were highlighted for their hard work on this project. Jennifer Steward, County Attorney's office, also was highlighted. Mr. Pual continued to thank those who all worked on this project.

Ms. Scranton gave a brief personal history of her experiences with incarcerated parents and why this program is valuable. She also thanked everyone for the work they had done.

Janelle Goodwin, Jail Program Manager, addressed the Board and spoke about the strength-based approach to this program. Sheriff Feyen was thanked.

The Board thanked the team for tackling the Senate bill and implementing such an important program. Commissioner Stephens spoke about the collaboration that had to happen to make this happen.

The Board also highlighted the importance of this program and how it impacts the lives of both incarcerated parents and their children.

Commissioner Shadduck-McNally congratulated the team for their award and their efforts.

Commissioner Kefalas asked whether the District Attorney was part of this process. MS. Scranton spoke about the County attorney's office support but confirmed that the District Attorney's office was not part of this program.

Commissioner Kefalas explained that a recent Board of Human Services has changed the language surrounding incarceration. He continued to express happiness for the amazing work being done.

Manager Volker echoes the Board's congratulations and the importance of this program.

7. **COUNTY MANAGER UPDATE:** County Manager Volker briefly detailed the events from the previous week.

8. **COMMISSIONER ACTIVITY REPORTS:** The Board briefly detailed their attendance at events during the previous week.

9. **LEGAL MATTERS:** None requested.

With there being no further business, the Board adjourned at 11:15 a.m.


JOHN KEFALAS
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS
CLERK AND RECORDER

ATTEST:


Heather Arment, Deputy Clerk



