



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

**MONDAY, AUGUST 26, 2024**

### **SPECIAL MEETING: CERTIFICATION OF THE ABSTRACT OF ASSESSMENT REPORT FOR ASSESSOR'S OFFICE**

The Board of County Commissioners met at 2:30 p.m. with Bob Overbeck, County Assessor. Chair Kefalas presided. Commissioner Stephens and Commissioner Shaddock-McNally were present. Also present were Lorenda Volker, County Manager; Yara Zokaie and Lisa Thieme, Assessor's Office; and Lindsey Jones, Deputy Clerk.

Ms. Zokaie addressed the Board to request the signature of the Chair of the Board of County Commissioners for the 2024 Abstract of Assessment Report. This document is prepared by the Assessor's Office each year and is due by August 25, 2024, to the Property Tax Administrator by Colorado State Statute. Ms. Zokaie explained that the Abstract is being completed this year on August 26<sup>th</sup> because August 25<sup>th</sup> fell on a Sunday. Ms. Zokaie explained that the Abstract shows aggregate property values within the boundaries of Larimer County broken down by property class. This document is used by taxing authorities to set their budgets and mill levies.

Assessor Overbeck joined the meeting via phone to confirm that the Assessor's Office is presenting the Abstract of Values on the 378 taxing authorities in Larimer County. This is a preliminary document. The final certification will be completed in December of 2024. Assessor Overbeck also requested the Board's approval of the Abstract.

Ms. Zokaie gave a brief overview of the contents of the Abstract. Property values are broken down by Residential, Vacant Land, Commercial, Industrial, Agricultural, Natural Resources, Producing Mines, Oil & Gas, State Assessed, and Exempt property classifications. New construction is also broken down by school district. The total taxable value is \$9.1 billion.

The Board asked about the total change in value made by the County Board of Equalization referees and asked if the amount is typical of a non-valuation year. The Board asked if this report has gone before the County Budget Staff. Ms. Zokaie confirmed that the Abstract becomes available to the public after the document is signed.

## **MOTION**

Commissioner Shadduck-McNally moved that the County Board of Commissioners sign the Abstract of Assessment as presented.

**Motion carried 3-0.**

With there being no further business, the Board recessed at 2:40 p.m.

## **LAND USE HEARING**

The Board of County Commissioners met at 3:00 p.m. with Jenny Axmacher, Planning Manager. Chair Kefalas presided. Commissioner Stephens and Commissioner Shadduck-McNally were present. Also present were Rebecca Everette, Community Development Director; Christina Scrutchins, Jared Seay, Kassidee Fior, Samantha Lasher, and Justin Currie, Community Development; Connor Sheldon, Engineering; Ashton Brodahl, Health and Environment; Frank Haug, Assistant County Attorney; and Lindsey Jones, Deputy Clerk.

Chair Kefalas opened the meeting with the Pledge of Allegiance.

Ms. Axmacher introduced her colleagues that were present and gave a brief overview of how Land Use meetings are typically conducted.

Chair Kefalas explained that the items on the Consent Agenda will not be discussed in detail and will be voted on together unless any members of the Board or the public request a more in-depth presentation on any of the items.

The Board did not wish to remove any items from the Consent Agenda.

Two members of the public wished to remove the Welcome to Realty, LLC Easement Vacation, File No 23-LAND4321 from the consent agenda.

## **PUBLIC HEARING CONSENT ITEMS:**

### **1. SUNFLOWER COMMUNITY AMENDED SPECIAL REVIEW, FILE NO 22-ZONE3317**

The subject property is located at 4517 E. Mulberry Street in Fort Collins, CO approximately 0.45 miles east of the intersection of Interstate-25 and Mulberry Street. The physical address of the property is 4517 E. Mulberry Street; however, the County Assessor's Office identifies the mailing address as 865 Pleasure Drive, which is the main address of the community center.

The subject property is approximately 37.61 acres and is currently zoned Manufactured Housing Park (MHP). The property contains the Sunflower Active Adult Community, a mobile home park, owned and operated by Sunflower SPE, LLC. The current use was approved via Special Review in 1999 (Waterdale Special Review, File No. 99-Z1296) by the Board of County Commissioners (BCC) for a

total of 177 mobile homes. An Amended Special Review was approved by the BCC in 2004 (Waterdale Amended Special Review, File No. 04-Z1522) to add 15 additional mobile home sites for a total of 192 sites. According to the applicant, there are currently 190 existing mobile home sites, not including the two proposed mobile home sites. A Variance was also approved by the Board of Adjustment in 2004 (File No. 04-BOA0445) to allow a sign to be 78 square feet rather than 32 square feet, as allowed by the Land Use Code at the time.

The property owner intends to split an existing 15,863 square feet storage lot, located in the southwestern corner of the subject property between Lots 38 and 39, into two separate residential lots to allow a new mobile home on each lot. The new lots will be designated as Lots 38B and 39B with proposed addresses of 962 and 963 Sunchase Drive, respectively. Each home will be 1,568 square feet and each will have a garage and one uncovered, outdoor parking spot. With these two additional residences, the Park would have 192 mobile home sites. Amended Special Review approval is required for the conversion of the storage lot into the proposed new residential lots.

The property is located within the Fort Collins Growth Management Area (GMA) and is contiguous to City of Fort Collins municipal limits. Article 2.7.2.D.2 of the Larimer County Land Use Code requires that the property owners seek annexation to the City of Fort Collins rather than apply through Larimer County for a Special Review.

Article 2.7.2.D.3.b. of the LCLUC allows a Special Review application to be accepted by the County if the municipality denies the petition for annexation. The City of Fort Collins declined annexation of the subject property, which the Board of County Commissioners accepted and approved on January 22, 2024 (File No. 21-GNRL0526), allowing the property owner to submit an Amended Special Review application.

The proposed mobile homes will be served by East Larimer County Water District and Boxelder Sanitation, with access off Sunchase Drive. All required setbacks are proposed to be met. Article 4.7.2.C.2.b. of the LCLUC allows for the Community Development Director to approve an alternative landscape plan that does not meet the specific requirements of the Article 4.7., Landscaping standards, as long as all criteria in Article 4.7.2.C.2.b.i-v. are met. The Director has approved the applicant's Alternative Landscape Plan.

There are no Appeals associated with this application.

No written comments from community members have been received for the Public Hearing Phase of this application.

#### **PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team recommends that the Board of County Commissioners approve the Sunflower Community Amended Special Review, File No. 22-LAND3317, subject to the conditions outlined below:



1. This Special Review approval shall automatically expire without a public hearing if the use is not commenced within three years of the date of approval.
2. The Site shall be developed consistent with the approved plan and with the information contained in the Sunflower Community Amended Special Review, File #22-ZONE3317, except as modified by the conditions of approval or agreement of the County and the applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the Sunflower Community Amended Special Review, Waterdale Special Review, File No. 99-Z1296, and the Waterdale Amended Special Review, File No. 04Z1522.
3. Failure to comply with any conditions of the Amended Special Review approval may result in reconsideration of the use and possible revocation of the approval by the Board of County Commissioners.
4. Upon approval of this application, the applicant must submit a signed and notarized Reservation of Easement agreement for the encroachment of Lot 39B's driveway onto Lot 38B.
5. A separate Site Plan Review process is not required, however prior to commencement of the expansion of the approved expanded uses on the property, final Site Plan documents must be submitted and approved. This includes the development construction plans, final site plan, agreement to annex, developer acknowledgement, and reservation of easement agreement.
6. This application is approved without the requirement to amend the existing Development Agreement on record, but a Developer Acknowledgement will be required to be signed and submitted with the final Site Plan documents.
7. In the event the applicant fails to comply with any conditions of approval or otherwise fails to use the property consistent with the approved Special Review, applicant agrees that in addition to all other remedies available to the County, the County may withhold building permits, issue a written notice to the applicant to appear and show cause why the Special Review approval should not be revoked, and/or bring a court action for enforcement of the terms of the Special Review. All remedies are cumulative and the County's election to use one shall not preclude use of another. In the event that the County must retain legal counsel and/or pursue a court action to enforce the terms of this Special Review approval, applicant agrees to pay all expenses incurred by the County including, but not limited to, reasonable attorney's fees.
8. The Findings and Resolution shall be a servitude running with the property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns



or transferees, and persons holding under applicants shall comply with the terms and conditions of the Special Review approval.

9. The applicant must obtain building permits and pay all applicable fees including Transportation Capital Expansion Fees (TCEF) required by the Larimer County Engineering Department which will be due at the time of building permit issuance.
10. No part of any building may extend into or above any easement. All easements must be shown and labeled on all plan sheets.
11. A Development Construction Permit is required prior to commencing any improvements to the site.

## **2. FARRELL SUB L7 & RIVERWALK SUB L3 AMENDED PLAT & EASEMENT VACATION, FILE NO 24-LAND4415:**

3337 Bingham Hill Road is a 0.41-acre parcel located in the Rural Residential 2 (RR-2) zoning district. The property currently contains a single-family home that was constructed in 1942. The applicants are requesting approval of an amended plat and easement vacation so that they may construct an outbuilding on their property, accessory to the existing single-family home.

The property owners of 3337 Bingham Hill Rd (Lot 7 of the Farrell Subdivision, parcel #9832409007) are purchasing roughly 0.05-acres from an adjacent vacant property (Lot 3 of the Riverwalk Subdivision, parcel #9832405003) so that they have more room to construct the proposed detached outbuilding and are able to meet setback requirements. Parcel #9832405003 is currently vacant.

In addition to the amended plat, the applicants are requesting a vacation of two existing utility easements within the portion of land being transferred from Lot 3 of the Riverwalk Subdivision to Lot 7 of the Farrell Subdivision. All applicable utility providers have signed the utility check sheet. Notice of this application was sent to property owners within 500 feet of the property. No neighbor comments have been received.

### **DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team recommends approval of the Farrell Sub L7 & Riverwalk Sub L3 Amended Plat & Easement Vacation, File No. 24-LAND4415 with the following conditions:

1. All conditions of approval shall be met, and the amended plat recorded within 6 months, or this approval shall be null and void.
2. The lots are subject to all covenants, deed restrictions, or other conditions that apply to the original lots in the Farrell and Riverwalk Subdivisions.

**3. NEWMAN, LOT 2 AMENDED PLAT, FILE NO 24-LAND4400:**

The applicant/property owner is requesting an amended plat to amend the existing building envelope on Lot 2 of the Newman Subdivision. Lot 2 is located at 8517 Cindy Lane in Fort Collins, Colorado, and is zoned Rural Residential 2 (RR-2). The subject property currently contains a single-family home that was built in 1993. No easements or rights-of-way are being vacated in conjunction with this request.

When the Newman Subdivision was approved in 1998, building envelopes were placed on the lots to “cluster” structures on the lot and give the impression of openness along the frontage of the lots. The proposed amended plat includes a reconfiguration of the existing building envelope on Lot 2 of the Newman Subdivision.

The property owner/applicant is requesting to reconfigure the existing building envelope so that they can construct an outbuilding toward the rear of their property in their preferred location, while still maintaining the rural character of the lot. All existing structures will remain within the amended building envelope if this application is approved.

**DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team recommends approval of the Amended Plat of Lot 2, Newman Subdivision, File No. 24-LAND4400, subject to the following conditions:

1. The property will be subject to all restrictions, covenants, and conditions as set forth in the plat of record for the Newman Subdivision.
2. Any future uses on Lot 3 shall obtain approval through the applicable review procedure as established in the Larimer County Land Use Code prior to commencement of the use.
3. The Findings and Resolution shall be a servitude running with the property. Those owners of the Property or any portion of the Property who obtain title subsequent to the date of recording of the Findings and Resolution, their heirs, successors, assigns or transferees, and persons holding under applicants shall comply with the terms and conditions of this amended plat approval.

**4. PIVOT ENERGY, INC. 1041, FILE NO 24-ZONE3646:**

Pivot Energy requests approval of a 1041 Permit to conduct an Activity of State Interest as follows:

LUC Section 10.3.1.K Site selection and development of any solar energy power plant including solar energy collectors, power generation facilities, facilities for storing and transforming energy, and other generally associated or accessory facilities, that together disturb an area greater than ten acres, or any addition thereto that expands the disturbed area. This

designation shall not include roof mounted solar systems located on existing permitted principal and accessory buildings.

The specific request is to construct a 1.485-megawatt solar facility on approximately 11.5 acres of a 71-acre parcel of land. This is part of the Xcel Energy Solar Rewards Offsite program. According to the applicants, this program is similar to Xcel's "Solar Rewards Community" program but allows for larger power consumers to subscribe to a larger amount of solar.

The property is located approximately 3/4 mile east of the intersection of I-25 and E. County Road 62 on the south side of E. County Road 62, just east of the Town of Wellington town limits. It is located within the Wellington Growth Management Area. Access to the site will be through the existing access adjacent to the subject property to the west, which is owned by a different property owner.

The property is zoned O-Open and is currently being used as dryland pasture grazing along with an existing residential home, and the uses in the surrounding area include agricultural and residential. The area surrounding the site is rural, consisting of larger lots. There are some denser neighborhoods with smaller lots, 0.25 acres or less, but are within the Town of Wellington town limits. The impacts to the site and surrounding properties will be minimal. The construction will disrupt a portion of the site on a temporary basis during site development. There will be space below the panels to allow for the recovery of vegetative cover below them.

The applicants have indicated that once a site is awarded to a program, as Xcel awarded this site, it cannot be changed, per the award programs rules. As such, there are no alternatives once a site has been awarded. Prior to being awarded capacity, the alternative sites are those submitted by Pivot Energy to the overall program. An exhibit showing the typical structure design is included in the materials from the applicant.

Per Section 10.8.2.G.2 of the Land Use Code, a 1041 permit application may be approved only when the applicant has satisfactorily demonstrated that the proposed project, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in Article 10. If the proposal does not comply with all the applicable criteria, the permit shall be denied, unless the County Commissioners determine that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.

If the Board of County Commissioners determine at the public hearing that sufficient information has not been provided to allow them to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received.

The Board of County Commissioners shall adopt a written decision on a 1041 permit application within 90 days after the completion of the permit hearing. The 1041 permit will be in the form of a findings and resolution signed by the Board of County Commissioners. The effective date shall be the date on which the findings and resolution is signed.



If this 1041 Permit is approved for the solar facility, the next step would be for the applicants to go through the Technical Review process. Technical Review is an administrative process intended to ensure compliance with the development and design standards of the Land Use Code and to encourage quality development reflective of the adopted goals and objectives of the County. The technical review procedure ensures that the County has an opportunity to ensure compliance with all conditions of approval and mitigate potential impacts of development prior to issuance of a building permit.

Notice of this application was sent to property owners within 500 feet of the proposed solar facility. To date, no comments have been received from any community members.

This application was also sent out to referral agencies for their review and comments. Comments were received from: Larimer County Engineering Department; Larimer County Department of Health and Environment; Larimer County Planning, Environmental; Larimer County Building Department; Division of Water Resources; Colorado Parks and Wildlife; Colorado Geological Survey; and the Town of Wellington.

The applicant reached out to the Town of Wellington and conducted a neighborhood hearing with property owners within 500 feet of the subject property. They also sent the invitation to the Park Meadows Subdivision Homeowners' Association located to the west of the subject property.

#### **PLANNING COMMISSION AND DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team and Planning Commission recommends that the Board of County Commissioners approve of the Pivot Energy Inc. 1041, File #24-ZONE3646, subject to the following conditions:

1. The Final Plans shall be consistent with the approved preliminary plan and with the information contained in the CBEP Solar 3, LLC 1041 Permit, File 22-ZONE3408, except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the CBEP Solar 3, LLC 1041 Permit.
2. The applicant will be required to go through the post-approval Technical Review to address any outstanding items raised in the referral agency comments.
3. The applicant shall submit a construction schedule, including planned workdays and hours, to be reviewed and approved by Larimer County Engineering and Health Departments.
4. The applicant shall allow access to Larimer County staff and consultants for inspections and construction observation throughout the Project and for the term of the construction.

5. Final design plans and specifications will need to be prepared for review and approval by the Larimer County Engineering Department. Should it be discovered that the final design, in the County Engineer's opinion, deviates significantly from the conceptual design to change the nature of impacts of the facility within the permit limits, the County reserves the right to require that the design be modified to address impacts as deemed necessary by the County Engineering and Planning Department.
6. A geotechnical subsurface investigation shall be submitted to Larimer County during the design process for those portions of the parcel impacted by the solar field. Any additional subsurface investigations that may be required by other local and state governments, federal agencies, or impacted utilities, including irrigation and water storage companies, shall be made available to Larimer County for review.
7. During construction, the applicant shall stabilize, resurface, and repave, if applicable, all areas disturbed or damaged during construction and operation within the Larimer County Road Rights-of-way (ROW). This condition also applies to any project appurtenances, such as utility connections, located within the County ROW.
8. The applicant shall submit phasing plans, including planned workdays and hours, to be reviewed and approved by the Larimer County Engineering Department.
9. A pre-construction inventory of County roads to be used for construction traffic will be created and updated as needed by the applicant during construction, documenting pre-construction conditions and the work conducted by the applicant to return the roads to pre-construction conditions when construction is complete.
10. The applicant shall be responsible for arranging and paying all costs of:
  - utility relocations and irrigation company requirements necessary to accommodate the solar facility.
  - the replacement of existing storm drainage infrastructure, culverts, roadway signage, pavement striping/symbols, landscaping and property fencing necessary to accommodate the solar facility.
  - damage or relocation of private property services as necessary to accommodate the solar facility if a reasonable alternative is not possible.
11. The applicant shall allow access to Larimer County staff and consultants for inspections and construction observation throughout the project and for the term of the construction.
12. The applicant shall reimburse Larimer County for reasonable costs associated with County provided construction observation/inspection staff and/or independent, supplemental geotechnical or materials testing deemed appropriate by the County Engineer for purposes of quality assurance/control. The applicant shall also reimburse

Larimer County for time and expenses incurred with project coordination, design review, permit review and processing and related project activities during the duration of project construction and closeout for the work conducted in unincorporated Larimer County.

13. The applicant shall invite Larimer County staff to attend regularly scheduled coordination meetings during construction - at a frequency to-be-determined - to understand planned construction activities and stay abreast of issues arising from construction impacts to County infrastructure or the public.
14. The applicant shall provide Larimer County Planning Department a public information contact with a phone number and email address that the public can contact to ask questions, express concerns or for project updates.
15. The applicant shall submit to Larimer County a Traffic Control and Management Plan for review and approval by the County Engineer prior to construction addressing traffic control devices/personnel (warning signs, flaggers, traffic control supervisors, etc.), any specific delay times, adjacent neighboring property owner notifications, and use and placement of message boards. The Traffic Control and Management Plan will include requirements to provide safe and acceptable access for emergency responders, mail and package delivery, garbage pickup, and school bus stops. The Traffic Control and Management Plan will also identify all proposed access points
16. Whenever it is necessary to cross, close, or obstruct roads, driveways, and walks, whether public or private, the applicant will provide and maintain suitable and safe detours or other temporary expedients for accommodation of public and private travel, emergency vehicles, delivery services, garbage pickup, school bus stops, etc.
17. When construction activity is impacting Larimer County ROW in any way, the applicant shall obtain and abide by the standards and conditions of applicable County ROW permit(s), per the 229 Code of Ordinances and the Land Use Code. Construction plans will need to be provided detailing the work to be completed. Additionally, Traffic Control Plans, developed by a certified traffic control company, must be submitted and approved for all work performed within road ROW or that will directly affect the travelling public.
18. Larimer County regulates access to county roads to maintain safe traffic flow, road drainage facilities, and efficient use of the County's roads. Access Permits will be required for any new access from Larimer County ROW regardless of whether they are to be used for temporary construction purposes or are to be permanent. Staff may also require an Access Permit for existing access points proposed to be utilized for temporary construction or permanent access.



19. The applicant shall be required to designate planned haul routes. The existing surface condition of all planned haul routes will need to be evaluated prior to construction. If it is determined by the County Engineer that there has been an acceleration in deterioration of the roadway surface during or after construction as a result of construction traffic, equipment, or hauling, the applicant will be required to restore the roadways to their prior condition. This may include the need for regrading and or resurfacing.
20. Heavy equipment traffic will be subject to all weight limit restrictions along adjacent roadways and will obtain oversize/overweight permits.
21. The applicant shall obtain a storm water discharge and construction dewatering permit from the Colorado Department of Public Health and Environment for construction at drainage crossings and for land disturbances of one acre or more, per Article 4.12 of the Land Use Code. These permits will include the preparation of a Storm Water Management Plan and Best Management Practices to prevent storm water runoff and sediment in disturbed areas from reaching nearby waterways or otherwise leaving the site. Multiple state permits may be required for the project area.
22. The applicant shall adhere to Larimer County MS4 regulations for all applicable work within the most up to date Larimer County MS4 boundary.
23. The applicant will be required to provide a drainage report that utilizes the MHFD memorandum for runoff coefficients and solar array layouts.
24. The applicant will be required to comply with County floodplain regulations. The requirements stated in Section II will need to be adhered to. Please contact Caryn Nezat (970-498-5734; nezatca@co.larimer.co.us) for additional information on this process.
25. The applicant shall be required to obtain any additional State, Federal, or Local permits necessary for construction. When applicable, the applicant or its contractors will be required to obtain other Larimer County issued permits as well. These could include, but are not limited to, Building Permits, Floodplain Development Permits, and/or Utility Permits.
26. The applicant shall develop and provide Larimer County with accurate as-built horizontal and vertical survey data (state plane coordinates and elevations in NAVD 88) and GIS shapefiles describing the locations of the facility and all appurtenant structures.
27. The applicant shall provide Larimer County with as-built construction drawings certified by a Colorado registered professional engineer, for all portions of the facility located in unincorporated Larimer County.

28. The applicant will be required to provide information that discusses how the proposed facility will be accessed for construction, maintenance and operation.
29. The applicant shall satisfactorily address all comments identified in the Memorandum from Lea Schneider with the Department of Health and Environment dated June 22, 2024.
30. The applicant shall satisfactorily address all comments identified in the Memorandum from Mark Leslie with the Colorado Park and Wildlife dated June 5, 2024.
31. The site shall be fully revegetated following construction to minimize soil erosion and mitigate visual impacts. A detailed landscape plan shall be provided at the Technical Review phase to address concerns regarding revegetation and restoration, and to provide screening/buffering from nearby properties.
32. The applicant shall update all the necessary plans and/or reports to reflect the change in project scope and size due to Xcel Energy requesting a change in the total megawatts the site will produce.
33. At the Technical Review phase, a Development Agreement may be necessary if it is determined that it is needed to document agreed upon construction and post-construction elements. This could include the requirement to post collateral.
34. At the Technical Review phase, all easements shall be shown on the plans, and no solar panels may be located within any easements.
35. Building permits must be obtained or substantial progress must commence within three years after permit approval unless otherwise approved by the Board of County Commissioners, or the approval shall lapse. The three-year period shall commence upon the completion of all required additional permitting by other agencies or when a final decision is rendered for any appeals or litigation.
36. Following the three-year period, the terms of the original approval shall continue to apply, and the applicant must continue to abide by the terms of all approvals, permits, and conditions that were part of the original approval. An applicant may request of the Board of County Commissioners a one-time extension of up to three years for the 1041 permit. An extension request shall be made in writing prior to the expiration date of the original permit. The Board of County Commissioners may impose additional conditions at the time of renewal if necessary to ensure that the project will comply with the LUC and the original permit.

37. Approval of a permit shall lapse after the applicable term unless:

- A. Development permits are obtained for commencement of construction, if such permits are required; and remain in effect, or
- B. Activities described in the permit have substantially commenced.

## **MOTION**

Commissioner Stephens moved that the Board of County Commissioners approve the Consent Agenda subject to the conditions in the staff reports and further moved to authorize the Chair to sign the Findings and Resolutions.

**Motion carried 3-0.**

## **PUBLIC HEARING DISCUSSION ITEMS:**

### **1. WELCOME TO REALTY, LLC EASEMENT VACATION, FILE NO 23-LAND4321 (ITEM TABLED FROM JULY 7, 2024)**

The Welcome to Realty, LLC property is located at 7800 Costigan Avenue, Fort Collins, CO. The property is zoned Urban Residential 2 (UR-2) and is located within the Fort Collins Growth Management Area (GMA). The property is Lot 8 of the 2nd filing of the Colland Center subdivision. The city limits of Fort Collins are located approximately 0.16 miles north of the subject property.

The property currently contains a single-family home, built in late 2022, per the County Assessor's Office records. The property owner plans to apply for an as-built permit for the current structure and apply for a building permit for an additional garage. Such garage would be subject to easement and setback requirements for the UR-2 zoning district and applicable plat if 23-LAND4321 is approved.

The plan is to slide the current home by 15.5ft to the South to save the majority of the foundation and utility work that has already been completed. The home will be located 32 feet away from the road. A standard set of 36-inch-wide stairs will be added to the west side of the structure by the main entrance door, and the stair placement will not impact the easement vacation. Gutters will be added to the north and south sides of the home. The dimensions provided in the plat account for the home eaves and will not impact the easement vacation either.

## **REVIEW CRITERIA**

To approve an easement vacation application, the Board of County Commissioners must find that criteria a, b, c, and d have been met when applicable:

- a. Approval of the vacation request will not leave any land adjoining the right-of-way without an established public or private road or private access easement connecting the land with another established public road, or without utility or drainage services;



This request is to vacate a portion of the existing ten-foot-wide easement located along the western property line of Lot 8 of the 2<sup>nd</sup> filing of the Colland Center subdivision. This request does not include the vacation of any public right-of-way. Vacating the utility easement would not leave the subject property or any adjacent properties without access to public right-of-way or without utility or drainage services.

**b. The recommendations of referral agencies have been considered;**

Referral agencies had no concerns about the proposed request provided that the referral comments from Larimer County Engineering are implemented post-approval.

**c. Any right-of-way that is vacated will be divided equally between the lots on each side, unless it can be demonstrated that all of the right-of-way was originally taken from one parcel. In that case, the right-of-way will be returned to that parcel. Property owners on each side of the right-of-way may agree to divide the vacated right-of-way differently but must sign deeds to transfer ownership after the County Commissioners approve the vacation; and**

This request does not include right-of-way vacation; therefore, this criterion is not applicable.

**d. Right-of-way vacations must also meet requirements of C.R.S. 43-2-303.**

This request does not include any right-of-way vacation; therefore, this criterion is not applicable.

**DEVELOPMENT SERVICES TEAM RECOMMENDATION:**

The Development Services Team recommends approval of the Welcome to Realty, LLC Easement Vacation, File No. 23-LAND4321, subject to the following conditions:

1. Failure to comply with any conditions of this easement vacation approval may result in reconsideration of the use and possible revocation of the approval by the Board of County Commissioners.
2. This request is only for the buildings or structures as submitted with this easement vacation application. All future buildings, additions, and improvements must meet County setback requirements or must go through the proper County review and permit process prior to construction.
3. The approval of this easement vacation shall automatically expire in one year unless the applicant takes affirmative action consistent with this approval.
4. The Larimer County Building Division must be provided with a written certification by a Colorado Licensed Land surveyor that the existing and proposed buildings are located where shown on the Larimer County approved Plot Plan for this development.

5. Approval for the associated setback variance, 24-ZONE3656 is contingent upon approval of 23-LAND4321 to be considered by the Board of County Commissioners. Should the Board of County Commissioners deny 23-LAND4321 or partially approve 23-LAND4321 in such a way that impairs or renders the intent of 24-ZONE3656 non-viable, 24-ZONE3656 will be conditionally denied.
6. Should this request for an easement vacation not be granted, the applicant must either remove the residence subject of this request from the lot, move the residence to a location on the lot that does not violate platted or private easements, or submit for an application for an easement vacation that is not deemed to be 'substantially similar' to the previously denied application per Land Use Code Article 6.3.9(E)..
7. Only the footprint of the proposed home location is to be approved within this easement vacation application pursuant to the conditions of approval from Larimer County Engineering Department comments on this application.

#### **STAFF PRESENTATION:**

Mr. Seay presented some background information about the parcel in question. Mr. Seay explained that the current zoning setback requirements for the property are 20 feet from the front lot line, 7-feet from the side lots lines and 15 feet from the rear lot line. The property owner is requesting an easement vacation, as well as an associated variance application (24-ZONE3656) being considered separately by the Board of Adjustment, to allow for the existing residence to be moved from its current location to a lesser, but more compatible, setback within the UR-2 zoning district than it is located currently. To achieve this, a portion of the existing utility easement on the lot will need to be vacated.

The Board asked about the proposed easement, and asked how this decision intersects with the decision that will be made at a Board of Adjustment meeting on August 27, 2024. The Board asked if the home is a manufactured home and how it would be possible to move the home over the existing foundation.

#### **APPLICANT PRESENTATION:**

Christophe Attard, owner of Welcome to Realty, LLC addressed the Board via Zoom. Mr. Attard gave a brief presentation showing the difference between the existing location of the home and the location the home would move to if the easement vacation is approved. Mr. Attard explained that his company was originally requesting a larger setback variance that would have encroached much further into the easement area. The applicant is proposing to slide the home 15.5 feet to the south to move the home as far as possible out of the easement area and to minimize the encroachment to 1-2 feet. Mr. Attard explained how the home could be moved and clarified that the purpose of today's meeting is just to request the easement vacation. Mr. Attard also detailed the various agencies that have already approved the application.

The Board did not have any questions for the applicant.

## **PUBLIC COMMENT:**

Eric Gertge addressed the Board. Mr. Gertge presented a photo that shows the difference in distance to the road between the old house that burned down and the new house that has been built. Mr. Gertge argued that the current house is nowhere near the location of the old house, and that the applicant did not follow the proper channels when building the new house. Mr. Gertge stated that the applicant has not been honest about where the home is located.

Bob Niccum and Vicky Niccum addressed the Board. Mr. Niccum stated that the house was placed in the wrong location, violating setback rules. Mr. Niccum was under the impression that the house had to be moved entirely. Ms. Niccum understood that the Board of Adjustment hearing will address the issue of the setback variance and where the home is located. The concern is that allowing the home to be moved to accommodate this easement vacation will create more issues in the long run with where the home is located in relation to the neighbor's property and with construction impacts on the neighborhood.

## **APPLICANT REBUTTAL:**

Mr. Attard stated that the public comments were around setback variances, but the purpose of this request is to have the easement vacation approved, not the setback variance. Mr. Attard also argued that the topic of the conversation at this meeting does not concern how the home looks or how construction will impact the neighborhood. The request is only for the easement vacation in the northwest corner.

Commissioner Shadduck-McNally was excused for the remainder of the meeting.

Ms. Axmacher offered an option to table the easement vacation approval until the decision is made about the setback variance at the August 27, 2024, Board of Adjustment meeting since the two decisions are contingent upon both requests being approved. The easement vacation would then need to be revisited at the next Land Use hearing on September 23, 2024.

Mr. Haug offered that the Board could table this discussion item at this time due to Commissioner Shadduck-McNally's absence or take a brief recess until Commissioner Shadduck-McNally returns to the meeting since she would not be able to vote if she was not present for deliberation.

The Board decided to move forward with deliberation to prevent any further delays in the application.

## **DELIBERATION:**

The Board asked Community Development Staff to speak to the public's comments around the applicant not following the proper processes when placing the new home on the lot.

Mr. Seay explained that the issues with this lot began as a Code Compliance case. The applicant purchased the property after the old home burned down, and their intent was to salvage as much of



the existing foundation as possible when placing a new home on the lot. At some point in the building permitting process, there was a miscommunication, and the home was placed closer to the road than was allowed. An application was made to keep the home where it is currently located (six inches from the lot line), and the application was denied. The property owner has now submitted a new application that is significantly different requesting to move the home to a different location on the lot that would still require an easement vacation and setback variances to be approved.

Amy White, Code Compliance Supervisor, explained the background of the ongoing Code Compliance case with this property. Ms. White stated that common practice is to not enforce the Code until a decision has been made. The applicant is entitled to apply for a setback variance, so until that process is completed, Code Compliance would not typically enforce the Code and force the owner to tear the home down. Ms. White also clarified that staff is not necessarily “in favor” of the application as Mr. Attard stated, but that the requirements of various departments have been met by the applicant.

The Board stated that according to the materials presented to them, the requirements of the application have been met. The issue being discussed today is the easement vacation, not the setback variance that was raised as an area of concern by the public. The Board did not see any reason not to approve the easement vacation, which is the issue at hand for this meeting.

## **MOTION**

Commissioner Stephens moved that the Board of County Commissioners approve the Welcome to Realty, LLC Easement Vacation, File 23-LAND4321, subject to the seven conditions of approval recommended by staff.

**Motion carried 2-0.**

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

**TUESDAY, AUGUST 27, 2024**

## **ADMINISTRATIVE MATTERS MEETING**

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

Chair Kefalas opened the meeting with the Pledge of Allegiance.

### **1. PUBLIC COMMENT:**

Joyce Wood, a member of Braver Angels, addressed the Board. Ms. Wood explained that Braver Angels is the largest civic renewal organization in the United States. Ms. Wood went to a conference

in June of 2024 in Kenosha, Wisconsin and was inspired to share what she learned. The mission of Braver Angels is to bridge the partisan divide and to restore the Democratic Republic. Braver Angels meetings are intended to be respectful, collaborative, and depolarizing. Ms. Wood invited County Leadership to a national panel sponsored and offered by Braver Angels around the issue of immigration on September 28, 2024.

Paul Gessler, a Fort Collins resident, addressed the Board. Mr. Gessler recently joined Braver Angels and wished to drop off some petitions on behalf of the organization. Mr. Gessler spoke about SummitStone Health Partners' recent round of employee layoffs and asked the Board to comment on the layoffs. Mr. Gessler also spoke about a Restorative Justice Court lawsuit for peace. Mr. Gessler has been given the use of a conference room by United Way at the Impact Center to hold a Restorative Justice study group on August 29, 2024.

Chair Kefalas closed public comment.

The Board thanked Ms. Wood for coming out to raise awareness about the Braver Angels organization. The Board addressed Mr. Gessler's questions regarding the SummitStone Health Partners layoffs. The Board recommended that Mr. Gessler reach out to the Larimer County Courts if he has specific questions or concerns about Restorative Justice and mentioned the various courts in Larimer County that cover Restorative Justice issues, such as the Wellness Court and Community Corrections.

**2. APPROVAL OF THE MINUTES FOR THE WEEKS OF AUGUST 12, 2024, AND AUGUST 19, 2024:**

**MOTION:**

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the minutes for the weeks of August 12, 2024, and August 19, 2024.

**Motion carried 3-0.**

**3. REVIEW OF THE SCHEDULE FOR THE WEEK OF SEPTEMBER 2, 2024:** Ms. Martin reviewed the upcoming schedule with the Board.

**4. CONSENT AGENDA:**

**AGREEMENTS**

- 1. LARIMER COUNTY HARDWARE REFRESH (3 DOCUMENTS)**
- 2. JOINT FIBER OPTIC CABLE PROJECT AND COST SHARING AGREEMENT – BASE STRUCTURE ON BUREAU OF RECLAMATION LAND TO ROCK HILL ROAD POWER POLE**
- 3. INTERGOVERNMENTAL AGREEMENT FOR CONSTRUCTING THE JOHNSTOWN WATER SUPPLY PIPELINE**

4. DRAINAGE EASEMENT AGREEMENT BETWEEN LARIMER COUNTY AND FRRE, LLC
5. AMENDMENT ONE TO THE CONTRACT BETWEEN LARIMER COUNTY AND JEFFERSON COUNTY PARKS AND OPEN SPACE – RESTORE GRANT INTERGOVERNMENTAL AGREEMENT
6. PROFESSIONAL SERVICES AGREEMENT (P24-12, SOLID WASTE ALTERNATIVE DISPOSAL FACILITY)

#### APPOINTMENTS

1. RECOMMENDED MIDTERM APPOINTMENTS TO THE EQUITY, DIVERSITY, AND INCLUSION ADVISORY BOARD – Fatima Prieto and Marissa Emerson
2. RECOMMENDED MIDTERM APPOINTMENT TO THE EQUITY, DIVERSITY, AND INCLUSION ADVISORY BOARD – Dakota Montez
3. RECOMMENDED YOUTH APPOINTMENT TO THE EQUITY, DIVERSITY, AND INCLUSION ADVISORY BOARD – Tabitha Cruz
4. RECOMMENDED RESCINDED APPOINTMENT TO THE EQUITY, DIVERSITY, AND INCLUSION ADVISORY BOARD – Daysi Sweeney

#### DEEDS

1. DEED OF CONSERVATION EASEMENT – HEAVEN'S DOOR RANCH

#### LETTERS OF SUPPORT

1. COLORADO DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION LETTER OF SUPPORT FOR THE STATE OF COLORADO'S APPLICATION TO THE CHARGING AND FUELING INFRASTRUCTURE DISCRETIONARY GRANT OPPORTUNITY (ROUND 2)

#### LIQUOR LICENSES

1. FINDINGS AND ORDER – GEORGE BEACH POST NO 4 AMERICAN LEGION HOME ASSOCIATION DOING BUSINESS AS GEORGE BEACH AMERICAN LEGION POST 4 – TAVERN LIQUOR LICENSE – FORT COLLINS, COLORADO



2. LIQUOR LICENSE SPECIAL EVENT PERMIT 6% - ROCKGARDEN CONCERT – LIVE THE VICTORY INC DBA THE MATTHEWS HOUSE – FORT COLLINS, COLORADO
3. LIQUOR LICENSE SPECIAL EVENT PERMIT 6% - FALL EQUINOX MARATHON – GREEN EVENTS INC – BELLVUE, COLORADO
4. LIQUOR LICENSE RENEWAL – CHARCO BROILER INC DBA CHARCO BROILER – HOTEL & RESTAURANT LICENSE – FORT COLLINS, COLORADO

#### MISCELLANEOUS

1. SUBRECIPIENT COMMITMENT FORM AND DESIGNATION OF AUTHORIZED REPRESENTATIVE – COMMUNITY WILDFIRE DEFENSE GRANT (CWDG) AND THE RED FEATHER LAKES AREA WILDFIRE DEFENSE PROJECT
2. REQUEST FOR APPROVAL TO ENTER UPON LANDS
3. REQUEST FOR APPROVAL TO ENTER UPON LANDS
4. WARRANTY MEMORANDUM FOR CAMPANA ADMINISTRATIVE SUBDIVISION, FILE NO. 21-LAND4082
5. USDOT – FEDERAL HIGHWAY ADMINISTRATION CHARGING AND FUELING INFRASTRUCTURE GRANT APPLICATION

#### RESOLUTIONS

1. RESOLUTION ESTABLISHING COMPENSATION FOR DISTRICT ATTORNEY ASSISTANT DISTRICT ATTORNEY
2. RESOLUTION ESTABLISHING COMPENSATION FOR DISTRICT ATTORNEY ADMINISTRATIVE MANAGER
3. RESOLUTION APPROVING THE CONVEYANCE OF A CONSERVATION EASEMENT ON THE HEAVEN'S DOOR RANCH PROPERTY
4. GREAT OUTDOORS COLORADO GRANT RESOLUTION LAND ACQUISITION PROJECT

## MOTION

Commissioner Stephens moved that Board of County Commissioners approve the Consent Agenda for August 27, 2024.

**Motion carried 3-0.**

**5. COMMISSIONERS' GUESTS:** The Commissioners did not have any guests.

### 6. DISCUSSION ITEMS:

**1. RESOLUTION ESTABLISHING A THREE-YEAR ALEXANDER MOUNTAIN FIRE CLEANUP AND REBUILDING PROGRAM:** On August 12, 2024, Community Development sought direction from the Commissioners during a work session as to whether a cleanup and rebuilding program for the Alexander Mountain Fire should be created. Staff suggested an approach similar to what was done after the Cameron Peak Fire would be appropriate. If approved, the Land Use Code requires the Board to establish the length of time the program will be in effect. The Board directed that a resolution to establish the program for a 3-year period be developed for consideration.

Eric Fried, Larimer County Building Official, gave some background on the Alexander Mountain Fire. A Larimer County damage assessment team recently visited the site of the fire and determined the extent of the damage and the need for rebuilding efforts. Article 14 of the Land Use Code is a disaster rebuild program that gives increased flexibility for homeowners to reestablish non-conforming uses or setbacks, flexibility around impact fees, temporary emergency housing, and temporary emergency accessory structures.

In addition, Mr. Fried asked the Board to authorize the Community Development Director to establish a building permit fee reduction program pursuant to Article 14 of the Land Use Code. The term for the program would be 3 years to allow homeowners enough time to collect insurance settlements and decide whether they want to rebuild. The fee reduction for a building permit would be up to \$1000 for a home and up to \$500 for an outbuilding. This program would only be for existing owners and would not apply to new owners if any properties are sold. Applicants would need to show that they were underinsured or uninsured in order to receive the fee reduction.

The Board thanked the Larimer County employees who have been working to help these residents to rebuild based on positive feedback from the community. The Board expressed their support of the proposed resolution as one small thing the County can do to help these residents with rebuilding and clearing debris from their properties.

## **M O T I O N**

Commissioner Shadduck-McNally moved that the Board of Larimer County Commissioners establish a three-year Alexander Mountain Fire Cleanup and Rebuilding Program effective August 27, 2024.

**Motion carried 3-0.**

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

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

9. **LEGAL MATTERS:**

Executive Session pursuant to C.R.S. 24-6-402 (4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding the Estate of Brent Thompson et al v. Deputy Lorenzo Lujan.

Executive session pursuant to C.R.S. 24-6-402 (4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding the decision of the U.S. Supreme Court in Grants Pass v. Johnson and potential impact on County parking, camping regulations, and potential modification of County regulations.

## **M O T I O N**

Commissioner Stephens moved that the Board of County Commissioners enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding the Estate of Brent Thompson et al v. Deputy Lorenzo Lujan.

**Motion carried 3-0.**

## **M O T I O N**

Commissioner Stephens moved that the Board of County Commissioners enter into Executive Session pursuant to C.R.S. 24-6-402(4)(b): Conferences with an attorney for the purpose of receiving legal advice regarding the decision of the U.S. Supreme Court in Grants Pass v. Johnson and potential impact on county parking, camping regulations, and potential modification of county regulations.

**Motion carried 3-0.**

The Board entered into Executive Session.

The Board returned to session.

David Ayraud, Deputy County Attorney, explained that in the first Executive Session regarding the Estate of Brent Thompson et al v. Deputy Lorenzo Lujan, the discussion centered around a question that came up following mediation on the matter. The Executive Session addressed any legal



implications regarding the mediation and the pending case, as well as any legal implications of a proposed resolution.

## MOTION

Commissioner Shadduck-McNally moved that the Board of County Commissioners approve the agreement resolving and dismissing Civil Action 2024 CV 30299 filed by the Estate of Brent Thompson et al.

**Motion carried 3-0.**

With there being no further business, the Board adjourned at 11:00 a.m.

  
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JOHN KEFALAS, CHAIR  
BOARD OF COUNTY COMMISSIONERS

TINA HARRIS  
CLERK AND RECORDER

ATTEST:

  
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Lindsey Jones, Deputy Clerk

